

May 15, 2017

Email: [REDACTED]

Dear [REDACTED]

**Re: Request for Access to Information Under Part II
of the Access to Information and Protection Privacy Act**

On May 1, 2017, the City of St. John's received your request for access to the following information:

"I also have the following ATIPPA requests arising from earlier responses that were not complete:

- 1. Did Neil Martin continue to receive sick leave credits while he was on salary continuance?*
- 2. Who represented Council in the negotiation of Martin's retirement package?*
- 4. Who represented Martin?*
- 5. What were the dates of negotiation(s)?*
- 6. Are there meetings of these negotiations?*

Re: your memo of 2017/01/24:

Your (1) -What was the amount of severance paid to the female employee who was terminated without cause on 2016/10/12? You did not provide that amount.

Your (2) -Why was this employee treated differently than the above employee and terminated without cause? Was there a legal requirement(s) to pay this employee the 'special severance allowance'?

Is there a legal opinion that says that the 'SRA' had to be paid?

Why is this payment not a violation of the Severance Policy of Council: Policy03/09/03 re: severance pay on retirement?

You did not provide a copy of the job descriptions of Director of Roads and Traffic and City Transportation Engineer. Please provide.

How long were these positions simultaneously occupied?

Re: Your memo of Feb.28, 2017:

Was the HR Dept involved in the creation of the position of Director of Roads and Traffic? If not who created the job description? Why was Council approval not required? When did Council make the decision that it would no longer be involved in the creation of Director level positions and higher? Provides all records, including all minutes of private meeting on these matters. What authority does the current City Manager have with respect to the creation of senior managerial positions as Mr. Martin did with respect to the creation of the position of Associate City Manager? How was the salary of \$196,000 decided? Did Mr. Martin approve the salary without the approval of Council?"

ST. JOHN'S

Enclosed is the information you requested. Please note that Special Meeting Minutes were omitted as per ATIPPA Sections 28(1) (c) and 30:

28. 1. The head of a local public body may refuse to disclose to an applicant information that would reveal (c) the [REDACTED] of deliberations of a meeting of its elected officials or governing body or a committee of its elected officials or governing body, where an Act authorizes the holding of a meeting in the absence of the public.

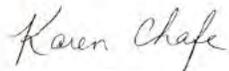
30. 1. The head of a public body may refuse to disclose to an applicant information (a) that is subject to solicitor and client privilege or litigation privilege of a public body; or (b) that would disclose legal opinions provided to a public body by a law officer of the Crown.

2. The head of a public body shall refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a person other than a public body.

We now consider this matter completed and will be closing the file.

If you have any further questions, please feel free to contact me by telephone at 576-8619 or by e-mail at kchafe@stjohns.ca.

Yours truly,



Karen Chafe
ATIPP Coordinator

ST. JOHN'S

Question:

Did Neil Martin continue to receive sick leave credits while he was on salary continuance?

Answer: Neil Martin did not accrue sick leave while on salary continuance.

Question:

Who represented Council in the negotiation of Martin's retirement package?

Answer: Council received legal advice from the City Solicitor, Cheryl Mullett. Kevin Breen, Deputy City Manager, presented Council's position to Mr. Martin.

Question:

Who represented Martin?

Answer: To the best of the City's knowledge Mr. Martin represented himself.

Question:

What were the dates of negotiation(s)?

Answer: February 15, 2016 - February 18, 2016

Question:

Are there meetings of these negotiations?

Answer: If you mean "minutes of these negotiations", there was a Special Meeting on February 15, 2016 where the City Solicitor, Cheryl Mullett provided legal advice to Council. The minutes of the Special Meeting shall not be disclosed in accordance with ATIPPA sections 28(1)(c) and 30.

Re: Your memo of 2017/01/24:

Question:

What was the amount of severance paid to the female employee who was terminated without cause on 2016/10/12? You did not provide that amount.

Answer: The female employee did not retire and therefore was not eligible to receive severance pay see Policy 03/09/03. The employee's employment was terminated without cause and she was paid compensation in lieu of working her notice period.

Question:

Why was this employee treated differently than the above employee and terminated without cause? Was there a legal requirement(s) to pay this employee the 'special severance allowance'?

