

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION (RCA)

DEPARTMENT: Zoo

AGENDA DATE: 10/24/06

CONTACT PERSON/PHONE: DCM, Quality of Life Services, Deborah G. Hamlyn, (915) 541-4686

DISTRICT(S) AFFECTED:

SUBJECT:

A Resolution to authorize the City Manager to sign an Employment Contract between the City of El Paso and Steve Marshall as the new Zoo Director.

BACKGROUND / DISCUSSION:

To fill the position of Zoo Director on a Permanent Basis.

PRIOR COUNCIL ACTION:

A contract for Dr. Hutchinson was approved April 19, 2005.

AMOUNT AND SOURCE OF FUNDING:

Funded for FY07
Funding Source: 352010245-01101-52000
Contract Total: \$130,000

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____

FINANCE: (if required) _____

OTHER: _____

(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an Employment Contract between the **CITY OF EL PASO** and Steve Marshall, to employ Steve Marshall as Zoo Director at an annual salary of \$130,000.00. The term of the contract shall be for the period of January 10, 2007 through January 9, 2009.

APPROVED this _____ day of October 24, 2006.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



John R. Batoon
Assistant City Attorney

STATE OF TEXAS)
)
COUNTY OF EL PASO)

EMPLOYMENT AGREEMENT

CITY CLERK DEPT.
06 OCT 18 AM 9:13

By this Agreement, the **CITY OF EL PASO, TEXAS**, a home rule municipality in the State of Texas, referred to in this Agreement as "Employer," employs **STEVE MARSHALL**, referred to in this Agreement as "Employee."

ARTICLE I - TERM

1.01 TERM

By this Agreement, the Employer employs the Employee and the Employee accepts employment with the Employer, for a period of two (2) year beginning on the 10th day of January 2007 and ending the 9th day of January 2009. This Agreement may be extended by mutual agreement of the parties upon such terms and conditions as the parties mutually agree. Both parties agree to provide written notice of their intention to renew this agreement six (6) months prior to termination of this agreement, and will thereafter enter into negotiations to make appropriate revisions. The City Manager shall have the authority to automatically renew this contract for one or more additional set of periods of time, by giving written notice to the Employee not less than two (2) weeks prior to the date upon which this contract would otherwise terminate. Written notice is given by way of this contract.

ARTICLE II - COMPENSATION

2.01 COMPENSATION

Compensation for services rendered under this Agreement by the Employee shall be paid by the Employer at a gross salary of One Hundred Thirty Thousand and 00/100 dollars (\$130,000.00) per year, payable on a biweekly basis or otherwise in accordance with any procedures consistent with pay for City employees, and subject to an annual merit increase if applicable, as provided herein in Section 4.05. Employee will receive a car allowance of Three Hundred and Fifty dollars (\$350.00) per month payable on a pro rata basis with each salary check, temporary housing expenses in the amount of One Thousand (\$1,000.00) a month for up to six (6) months not to exceed Six Thousand Dollars (\$6,000.00), payment for Employee and Employee's spouse to search for housing. It is understood and agreed that the gross yearly salary provided for in this Agreement includes the following elements of compensations; health

insurance, dental plan, vision plan or income loss or any other fringe benefits, unless specifically provided for in this Agreement. Employee shall be eligible for coverage under the City Employees' Health Benefit Program in the same manner as City employees. Employee shall be eligible to participate in the City Employees' Pension Fund as described in Section 2.64.140 of the El Paso Municipal Code, as amended. The Parties further agree that notwithstanding the requirements of Chapter 2.64 of the El Paso Municipal Code, as cited above, Employee must elect such participation in the City Employees' Pension Fund within sixty (60) calendar days from the date this agreement is approved. Should Employee fail to elect to participate within the sixty (60) calendar day time period, such failure acts as an explicit acknowledgment of Employee's waiver of any retirement benefit in any form for the period of time which is the duration of this contract and authorization for the City to make an annual contribution of Five Thousand Dollars (\$5,000.00) to a (457) Deferred Compensation Plan, payable in bi-weekly installments based on paragraph 2.01 above.

2.02 EXEMPTION

The compensation under this Agreement is for a normal five day work week, Monday through Friday. It is understood that Employee is employed in an executive capacity and that Employee is an exempt employee within the meaning of the Fair Labor Standards Act. Although Employee's work day will normally consist of eight hours, five days per week, it may be necessary for Employee from time to time, as necessary, to work more than eight hours on a given day and more than forty hours in a given week. It is understood and agreed that Employee is not entitled to overtime compensation in the event Employee works in excess of eight hours in any day or in excess of forty hours in any week.

