

**Carson City
Agenda Report**

Date Submitted: 8-28-12

Agenda Date Requested: 9-6-12

Time Requested: 15 minutes

To: Carson City Board of Supervisors

From: Melanie Bruketta, HR Director

Subject Title: (For possible action:) To approve the extension of the City Manager, Larry Werner's, employment contract effective January 1, 2013 to December 31, 2015.

Staff Summary: This is a proposal to approve the extension of the City Manager's employment contract to December 31, 2015. The proposed contract extension contains minor changes to the existing agreement. The City Manager has been receiving a deduction in pay due to increases in the Public Employee's Retirement System (PERS), and this reduction will continue with the extension of the contract. The contract specifies the benefits and equipment allowances as well. The June review of the criteria, goals and objectives is redundant to the current quarterly review process and is deleted.

Type of Action Requested: (check one)

☐ Resolution

☐ Ordinance

☒ Formal Action/Motion

☐ Other (specify)

Does this Action Require a Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to approve the extension of the City Manager, Larry Werner's, employment contract effective January 1, 2013 to December 31, 2015.

Explanation for Recommended Board Action: Pursuant to Section 4 of the City Manager's current employment contract, "Not more than six months before the end of this Contract, Employee may submit a written proposal to Board of Supervisors for the extension of the provisions of this Contract and/or revision of the provisions of this Contract and in that event, the Board of Supervisors shall decide whether or not to enter into negotiations with respect to such proposal." On July 2, 2012, the Board of Supervisors received a letter from the City Manager.

The proposal by the City Manager is to extend the current employment contract to December 31, 2015 with several modifications being proposed. The changes include: reducing the bi-monthly salary due to the Public Employee's Retirement System (PERS) increase, adding Section 6(h) which requires the City to provide the necessary equipment to perform the essential functions of the position, deleting the portion of Section 13 that requires the criteria, goals and objectives to be reviewed in June (the goals and objectives are reviewed on a quarterly basis through the Active Strategy program), and minor clean-up language in Section 5(e), Section 6(a), Section 6(c) and Section 10.

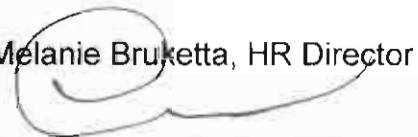
Applicable Statute, Code, Policy, Rule or Regulation: N/A

Fiscal Impact: \$192,763.46 per year (salary and benefits)

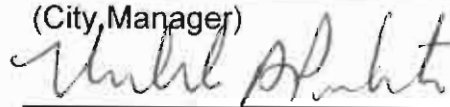
Explanation of Impact: The fiscal note is the amount budgeted for fiscal year 2012/2013 for salary and benefits.

Supporting Material: City Manager's employment contract

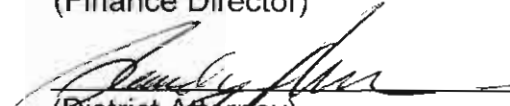
Prepared By: Melanie Bruketta, HR Director 

Reviewed By: 
(City Manager)

Date: 8/28/12


(Finance Director)

Date: 8/28/12


(District Attorney)

Date: 8/28/12

Board Action Taken:

Motion(s): _____ 1) _____ Aye/Nays

2) _____

(Vote Recorded By)



Human Resources Department

201 N. Carson Street, Suite 4 • Carson City, NV 89701

(775) 887-2103 • Fax (775) 887-2067

www.carson-city.nv.us

E-mail: echr@ci.carson-city.nv.us

August 24, 2012

Mr. Lawrence A. Werner
201 N. Carson St., Suite 2
Carson City, NV 89701

*Received
LAW
8/24/12*

Hand-Delivered

Re: Notice Pursuant to NRS 241.033 and NRS 241.034:
Carson City Board of Supervisor's Meeting September 6, 2012, 8:30 a.m.
Review of the City Manager's performance and professional competence
and discussion and possible administrative action relating to the continued
employment of Lawrence A. Werner as City Manager for Carson City.

Dear Mr. Werner:

Pursuant to Nevada Revised Statutes (NRS) 241.033 and 241.034 you are being provided notice that on September 6, 2012 at 8:30 a.m., the Carson City Board of Supervisors may consider your performance and professional competence as the Carson City Manager in an open public meeting while deliberating and possible taking action on the extension of your employment contract.