Answer: The male employee was terminated without cause and paid compensation in lieu of working his notice period. Due to his pensionable years of service he then retired and was eligible to be paid severance pay in accordance with policy 03/09/03. The female employee's employment with the City was terminated without cause and she was paid compensation in lieu of working her notice period. She was not eligible to retire and therefore, was not eligible to receive severance pay. The determination of compensation in lieu of notice is a determination based on Employment Law and takes into account factors including but not limited to experience, age, job description, and education. There is no "special severance allowance."

Question:

Is there a legal opinion that says that the 'SRA' had to be paid?

Answer: If "SRA" stands for "Special Severance Allowance" as you have stated in the above question, this is not a term that is used by the City in its employment policies. There is only severance pay that is paid to employees upon retirement according to policy 03/09/03.

Question:

Why is this payment not a violation of the Severance Policy of Council: Policy03/09/03 re: severance pay on retirement?

Answer: The severance policy is available on our website see link below. As explained above one employee retired and the other employee did not. Therefore, only one was eligible for severance pay.

<http://websrv01.stjohns.dmz/city-hall/about-city-hall/corporate-and-operational-policy-manual>

Question:

You did not provide a copy of the job descriptions of Director of Roads and Traffic and City Transportation Engineer. Please provide. How long were these positions simultaneously occupied?

RESPONSE: SEE ATTACHED

Re: Your memo of Feb.28, 2017:

Question:

Was the HR Department involved in the creation of the position of Director of Roads and Traffic? If not who created the job description? Why was Council approval not required? When did Council make the decision that it would no longer be involved in the creation of Director level positions and higher? Provides all records, including all minutes of private meeting on these matters.

What authority does the current City Manager have with respect to the creation of senior managerial positions as Mr. Martin did with respect to the creation of the position of Associate City Manager? How was the salary of \$196,000 decided? Did Mr. Martin approve the salary without the approval of Council?

RESPONSE: OTHER THAN THE JOB DESCRIPTIONS ATTACHED, NO OTHER RECORDS EXIST TO RESPOND TO YOUR QUESTIONS ABOVE

Question:

As of today's date has Council done any kind of study/cost-benefit analysis of the automatic garbage system?

RESPONSE: You have a separate ATIPP request submitted regarding this matter (PB 295 2017)

Position Description

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|--|---|----------------------------------|
| TITLE: Director – Roads and Traffic | | File No. |
| Section: Division: Roads and Traffic Department: Public Works | Incumbent (if any): Don Brennan | Date: February 7, 2014 |

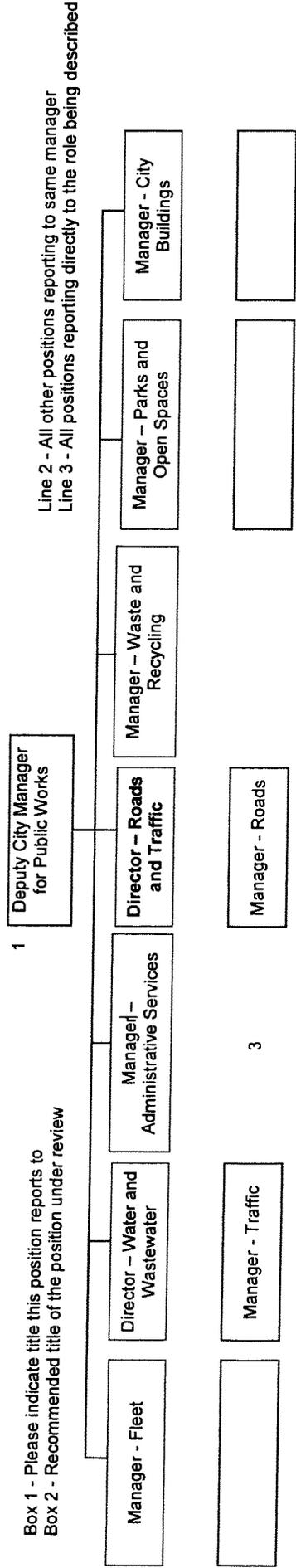
SUMMARY DESCRIPTION: Describe the general accountabilities of position in 4-5 statements.