ARTICLE III - DUTIES OF EMPLOYEE

3.01 DUTIES

The Employee is employed as the Zoo Director of the City of El Paso. The Employee shall perform the duties as set forth in Attachment "A" to this Agreement. Attachment "A" is hereby incorporated into this Agreement and made a part hereof as if set forth fully herein. Employee may be required to perform other duties of a similar nature as may be required from time to time by the Employer or the City Manager.

3.02 EXTENT OF SERVICES.

The Employee shall devote his entire productive time, ability, attention and energies to the business of the Employer during the term of this Agreement. During such time, the Employee shall not directly or indirectly render any services of a business, commercial or professional nature to any other person or organization, whether or not for compensation, without the prior written consent of the Employer and the concurrence of the City Manager, except that the foregoing shall not apply to civic, academic, and related professional organization activities in which Employee may become involved, provided that no such activity will result in detriment to Employer or result in compensation to Employee.

3.03 WORKING CONDITIONS.

The Employer will provide the Employee with an office in the Zoo, 4001 E. Paisano, El Paso, Texas 79905, or such other place as may be necessary; an administrative assistant and any other facilities, equipment and services as are suitable and necessary, in the opinion of the Employer, to the Employee's position or required for the performance of his duties.

The Employee understands that employees of the Zoo Department, other than Employee and other specified positions are governed by the Civil Service Charter of the City of El Paso, the Civil Service Commission Rules and Regulations, City ordinance and other state and federal laws and regulations. The Employee will perform his duties as Zoo Director in accordance with applicable provisions of the City Charter, Civil Service Commission Rules and Regulations and other laws and regulations in the same manner as required of Department Heads of the City of El Paso.

3.04 SUPERVISION OF EMPLOYEE.

The Employee shall be under the overall supervision of and shall report to the City Manager through the Deputy City Manager for Quality of Life Services.

ARTICLE IV - EMPLOYEE BENEFITS AND PENSION

4.01 The Employer agrees to permit the Employee to participate in the following, under the same conditions as City employees:

- a. The City Employees' Health Benefit Program
- b. The City of El Paso Group Term Life Insurance Policy
- c. The City of El Paso Section 125 Cafeteria Plan
- d. The City of El Paso Employees' Pension Fund.

- e. Birthday holiday
- f. All City holidays (9 per year)
- g. Personal Days (4 per year and deducted from Sick Leave)

4.02 VACATION.

The Employee shall be entitled to twelve (12) days paid vacation each twelve (12) month period of employment, with accrual beginning on the first day of employment. However, following the execution of this agreement, Employee's vacation leave will be credited with a beginning balance of one week vacation leave. The rest of Employee's vacation leave for the initial year shall then accrue as indicated above in accordance with City of El Paso Civil Service Rules and Regulations.

4.03 SICK LEAVE.

The Employee shall be entitled to fifteen (15) days per year for short term absences due to illness or injury. However, following the execution of this agreement, Employee's sick leave will be credited with a beginning balance of one week sick leave. The rest of the Employee's sick leave for the initial year shall then accrue as indicated above in accordance with City of El Paso Civil Service Rules and Regulations.

4.04 RELOCATION EXPENES.

The City will pay relocation expenses based on the lowest of two (2) quotes, to be provided by Employee, not to exceed Ten Thousand Dollars (\$10,000.00). If relocation exceeds that amount Employee will be required to submit receipts in order to be reimbursed for the expenses. Employee shall be paid upon his relocation to El Paso payable on your 10th working day with the City.

4.05 PERFORMANCE APPRAISAL.

The Deputy City Manager, Quality of Life Services, shall review and evaluate the performance of the Zoo Director at least once annually in advance of the adoption of the annual operating budget. The Deputy City Manager, Quality of Life Services, will have the responsibility of completing the performance evaluation recommendation and submitting the proposed performance evaluation to the City Manager for approval. The Deputy City Manager, Quality of Life Services, will consider merit increases on an annual basis in accordance with the Employee's performance appraisal.

ARTICLE V - REIMBURSEMENT OF EXPENSES
INCURRED BY EMPLOYEE

5.01 WORK RELATED TRAVEL.

It is acknowledged by the parties to this Agreement that the Employee may be required to travel from time to time in connection with the services to be performed by him for the Employer. Provided that such travel is approved in advance by the Deputy City Manager, Quality of Life Services, the Employee shall be reimbursed for all reasonable cost of transportation, meals and lodgings in accordance with the City of El Paso Travel Policy.