The Board may also discuss and take administrative action that, in a worst case, may be adverse to your compensation or continuing employment without further notice if the public body determines that such administrative action is warranted after considering your professional competence and performance as the City Manager.

Sincerely,

A handwritten signature in cursive script that reads "Melanie Bruketta".

MELANIE BRUKETTA
Human Resources Director

cc: Mayor and Supervisors

RECEIVED

AUG 24 2012

Human Resources

EMPLOYMENT CONTRACT

THIS EMPLOYMENT CONTRACT, made and entered into this 3rd of December, 2012~~09~~, by and between the CARSON CITY BOARD OF SUPERVISORS, acting on behalf of Carson City, a consolidated municipality of the State of Nevada, and LAWRENCE A. WERNER, hereinafter called the "Employee", or "City Manager" both of whom understand and agree to the following provisions:

1. EMPLOYMENT

The Carson City Board of Supervisors ("Board of Supervisors") hereby agrees to employ LAWRENCE A. WERNER as Carson City Manager to report to the Board of Supervisors and to perform the duties specified herein and other duties, as the Board of Supervisors shall from time to time assign.

2. POWERS AND DUTIES

The City Manager is the Chief Administrative Officer of the Consolidated Municipality of Carson City. The City Manager is responsible for the efficient administration of all affairs of the City which are under his control. In addition to his general powers as administrative head and not as a limitation thereon, it shall be his duty and he shall have the power and duty to perform the following:

a. Enforcement

To see that the laws of the State of Nevada and all laws, ordinances and policies of Carson City are duly enforced and that all franchises, permits, leases, agreements, contracts, and privileges granted or entered into by the City are faithfully observed.

b. Departments and Employees

To control, order, give direction to, appoint, promote, discipline, and demote or remove all heads of departments and/or subordinate officers and employees of the City. To organize, reorganize, consolidate or combine offices, positions, departments or other units under his jurisdiction as permitted by the Carson City Charter, the Carson City Municipal Code, and Nevada state law.

c. Control and Supervision

To exercise control over and to supervise, in general, all departments and divisions of City government and all appointed officers and employees within those departments and divisions under his jurisdiction.

d. Agenda Preparation

To prepare agendas for all Board of Supervisors meetings, in consultation with the Mayor, and to compile appropriate reports and recommendations as deemed necessary.

e. Attend Meetings

To attend all meetings of the Board of Supervisors unless excused by the Mayor or the Mayor pro tem.

f. Recommendations

To recommend to the Board of Supervisors for adoption such actions, resolutions and ordinances as deemed necessary.

g. Inform and Advise

To keep the Board of Supervisors at all times fully advised as to the operational, financial and general condition and needs of the City.

h. Annual Budget

To timely prepare and submit to the Board of Supervisors and the State of Nevada the annual budget and to administer it after adoption.

i. Salary Plan

To prepare and recommend to the Board of Supervisors a salary plan for classified and unclassified employees and appropriate revisions to the personnel ordinance.

j. Investigation of Affairs

To make investigations into the affairs of the City and any department or division thereof and any contract, or the proper performance of any obligation running to the City.

k. Investigation of Complaints

To investigate all complaints in relation to matters concerning the administration of the government of the City and in regard to the service maintained by public utilities in the City.

l. Supervision of Public Property

To exercise general supervision over all public buildings, public parks, streets and other public property (personal and real) which are under the control and jurisdiction of the Board of Supervisors.

m. Full Time Duties

To be in the exclusive employment of the City and to devote his entire time to the duties set forth in this Contract and to the interests of the City.

n. Reports and Recommendations

To make reports and recommendations as may be desirable or requested by the Board of Supervisors.

o. Other Powers and Duties

To perform such other duties and exercise such other powers as may be delegated to him from time to time by the Board of Supervisors.

3. ABSENCE

In the case of absence of the City Manager, he has the authority to appoint, and shall appoint, some duly qualified person to perform his duties during the period of absence. In case of the disability of the City Manager, the Board of Supervisors shall appoint some duly qualified person to perform the duties of the City Manager during the period of any such disability.