Reporting to the Deputy City Manager, Public Works, the Director of Roads and Traffic is responsible for the following:

- Manage resources and direct staff in both the Roads and Traffic divisions for the provision of core essential municipal services including snow clearing, ice control, maintenance of roads and sidewalks, maintenance and operation of traffic signals, traffic signs, and traffic street markings,
- Direct the Roads and Traffic divisions – Plan, organize, coordinate, control, and monitor activities of these divisions; select, train, and motivate staff; ensure the promotion and observance of a safety culture with all required training and monitoring to ensure adherence to modern OHS standards; monitor and improve efficiency; recognize exemplary service and provide encouragement regarding performance; communicate, discuss, and receive feedback on staff progress on assigned tasks; interpret collective agreements and apply disciplinary measures as required; develop and implement management tools for productivity and efficiency; provide advice, counsel and guidance to managers regarding sensitive issues of performance management, conflict, change management, and respectful workplace relationships,
- Prepare reports and recommendations for Council and attend meetings of Council and Council committees; investigate and prepare reports for Council complaints and requests for service; provide professional engineering advice for Council and other City divisions/departments for all activities of Roads and Traffic divisions,
- Develop and implement action plans and long range plans to address operational challenges; provide reports and updates on major issues and operational developments in the growing City; plan and coordinate staff training programs; discuss, plan and implement budgets and capital works; resolve issues and recommend changes related to policies, procedures, legal matters, claims and enforcement of City by-laws,
- Develop and monitor effective and responsive computerized complaint/inquiry systems; develop and implement service evaluation surveys and monitor effectiveness; correspond with general public regarding policies, practices, decisions and response to inquiries;
- Represent the City with various external initiatives and organizations: interaction with other municipalities, professional organizations (eg. TAC, APWA), grievance arbitration hearings, interaction with external consultants, etc.

The above statements are intended to describe the general nature and level of work being performed by people assigned to this classification. They are not to be construed as an exhaustive list of all responsibilities, duties, and skills required of personnel so classified. All personnel may be required to perform duties outside of their normal responsibilities from time to time, as needed.

REPORTING RELATIONSHIP: Details about where the position fits, any direct reports and relationship to peers will help understand the position. Use titles only, or attach current Organization Chart.



Box 1 - Please indicate title this position reports to
 Box 2 - Recommended title of the position under review

Line 2 - All other positions reporting to same manager
 Line 3 - All positions reporting directly to the role being described

Education and Training
 Education Requirement &
 Professional designations
 /certifications

Undergraduate degree in civil engineering with registration as a Professional Engineer in the Province of Newfoundland and Labrador.

Position Description

| | | |
|--|---|----------------------------------|
| TITLE: Director – Roads and Traffic | | File No. |
| Section: Division: Roads and Traffic Department: Public Works | Incumbent (if any): Don Brennan | Date: February 7, 2014 |

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|---------------------------|--|
| | P.Eng. – Professional Engineering status required – membership in PEGNL. |
| Related Experience | <ul style="list-style-type: none"> • 15+ years' progressively responsible experience in maintenance, operations, and construction of civil infrastructure, in a municipal or equivalent environment, • Proven Technical and administrative knowledge and experience in a wide range of civil and municipal services, • Proven leadership at senior management level with proven ability to motivate and direct both professional and non-professional staff in complex, unionized environment with varied and changing demands from Council, unions, public, and media, |

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| Describe the content and requirements of the position in terms of the following key factors. | |
| SKILL / KNOWLEDGE: | SCOPE/IMPACT: |
| <ul style="list-style-type: none"> • Specific experience and knowledge of "state of the practice" techniques and protocols for summer and winter road maintenance activities, • Expert level skills in the range of maintenance and operations activities involving Roads and Traffic divisions, • Strong organizational, project management, and execution skills to ensure successful delivery and implementation of projects, policies and processes, • Ability to manage many and varied tasks and projects in a fast-paced and changing municipal environment, and to do so under trying weather demands including possible emergency extreme weather events. | <p>When outlining the SCOPE and IMPACT - Considers the actions of this position. – does it only affect own work, that of a work team, other departments, across the organization</p> <ul style="list-style-type: none"> • Across all staff in Roads and Traffic divisions • Coordination and cooperation of various initiatives across other departments; regular interaction with all levels of staff including Executive and Council • Some impact across the entire organization including the direct impact of Roads and Traffic divisions' activities on all commercial activity in the City as a result of the need to maintain Levels of Service and traffic flow on all City streets. |
| GENERAL CAPABILITIES: Describe any other skills and capabilities that would be useful in this position (e.g. Communication and Interpersonal skills, People Management, Execution, Thinking skills, Business Savvy, Customer Orientation, etc.) | DECISION-MAKING: Does the position have Direct or Indirect/Advisory influence over key decisions? Describe the nature of the problems the position deals with. Is there a guidebook/manual or do problems require unusual or new solutions? |

