



City of Broken Arrow

Legislation Details (With Text)

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Title: Consideration, discussion, and possible approval and authorization to execute a Third Amendment to Employment Agreement, by and between the City of Broken Arrow, Oklahoma and Michael L. Spurgeon

Sponsors:

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Attachments: 1. 9-8-2017 THIRD AMENDED EMPLOYMENT AGREEMENT - MICHAEL SPURGEON FINAL.pdf

Date	Ver.	Action By	Action	Result
9/19/2017	1	Broken Arrow City Council	approved	Pass

Broken Arrow City Council
Meeting of: 09-19-2017

To: Mayor and City Council
From: Office of the City Attorney

Title:
Consideration, discussion, and possible approval and authorization to execute a Third Amendment to Employment Agreement, by and between the City of Broken Arrow, Oklahoma and Michael L. Spurgeon

Background:

On July 21, 2015, the City Council appointed Michael L. Spurgeon to serve as the City Manager for the City of Broken Arrow. This relationship was formally memorialized by an Employment Agreement dated August 4, 2015. Mr. Spurgeon officially began his duties as City Manager on September 21, 2015. The Employment Agreement has been amended on two (2) prior occasions. The First Amendment was approved on June 7, 2016, and the second Amendment was approved on October 4, 2016.

The 2015 Agreement, as amended, provides for an annual evaluation of Mr. Spurgeon's performance. Pursuant to the provisions of the Agreement, this evaluation was conducted on September 5, 2017. The Employment Agreement also provides for merit consideration for salary increases at least once each year of employment. Such increases can be given based upon satisfactory or better performance during each year of employment. Increases may be in the form of salary increases or bonuses.

On June 10, 2015, Bob O'Neill, Executive Director of the International City and County Manager's Association (ICMA) published an article entitled *City Manager's Pay: Lots of Factors Need to Be Considered*. This is an excellent article that discusses the significant responsibilities of City Managers, as well as the challenges of functioning as a Chief Executive Officer in the public sector. It also provides very good perspective on the

justification for City Manager compensation packages. A portion of the article noted in pertinent part as follows:

“City and county managers are held accountable for the performance of organizations that can include hundreds...of employees and the administration of budgets that can range from a few million dollars to hundreds of millions. They perform at the discretion of their elected board with little or no job security. Like private sector CEO’s, they are held accountable to the financial bottom line, and they must work in a very public environment respecting the principles of local government democracy. The skills, or lack thereof, that they bring to their roles can fundamentally impact the quality of life for the residents of the city or county that they serve.”

In preparation for the City Manager’s evaluation, the City Council was provided with the 2016-2017 City Management Compensation Survey (the “Survey”) published by the Texas City Management Association. Not surprisingly, the base annual salaries are substantially higher than those in Oklahoma. Based upon the base salary figures contained in the Survey, it is not surprising that Oklahoma City Managers, like teachers, continue to seek employment in Texas. For purposes of comparison, the City Manager of the City of Borger, Texas (population 13,251) receives a base annual salary of \$155,000.00. The City Manager of Lewisville, Texas, a City comparable in size to Broken Arrow, receives a base annual salary of \$242,047.00.

As pointed out by Mr. Neill in his article, there are many factors that should be considered when determining the compensation package of a City Manager. Some of these include population, organizational size and complexity, the types of challenges facing a community, and the environment for skilled professionals. One highlighted aspect identified was organizational stability. Consideration of a competitive package for a City Manager, particularly for the City of Broken Arrow, would be very important in terms of providing continuity of leadership within the organization.

A Third Amendment to Employment Agreement is attached for the Council’s consideration. Revisions to the amended 2015 Employment Agreement contained within this document include extension of the term of the Agreement from three (3) to six (6) years, and adjustment of other dates to coincide with the term. It provides for an annual salary of \$178,759.59, which represents a 2% increase in annual compensation, the same percentage provided to non-union employees for Fiscal Year 2018. The Amendment provides for increased contributions to Mr. Spurgeon’s ICMA retirement account on an annual basis by ½ a percent beginning on September 21, 2018, and payment of a one-time performance based stipend in the amount of \$10,000.00. It expands the language allowing termination of the Employment Agreement without payment of a severance and provides for annual increases to the amount of the severance beginning on September 21, 2018.

A unique aspect of the Amendment includes conversion of sick leave and vacation to paid time off (PTO). Use of PTO is common place in the private sector. Implementation of this change will give City leadership an opportunity to meaningfully examine whether implementation for non-union employees should be considered at some time in the future. Importantly, the provision of 300 hours of PTO is less than the hourly accruals for sick leave and vacation under Mr. Spurgeon’s present Employment Agreement. Another unique aspect is the ability of the City Manager to sell back seven (7) days of leave each year. This benefit would not take effect until September 21, 2018.

The Amendment also increases the technology allowance to \$300.00 per month. This \$50.00 per month increase was recommended to provide for the increased costs of telecommunications, particularly telecommunication devices.

Finally, the proposed Amendment establishes a defined contribution special incentive plan. This particular

benefit has been incorporated into at least two (2) other Oklahoma City Manager contracts. Beginning next year, funding would be placed into a deferred compensation account with OMRP. If Mr. Spurgeon completes the remaining term of his Agreement, he would be entitled to the total sum, plus interest. If he voluntarily leaves during that period of time, all sums would revert back to the City of Broken Arrow.

The Third Amendment is presented for the Council's consideration. Importantly, salary and all benefits are subject to annual appropriation in future fiscal years. Mr. Spurgeon has indicated that the terms reflected within the Agreement are satisfactory.

Cost: \$178,759.59 salary, plus benefits, a one-time \$10,000.00 stipend, 15% contribution to ICMA retirement account, and a \$1050.00 monthly car and technology allowance. Costs beyond this Fiscal Year are dependent upon annual appropriation and as set forth in the Agreement, as Amended

Prepared By: Beth Anne Childs, City Attorney

Reviewed By: Human Resources Department

**Approved By: Michael L. Spurgeon, City Manager
Assistant City Manager-Administration
Finance Department
Legal Department**

Attachments: Third Amendment to Employment Agreement

Recommendation:

Approve the Third Amendment to Employment Agreement and authorize its execution.