

# STAFF REPORT



**DATE:** July 22, 2014

**TO:** Mayor and City Council

**Item No:**  
12

**FROM:** Toby Ross, Interim City Manager

**RE:** Appointment of City Manager and Approval of an Employee Agreement between the City of St. Helena and Jennifer Phillips.

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## **BACKGROUND**

City Manager Gary Broad retired earlier this spring. Prior to his departure the City Council retained representatives from Regional Government Services (RGS) to oversee the recruitment process. The nationwide search conducted by RGS attracted 65 applicants from around the country. The City Council identified Jennifer Phillips as their preferred candidate following a rigorous selection process involving interviews with community and technical panels; extensive examination of backgrounds and references; and no fewer than three meetings between the City Council and top candidates. Phillips has more than 20 years of varied local-government experience, most recently serving as Assistant City Manager and Chief Financial Officer for the City of Santa Rosa. Before Santa Rosa, Phillips served as Assistant City Manager in Santa Monica and as a Director in the Community Resource Agency of Orange County.

## **DISCUSSION/ANALYSIS**

Formal appointment of the City Manager and adoption of the Employee Agreement are proposed for this public meeting. If the recommended resolution is approved, Phillips expects to start with St. Helena in early August.

## **FISCAL IMPACT**

Total compensation provided in the Employee Agreement is similar to what the previous City Manager received when he was hired. Phillips' salary is higher but she will pay for a large portion of formally city-paid retirement costs and she will not receive a housing allowance.

## **RECOMMENDED COUNCIL ACTION**

Adopt the attached resolution which appoints the City Manager and approves the Employee Agreement.

## **ATTACHMENTS/EXHIBITS**

1. Resolution
2. Employee Agreement

**CITY OF ST. HELENA  
RESOLUTION NO. 2014-**

**APPOINTING A CITY MANAGER AND APPROVING AN EMPLOYMENT  
AGREEMENT BETWEEN THE CITY OF ST HELENA AND JENNIFER PHILLIPS**

**RECITALS**

- A. City Council conducted a comprehensive recruitment selection process for City Manage.
- B. Jennifer Phillips participated in that process and ultimately emerged as the City Council's preferred candidate.

**RESOLUTION**

NOW, THEREFORE, the City Council of the City of St. Helena hereby resolves as follows:

- 1. Appoint Jennifer Phillips City Manager of the City of St. Helena and approve the Employment Agreement between the City of St, Helena and Jennifer Phillips.
- 2. Authorize the Interim City Manager to implement any actions required to employ Jennifer Phillips including non-substantive adjustments to the employment agreement subject to the review and approval of the City Attorney.

Approved at a Regular Meeting of the St. Helena City on July 22, 2014 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

APPROVED:

ATTEST:

\_\_\_\_\_  
Ann Nevero  
Mayor

\_\_\_\_\_  
Cindy Black  
Interim City Clerk

**EMPLOYMENT AGREEMENT  
BETWEEN THE CITY OF ST. HELENA  
AND JENNIFER PHILLIPS**

**INTRODUCTION**

This Agreement is entered into this 22<sup>nd</sup> day of July, 2014 by and between the CITY OF ST. HELENA (herein "City") and JENNIFER PHILLIPS (herein "Employee"), an individual who has the education, training and experience in local government management, to perform the duties and services of the position of City Manager. City and Employee agree as follows:

**1. TERM**

This Agreement shall commence on the Effective Date and shall remain in full force and effect from July 22, 2014 until terminated by the City or the Employee as provided in this Agreement.

**2. DUTIES AND AUTHORITY**

A. City agrees to employ Jennifer Phillips as City Manager of City, to be the chief executive officer of City; to perform the functions and duties specified in St. Helena Municipal Code Chapter 2.12; and to perform any other legally permissible and professionally appropriate duties and functions as the Council may assign from time to time.

B. Employee shall perform her obligations and responsibilities diligently within the time parameters specified by the City Council, applying a high degree of professionalism, ethics, integrity, and good workmanship to every aspect of her obligations.