Position Description

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|--|-------------------------------|
| TITLE: Director – Roads and Traffic | File No. |
| Section: Roads and Traffic Division: Roads and Traffic Department: Public Works | Date: February 7, 2014 |
| Incumbent (if any): Don Brennan | |

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| <ul style="list-style-type: none"> • Ability to coach and advise managers and technical staff on various issues, • Superior communication and relationship-building skills in order to effectively manage contact with other management levels, Council, public, unions, media, • Strong diagnostic (trouble-shooting) and decision making skills for evaluation of unique situations as well as the review/revision of established practice and policy. | <ul style="list-style-type: none"> • Total Operating and capital budget \$25-30 Million • Up to 235 staff • Regular interaction with Council, Executive, Directors, as well as subordinate staff • Maintain (incl. snowclearing) 1400 lane-km of roads | <ul style="list-style-type: none"> • Considerable direct influence over key decisions regarding level of service provided to public • Policy development, implementation and interpretation • Troubleshooting and creative thinking are regular requirements of this position – unique solutions frequently provided • Governed by collective agreements (569/1289), as well as OHS and Labor standards • Guidelines used from TAC guides, APWA publications, engineering specifications and standards, but mature and seasoned judgment is necessary in interpretation and implementation. |
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WORKING CONDITIONS: Describe the physical environment the position is located in. Are there unusual physical requirements or mental stress factors that impact the position? (e.g. regular outdoor work, climbing towers, frequent business related travel or having to sit for extended periods of time at a PC, or reception desk).

Office environment located at Municipal depot on Blackler Avenue. Regular sitting for extended periods at a PC. Frequent monitoring of the activities of the Roads and Traffic divisions in all weather conditions, some extreme (snowstorms, flooding, windstorms and hurricanes). Exposure to traffic hazards while outside vehicle at work sites, exposure to cold and precipitation or high winds and associated debris, potential slip and fall hazards while at work sites in compromised weather and road conditions. Frequent exposure to noise and fumes around heavy equipment.

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| APPROVED BY: | Manager: | Date: |
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| | Director | Feb. 21, 2014 |
| | Deputy City Manager | Feb 21 14 |

For Human Resources Department Use:

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| Job code | | |
| Position Title - Generic | | |
| Pay grade | | |
| Union Group | | |
| Location | | |

Position Description

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|--|---|----------------------------------|
| TITLE: Director – Roads and Traffic | | File No. |
| Section: | Incumbent (if any): Don Brennan | Date: February 7, 2014 |
| Division: Roads and Traffic | | |
| Department: Public Works | | |

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| Vehicle Required | |
| Last revised | |