4. TERM OF CONTRACT

The City Manager is an at-will employee and shall serve at the pleasure of the Board of Supervisors in accordance with Nevada law. The term of this Contract is from ~~December 3, 2009~~ January 1, 2013 to December 31, 2015~~12~~, unless the Contract is terminated by the Board of Supervisors or the Employee resigns. Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the Board of Supervisors to terminate the services of the Employee at any time for any reason or for no reason at all, subject to the provisions set forth in this Contract. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with the City, subject only to the provisions set forth in this Contract. Not more than six months before the end of this Contract, Employee may submit a written proposal to Board of Supervisors for the extension of the provisions of this Contract and/or revision of the provisions of this Contract and in that event, the Board of Supervisors shall decide whether or not to enter into negotiations with respect to such proposal. The Board of Supervisors shall advise Employee within thirty (30) days after receipt of a written proposal for extension of the Contract whether or not the Board of Supervisors is interested in extending the Contract. Nothing contained herein shall be construed to require the Board of Supervisors to revise or extend this Contract. If the Employee or the Board of Supervisors, six months prior to the end of this Contract, chooses not to extend this Contract, the Employee agrees to participate in a transition plan including the recruitment of a new City Manager.

5. TERMINATION AND SEVERANCE PAY

a. In the event Employee is terminated by the Board of Supervisors during the term of this Contract and the Employee is willing and able to perform his duties under this Contract, the Board of Supervisors agrees to pay Employee a lump sum cash payment equal to six months base salary, less applicable withholdings, as of the date of termination. The Board of

Supervisors shall also pay for Employee's COBRA health insurance benefit payments for six months following termination or until Employee secures other health insurance, whichever period is shorter. Employee shall also be paid for any accrued annual leave up to 300 hours and management leave up to 40 hours at his current base salary rate as of the date of termination.

b. In the event the Employee is terminated for cause or for conviction of a felony or gross misdemeanor, the Board of Supervisors shall have no obligation to pay the lump sum cash payment as designated in paragraph 5(a) above or the COBRA health insurance benefit. The Board of Supervisors will be required to pay the accrued annual leave hours up to 300 hours and any management leave up to 40 hours prorated from July 1 to June 30.

c. In the event the Board of Supervisors, at any time during the term of this Contract, reduces the salary or other financial benefits of Employee, without Employee's concurrence, in a greater percentage than applicable for across-the-board reductions for all employees of the City, or in the event the Board of Supervisors refuses, following written notice, to comply with any provision benefiting Employee herein, the employee may deem the Contract "terminated" and the Board of Supervisors is required to comply with the provisions of paragraph 5(a) above.

d. In the event Employee voluntarily resigns his position with the City before the expiration of the aforesaid term of his employment, then Employee shall give the Board of Supervisors at least 60 days notice in advance, unless the parties agree otherwise. If the Employee voluntarily resigns his position, the provisions of paragraph 5(a) will not apply except for the provisions for payment of accrued annual and management leave.

e. Upon termination of this Contract, Employee shall immediately return all keys and City property to the ~~Mayor or Mayor pro tem~~ Board of Supervisors. If all property is not _____ returned within five (5) days of termination of the Contract, the Board of _____ Supervisors may institute a legal action against Employee for conversion.

f. If Employee is permanently and totally disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, the Board of Supervisors shall have the option to terminate this Contract. In the event of such termination, the provisions of paragraph 5(a) will apply.

6. SALARY, COMPENSATION, PERFORMANCE EVALUATION AND BENEFITS

Beginning the effective date of this Contract, the Board of Supervisors shall compensate Employee for services rendered pursuant to this agreement as set forth below:

a. The Employee shall be paid a bi-weekly salary of \$5,330.45 with PERS adjustments, if any, in accordance with state law 5,391.10. Upon approval of the Board of Supervisors, the City's Director of Human Resources may conduct a total compensation comparison of similar Chief Administrative Officers in the region and the Board of Supervisors may consider and approve changes in the existing salary range for the Employee. If the salary is adjusted downward due to the compensation study, paragraph 5(c) will not apply to that reduction. In January/December of each year, during the annual performance evaluation of the Employee, the Board of Supervisors may adjust the Employee's base salary within the City Manager salary range after the review and evaluation of the Employee's performance related to the established corecourse success factors for City Manager.