C. The City Council recognizes that to meet the challenges facing the City it must spend time each year outside of the regular City Council meetings to work with the City Manager and staff on setting goals and priorities for the City government, and to work on any issues that in Council's view may prevent optimal achievement of City goals.

**3. COMPENSATION**

A. For the services to be provided pursuant to this Agreement, City agrees to pay an annual base salary of \$188,000 (Base Salary), payable in installments at the same time as other management employees of the City and in accordance with established City procedure.

B. Thereafter, Employee's Base Salary shall be reviewed annually by City for consideration of increase. Any increase shall be payable in installments at the same time as other management employees of the City and in accordance with established City procedures.

#### **4. BENEFITS**

A. **General Benefits.** Except as modified by this Agreement, Employee shall be entitled to the benefits authorized for Department Heads.

B. **Vehicle.** Employee shall receive a vehicle allowance of \$250 per pay period.

C. **Leave.** Upon commencement of employment, Employee shall accrue vacation at a rate of 180 hours per year. In recognition of City's desire to have Employee start immediately and in acknowledgment of Employee's prior commitments, Employee shall be immediately credited with 120 hours of vacation which cannot be cashed out and any unused portion will expire in one year. In addition to and separate from vacation, upon the effective date Employee shall be credited immediately with 40 hours of Executive leave. Thereafter, Employee shall be credited with an additional 80 hours of Executive leave on January 1st of each year Employee is employed under this Agreement. Employee shall not be entitled to any personal convenience holidays. Upon commencing employment, Employee shall receive 80 hours of sick leave as an advance on the usual accrual of sick leave. After ten months of employment, Employee will accrue sick leave in the same manner and under the same limitations provided to and imposed upon Department Heads.

D. **Deferred Compensation.** City will match employee contribution up to \$200 per month.

#### **E. General Business Expenses**

1. City recognizes that certain general expenses, including dues, subscriptions, travel and subsistence expenses are reasonably incurred by Employee in the performance of job-related activities, functions, meetings, professional development and professional conferences such as the annual International City/County Management Association (ICMA) and League of California Cities. City agrees to budget and pay for such general expenses incurred for job-related activities as necessary for full participation in national, state or local professional associations such as ICMA and the California City Management Foundation.

2. City agrees to budget and pay for expenses related to educational courses, short courses, seminars and institutes that will benefit the City and improve Employee's professional abilities.

3. City shall reimburse Employee for membership and participation in any community or civic organizations in which the City requires or encourages Employee to participate.

#### **5. SEPARATION**

A. **Resignation.** Employee may resign at any time and agrees to give City a minimum of thirty (30) days advance written notice of the effective date of the resignation, unless the parties otherwise agree in writing.

**B. Retirement.** Notwithstanding the notice requirement set forth in Section 5.A, if Employee retires from full time public service with City, Employee shall provide City with a minimum of four months' advance notice. The Employee's actual retirement date will be mutually established.

**C. Termination.**

For the purpose of this agreement, termination shall occur when:

1. The majority of the City Council votes to terminate the employee at a properly noticed and duly authorized meeting.

2. If the City reduces the base salary, compensation or any other significant financial benefit of the Employee by a greater percentage than the average reduction of all department heads, the Employee shall have the right to declare such action(s) a termination.

3. If the City, citizens or the State legislature substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

4. If the Employee resigns following an offer to accept resignation by the City as representative of the majority of the City Council that the Employee resign, then the Employee shall have right to declare such offer a termination as of the date of the offer.

**6. Severance**

A. If the Employee is terminated according to Section 5C above, then Employer shall provide a minimum severance equal to nine (9) months' salary at the then current rate of pay. This severance shall be paid in a lump sum or as a continuation of salary on the usual pay schedule, at the Employee's option. If termination occurs within the first year of employment, Employee shall be eligible for up to three (3) additional months of severance if Employee has not found employment with equivalent compensation.

B. If Employee is unable to perform the requisite duties expected under this Agreement because of sickness, accident, mental incapacity, or health with reasonable accommodation, for a period of one month following exhaustion of accumulated sick leave, then, the City shall have the option to terminate this Agreement and notwithstanding the provisions of Section 6.A above, the Employee shall not be entitled to severance. If Employee is terminated because of permanent disability, Employee shall be compensated in a lump sum for any accrued benefits to the extent such compensation is required by law.