ARTICLE VI - TERMINATION OF AGREEMENT

6.01 TERMINATION BY EMPLOYEE.

This Agreement, or any extension thereof, may be terminated by Employee by giving the Employer three (3) months written notice, unless the Employer accepts a shorter period. In the event this Agreement is terminated pursuant to this section and prior to completion of the term of this Agreement specified in Article I, Employee shall be entitled to the base salary earned by the Employee pro rated as provided in Article II up to and including the date of termination. Employee shall be entitled to no further compensation after the date of termination.

6.02 TERMINATION BY EMPLOYER.

This Agreement may be terminated by Employer with the concurrence of the City Manager prior to expiration of the term, set forth in Article I of this Agreement, by giving the Employee three (3) month written notice of the Employer's intention to terminate this Agreement prior to the expiration of the term set forth in Article I.

6.03 TERMINATION FOR CAUSE.

This agreement may be terminated by Employer with the concurrence of the City Manager may, at its option, terminated this agreement by giving written notice of termination to the Employee without prejudice to any other remedy to which the Employer may be entitled either at law, in equity, or under this Agreement, if the Employee:

- a. Willfully breaches or habitually neglects the duties the Employee is required to perform under the terms of this Agreement, after receiving written notice by the City Manager.
- b. Consistently performs required duties below established minimum standards, after receiving written notice by the City Manager.

- c. Refuses to obey reasonable orders or directives, after receiving written notice in writing.
- d. Engages in acts of disruption or violence.
- e. Commits a clearly dishonest act toward the Employer.
- f. Negligence in care of City property.
- g. Inducing another to commit an unlawful act.
- h. Exerting improper influence on behalf of a relative.
- i. Engaging in improper political activity.
- j. Loss by the Employee of legal capacity, to wit: becoming of unsound mind, mentally disabled, insane or mentally incompetent to care for himself or to manage his property and financial affairs, as determined by a court of competent jurisdiction in the State of Texas.
- k. The continued incapacity on the part of the Employee, for reasons other than loss of legal capacity as defined above, to perform his duties for a continuous period of ninety (90) days, unless waived by the Employer.
- l. Being under the influence of intoxicants or drugs or the use thereof while on duty.
- m. Conviction of a felony, or of a misdemeanor involving moral turpitude.

In the event of termination of this Agreement pursuant to this section, the Employee shall be entitled to the compensation earned prior to the date of termination as provided for in this Agreement, computed pro rata up to and including the date of termination. The Employee shall be entitled to no further compensation and will be relieved of all duties and obligations under this Agreement as of the date of termination.

ARTICLE VII - GENERAL PROVISIONS

7.01 NOTICES.

Any notice required to be given under this Agreement by either party to the other must be given either by personal delivery in writing or by mail, registered or certified, postage prepaid, with return receipt requested. Mailed notices shall be addressed to the parties at the following addresses:

Deborah G. Hamlyn, Deputy City Manager
Quality of Life Services
2 Civic Center Plaza
El Paso, Texas 79901-1196

Steve Marshall

Each party may change the party's address by written notice given in accordance with this paragraph. Notices delivered personally shall be deemed effective as of actual receipt. Mailed notices shall be deemed effective as of three (3) days after posting with the United States Postal Service.

7.02 ENTIRETY OF AGREEMENT.

This Agreement constitutes the entire understanding between the parties. No agreement, representations, or warranties other than those specifically set forth in this Agreement shall be binding on any of the parties unless set forth in writing and signed by both parties. This Agreement supersedes all prior agreements, either oral or in writing, between the parties with respect to the employment of the Employee by the Employer and contains all of the covenants and agreements between the parties with respect to such employment in any manner. Each party to this Agreement acknowledges that no inducements or promises, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not embodied in this Agreement.

7.03 PARTIAL INVALIDITY.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

7.04 LAW GOVERNING AGREEMENT.

This Agreement is entered into in the State of Texas and it is the intent of the parties that this Agreement be governed by and construed in accordance with the laws of the State of Texas.

Venue for any cause of action arising out of this Agreement will be in the courts in El Paso County, Texas.