b. Employee will be paid a \$3,900 per year automobile allowance in bi-weekly installments.

c. The Board of Supervisors will pay medical, dental, vision and lifehealth- and related life, disability and similar insurance benefits at the same level and type of coverage as apply to other unclassified appointed department heads.

d. The Board of Supervisors will pay cost-of-living adjustments (COLA) as applied to other unclassified appointed department heads.

e. Contributions to the Public Employees Retirement System shall be paid 100% by the Board of Supervisors.

f. Medicare payments, on behalf of Employee, shall be paid by the Board of Supervisors in the same manner as other unclassified employees.

g. Worker's Compensation insurance premiums will be paid by the Board of Supervisors at the required level.

h. The City Manager will receive all equipment, i.e. computer equipment, software, cell phone, radio, etc., necessary to perform the essential functions of the position.

7. HOURS OF WORK

It is recognized that Employee must devote a great deal of time outside the normal office hours to the business of the City, and to that end Employee will be allowed to take time off as he shall deem appropriate during said normal office hours.

8. LEAVE BENEFITS

Employee shall accrue, and have credited to his personal account annual leave at the rate of fourteen (14) hours per month (21 days/year) and sick leave shall accrue at the rate of ten (10) hours per month (15 days/year). Accrued sick leave balances shall be carried forward from leave year to subsequent leave year without limitation. Only three hundred (300) hours of annual leave may be carried forward from leave year to subsequent leave year. Employee shall receive eighty (80) hours of management leave per year on each July 1st. Except as set by resolution for the use and compensation of management leave as it applies to unclassified employees, unused management leave is lost if not used by the end of the fiscal year in which it is granted and Employee will not be compensated for unused management leave.

9. DUES AND CONTRIBUTIONS

The Board of Supervisors agrees to budget and to pay for reasonable professional dues and subscriptions of the Employee necessary for the continued membership in associations and organizations necessary and desirable for continued professional growth and advancement. The Board of Supervisors reserves the right to review these expenses on a periodic basis to assure reasonableness.

10. PROFESSIONAL DEVELOPMENT

The Board of Supervisors agrees to budget and pay for reasonable travel and subsistence for Employee for professional and official travel to meetings and other events to continue professional development of Employee. The Board of Supervisors reserves the right to review these expenses on a periodic basis to assure reasonableness and the relevance of these activities.

11. GENERAL EXPENSES

The Board of Supervisors recognizes that certain expenses of a non-personal and job-affiliated nature are incurred by Employee in conjunction with his responsibilities herein described, and shall continue to reimburse or to pay said general expenses in accordance with existing city policy for city employees. The Board of Supervisors reserves the right to review these expenses on a periodic basis to assure reasonableness.

12. DUTY TO DEFEND

The District Attorney shall provide for the defense, including the defense of cross-claims and counterclaims, in any civil action brought against the City Manager based on any alleged act or omission relating to his public duties or employment if:

1. Within 15 days after service of a copy of the summons and complaint or other legal document commencing the action, he submits a written request for defense to the District Attorney; and

2. The District Attorney determines that the act or omission on which the action is based appears to be within the course and scope of public duty or employment and appears to have been performed or omitted in good faith.

13. MERIT SALARY INCREASE

In January of each year, the Board of Supervisors shall review and evaluate the performance of the Employee. The criteria to be used will be developed jointly by the Board of Supervisors and Employee upon initial appointment under this agreement and each January thereafter. ~~The criteria, goals, and objectives will be reduced to writing and reviewed by the Board of Supervisors and Employee each subsequent June for possible additions, deletions or modifications.~~ The Board of Supervisors shall define the desired outcomes (goals) it deems necessary for the proper operation of the City and the attainment of the Board of Supervisors' policy objectives. The Board of Supervisors shall prioritize the desired outcomes (goals). These goals and objectives shall be generally obtainable within time limits specified. Based on the Employee's achievement of the goals, the Board of Supervisors may grant a merit increase to the Employee up to, but not exceeding the current salary range for City Manager. If such a merit is approved by the Board of Supervisors, it will be granted at the time of the annual performance evaluation in January as referenced in Section 6.