C. Notwithstanding Section 6.A, above, the City shall not be obligated to pay any compensation, benefits, or severance under the provisions of this Agreement if Manager is terminated for cause, including, without limitation, because of a criminal conviction, criminal plea bargain, or adverse State Attorney General, Grand Jury, or Fair Political Practices Commission determination involving any felony, intentional tort, crime

of moral turpitude, or violation of statute or law constituting forfeiture of office, misconduct in office, misuse of public funds, or conflict of interest. During the proceedings which may be necessary for City to confirm the cause for termination hereunder, the City may place Manager on paid administrative leave.

## **7. PERFORMANCE EVALUATIONS**

A. The Council shall review and evaluate the performance of Employee, including eligibility for any discretionary, performance-based increase, at least once annually no later than May of each year following Employee's commencement of employment.

B. At least annually the Council and Employee shall define such goals and performance objectives which they determine are necessary for the proper operation of the City and the attainment of the Council's policy objectives, and shall further establish a relative priority among those various goals and objectives. In the first year, Employee shall be eligible for a bonus not to exceed 2.75% of salary based on completion or satisfaction of mutually established and quantifiable objectives.

## **8. HOURS OF WORK**

A. The Employee shall perform all duties that may arise under this Agreement to the best of her ability in accordance with the highest professional and ethical standards of the profession, including that Employee shall devote full time and attention to those duties as necessary to meet the goals and objectives of the Council as established according to the terms of this Agreement

## **9. OUTSIDE ACTIVITIES**

A. Employee shall not engage in compensated teaching, consulting, or other non-City business without the prior approval of the Council. Such outside activities shall not interfere with the performance of Employee's duties under this Agreement.

## **10. INDEMNIFICATION**

A. City shall defend, save harmless, and indemnify 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 Employee's duties as City Manager. City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. Said indemnification shall extend beyond termination of employment, and the otherwise expiration of this Agreement, to provide full and complete protection to Employee as described herein, for any acts undertaken or committed in her capacity as City Manager, regardless of whether the notice of filing of a lawsuit for such tort, claim, demand, or other action occurs during or following Employee's employment with City as City Manager.

## **11. GENERAL PROVISIONS**

A. **Notices.** Any notice to be given by either party to the other shall be in writing and shall be considered delivered when transmitted either by personal delivery

or by mail, registered or certified, postage pre-paid with return receipt requested and properly addressed as follows:

**To City:**  
MAYOR AND CITY COUNCILMEMBERS CITY OF ST. HELENA  
1480 MAIN STREET  
ST. HELENA, CA 94574

**To Employee:**  
Jennifer Phillips  
1480 Main Street  
St. Helena, CA 94574

Any party may change its/her address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

B. **Waiver.** The waiver of any breach of any provision hereunder by either party to this Agreement shall not be deemed to be a waiver of any other provision or subsequent breach hereunder, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

C. **Construction of Terms.** The language of all parts of this Agreement shall be construed according to their plain meaning and shall not be construed for or against either party. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment or exhibits hereto.

D. **Severability.** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be unenforceable, void or invalid in whole or in part for any reason, the remainder of this Agreement shall remain in full force and effect. In the event of such entire or partial invalidity, the parties hereto agree to enter into supplemental or other agreements to effectuate the intent of the parties and the purpose of this Agreement.

E. **Controlling Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of California with venue proper only in the County of Napa, State of California.

F. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties pertaining to the employment of Employee by City and supersedes all prior and contemporaneous agreements, representations, promises and understanding of the parties whether oral or in writing. No supplement modification, or amendment of this Agreement shall be binding unless executed in writing by all parties and this Agreement may not be altered, amended or modified by any other means. Each party waives any future right to claim, contend, or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement course of conduct, waiver, or estoppel.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date first written above.

City of St. Helena:

Employee:

\_\_\_\_\_  
Sharon Crull, Vice Mayor

\_\_\_\_\_  
Jennifer Phillips

Approved as to Form:

\_\_\_\_\_  
Thomas B. Brown, City Attorney