7.05 WAIVER.

The failure of either the Employer or the Employee to insist in one or more instances upon performance of any of the terms or conditions of this Agreement shall not be construed as a waiver of future performance required by such term or condition, and the obligations of either party with respect to the term or condition shall continue in effect as if no forbearance had occurred. No covenant or condition of this Agreement may be waived except by the written consent of the waiving party.

7.06 INDEMNIFICATION.

The Board, to the extent permitted by law, indemnifies the Employee against claims resulting from an act or omission of the Employee in the course and scope of his employment and arising from a cause of action of negligence. A defense will be provided for the Employee when such defense is determined to be in the public interest.

EXECUTED at El Paso, Texas, on this 24th day of October, 2006.

CITY OF EL PASO

Joyce A. Wilson
City Manager

EMPLOYEE:

Steve Marshall

(Signatures continued on page 9)

APPROVED AS TO CONTENT:

Deborah G. Hamlyn, Deputy City Manager
Quality of Life Service

APPROVED AS TO FORM:

John R. Batoon
Assistant City Attorney

SCOPE OF DUTIES STATEMENT

ZOO DIRECTOR

(EL PASO CONTRACT POSITION)

General Purpose

Under administrative direction, manage zoological operations and development to establish and maintain quality facilities and programs, and a safe animal and visitor

Typical Duties:

Plan, organize, implement and direct zoo functions to include facilities design and construction, overall operations, programs, staffing, development and budget. Involves: Oversee and assign work that involves education, animal care, animal collections, facilities, conservation research, visitor services, customer service, marketing, public relations and grounds. Explore new and innovative ways for improving zoo operations by developing plans and programs which ensure enjoyable and educational visitor experiences, healthy collections, presentable grounds within a mission-oriented and community-minded organization. Manage priorities and progress of projects and activities.

Plan, design, implement and review zoo short- and long-term goals and priorities. Involves: Develop and manage annual zoo budget. Monitor and approve expenditures. Collect and analyze data. Prepare a variety of reports regarding zoo activities, accomplishments and goals. Implement and enforce zoo policies and procedures. Design, establish and maintain an organizational structure and staffing to effectively accomplish the organization's goals and objectives.

Supervise assigned staff and volunteers. Involves: Participate, authorize or approve the hiring of staff. Supervise directly and through subordinate supervisors. Appraise employee performance and review evaluations by subordinate supervisors. Provide for training and development. Enforce personnel rules and regulations and work behavior standards firmly and impartially. Counsel, motivate and maintain harmony. As appointing authority, interview applicants and hire, terminate, transfer, discipline and assign merit pay or other employee status changes.

Represent the zoo in a professional manner. Involves: Meet with community, regional, national and international organizations, citizen groups, news media, City Manager, Deputy City Manger and other officials to inform about zoo changes and enhancements and to seek support for the organization's initiatives, projects and programs. Interact with a variety of governmental agencies, private sector officials and others to provide and gather accurate information for zoo development. Work with other City departments to provide assistance or gather information. Coordinate efforts and planning with, and provide professional guidance to the zoological society.

Knowledge, Skills, and Abilities

- Application of comprehensive knowledge of zoo operations principles, practices and techniques.
- Application of comprehensive knowledge of state and federal laws, rules and regulations governing zoo operations.
- Application of considerable knowledge of budget preparation, personnel records systems and standard general and fiscal administration policies and practices.
- Application of considerable knowledge of management and supervisory principles and techniques, pertinent federal, state and local labor and safety rules and regulations.
- Establishment and maintenance of effective working relationships with businesses, coworkers, department heads, officials, customers, regulatory agencies and the general public.
- Assess objectives and operational requirements to develop and implement appropriate administrative policies and procedures for the city and the department.
- Manage, develop, motivate and evaluate professional, technical, supervisory and clerical staff.
- Clear concise oral and written communication to prepare and present comprehensive reports to City Manager, Mayor, Council, City management, businesses and the general public.
- Establish and maintain effective working relationships with coworkers, officials, volunteers, regulatory agencies and the general public.

Other Job Characteristics

- Residency within the City of El Paso city limits required by date of employment.
- Occasional driving through City traffic.
- Walking through exhibit areas and uneven terrain, with occasional exposure to weather conditions.
- May work extended hours as an executive reporting to the Deputy City Manager.

Minimum Qualifications

Education and Experience: An accredited Bachelor's degree in zoo management, business or public administration or related field, and eight (8) years of zoological operation experience, including four (4) years management experience.

Licenses and Certificates: Some positions may require a Texas Class "C" Driver's License or equivalent from another state.