14. ATTORNEY'S FEES AND COURT COSTS: APPLICABLE LAW

If either the Employee or the Board of Supervisors is required to go to court to enforce the provisions of this Contract then the prevailing party shall be entitled to reimbursement from the non-prevailing party for attorney's fees, litigation expenses and court costs. In the event of litigation, Nevada law shall control the interpretation and application of this Contract.

15. GENERAL PROVISION

The text herein shall constitute the entire Contract between the parties. This Contract shall be binding upon and inure to the benefit of the heirs at law and executors of Employee. This Contract shall be interpreted under Nevada law. If any provision, or any portion thereof, contained in this Contract is held unconstitutional, invalid, or unenforceable, the remainder of this Contract, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the consolidated municipality of Carson City has caused this Contract to be signed and executed in its behalf by its Mayor and duly attested by its Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year this Agreement is executed by the Mayor on behalf of the City.

EMPLOYEE:
201 N. Carson St.
Carson City, Nevada

CITY:
201 N. Carson St.
Carson City, Nevada

Lawrence A. Werner
Dated this 3rd day of December, 2009

Robert L. Crowell, Mayor
Dated this 3rd day of December, 2009

ATTEST:

Alan Glover, Clerk-Recorder
Dated this 3rd day of December, 2009

Neil Rombardo, District Attorney
Dated this 3rd day of December, 2009

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b. Employee will be paid a \$3,900 per year automobile allowance in bi-weekly installments.

c. The Board of Supervisors will pay medical, dental, vision and life insurance benefits at the same level and type of coverage as apply to other unclassified appointed department heads.

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The Board of Supervisors recognizes that certain expenses of a non-personal and job-affiliated nature are incurred by Employee in conjunction with his responsibilities herein described, and shall continue to reimburse or to pay said general expenses in accordance with existing city policy for city employees. The Board of Supervisors reserves the right to review these expenses on a periodic basis to assure reasonableness.

12. DUTY TO DEFEND

The District Attorney shall provide for the defense, including the defense of cross-claims and counterclaims, in any civil action brought against the City Manager based on any alleged act or omission relating to his public duties or employment if:

1. Within 15 days after service of a copy of the summons and complaint or other legal document commencing the action, he submits a written request for defense to the District Attorney; and
2. The District Attorney determines that the act or omission on which the action is based appears to be within the course and scope of public duty or employment and appears to have been performed or omitted in good faith.

13. MERIT SALARY INCREASE

In January of each year, the Board of Supervisors shall review and evaluate the performance of the Employee. The criteria to be used will be developed jointly by the Board of Supervisors and Employee upon initial appointment under this agreement and each January thereafter. The Board of Supervisors shall define the desired outcomes (goals) it deems necessary for the proper operation of the City and the attainment of the Board of Supervisors' policy objectives. The Board of Supervisors shall prioritize the desired outcomes (goals). These goals and objectives shall be generally obtainable within time limits specified. Based on the Employee's achievement of the goals, the Board of Supervisors may grant a merit increase to the Employee up to, but not exceeding the current salary range for City Manager. If such a merit is approved by the Board of Supervisors, it will be granted at the time of the annual performance evaluation in January as referenced in Section 6.

14. ATTORNEY'S FEES AND COURT COSTS: APPLICABLE LAW

If either the Employee or the Board of Supervisors is required to go to court to enforce the provisions of this Contract then the prevailing party shall be entitled to reimbursement from the non-prevailing party for attorney's fees, litigation expenses and court costs. In the event of litigation, Nevada law shall control the interpretation and application of this Contract.

15. GENERAL PROVISION

The text herein shall constitute the entire Contract between the parties. This Contract shall be binding upon and inure to the benefit of the heirs at law and executors of Employee. This Contract shall be interpreted under Nevada law. If any provision, or any portion thereof, contained in this Contract is held unconstitutional, invalid, or unenforceable, the remainder of this Contract, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the consolidated municipality of Carson City has caused this Contract to be signed and executed in its behalf by its Mayor and duly attested by its Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year this Agreement is executed by the Mayor on behalf of the City.

EMPLOYEE:
201 N. Carson St.
Carson City, Nevada

CITY:
201 N. Carson St.
Carson City, Nevada

Lawrence A. Werner

Robert L. Crowell, Mayor

ATTEST:

Alan Glover, Clerk-Recorder

Neil Rombardo, District Attorney