Position Description

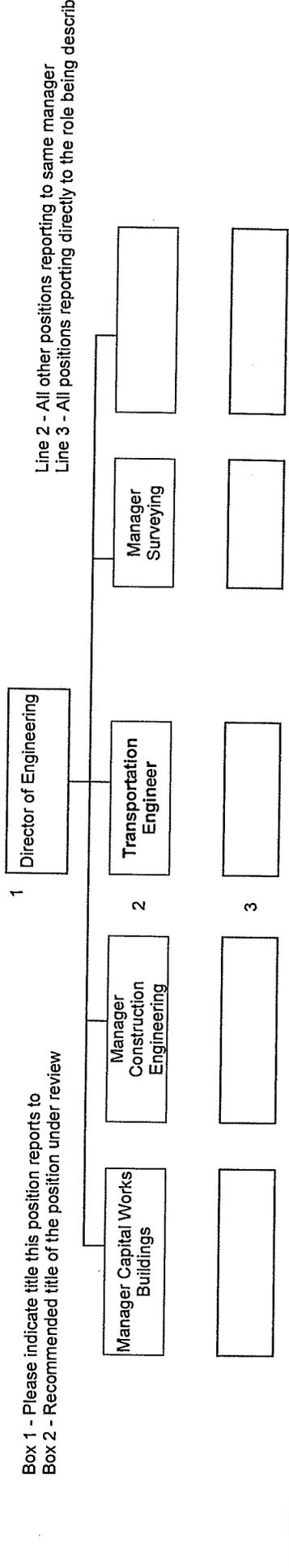
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|--|----------------------------|
| TITLE: Transportation Engineer | File No. |
| Section: | Date: |
| Division: : Engineering | Incumbent (if any): |
| Department: Planning, Development & Engineering | |

SUMMARY DESCRIPTION: Describe the general accountabilities of position in 4-5 statements.

- Provide long range transportation/mobility planning (all forms of mobility). Ensure that the City expands consistently with reference to multiple transportation modes, and in the context of the overall City planning goals
- Assess major development applications. Preparation of terms of reference of traffic impact studies, review of final report and recommendations.
- Familiarity with and use of transportation software packages, including VISSUM, Synchro, SynTraffic and collision data analysis
- Communicate with general public, professional consultants, media
- Interpret traffic manuals, keep abreast with applicable traffic legislation and codes
- Prepare traffic related reports such as traffic impact assessments, traffic management plans.
- Make presentations.
- Keep current with latest transportation trends and technology.
- Perform traffic technical review of residential, commercial, industrial and institutional development applications. Ensure applications and designs submitted are in accordance with the Transportation Association of Canada design guidelines, City's subdivision design manual, City of St. John's Specifications and the St. John's Regional Fire Department guidelines.
- Act as an expert witness during public meeting, legal issues and court matters concerning sight distance and traffic related hazards.
- Provide advisory services including consultation and technical advice regarding design conclusions and recommendations and to negotiate design revisions with consultants as necessary.
- Analyzing and interpreting data gathered from various engineering documents and studies including Land Use Assessments, Traffic Impact Studies, Collision History Reports along with Roadway and Intersection Level of Service analysis.
- Plan, design, and improve components of traffic control systems in order to accommodate current and projected traffic, and to increase usability and efficiency.
- Consult with and provide engineering assistance to other City departments and governmental agencies, as needed.
- Represent the City's interest on development applications regarding compliance with national standards and city codes. Provide leadership and direction while ensuring professional, consistent, timely and effective customer service through the public review process.
- Request and conduct site inspections and hazard investigations as required.
- Prepare and review intersection and traffic infrastructure cost estimates and designs as needed.

The above statements are intended to describe the general nature and level of work being performed by people assigned to this classification. They are not to be construed as an exhaustive list of all responsibilities, duties, and skills required of personnel so classified. All personnel may be required to perform duties outside of their normal responsibilities from time to time, as needed.

REPORTING RELATIONSHIP: Details about where the position fits, any direct reports and relationship to peers will help understand the position. Use titles only, or attach current Organization Chart.



Box 1 - Please indicate title this position reports to
 Box 2 - Recommended title of the position under review
 Line 2 - All other positions reporting to same manager
 Line 3 - All positions reporting directly to the role being described

Education and Training

Position Description

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|--|----------------------------|
| TITLE: Transportation Engineer | File No. |
| Section: | Date: |
| Division: : Engineering Department: Planning, Development & Engineering | Incumbent (if any): |

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| Education Requirement & Professional designations /certifications | <ul style="list-style-type: none"> • University Graduate with a Bachelor's Degree in Civil Engineering. • Registered Member as a Professional Engineer with the Association of Professional Engineers and Geoscientists of Newfoundland and Labrador. • A minimum of 5 - 10 year's experience directly related to traffic engineering and project management, with progressive level of responsibility. • Transportation experience to be supplemented by transportation related courses. |
| Related Experience | <ul style="list-style-type: none"> • Progressive experience in the areas of municipal engineering including the design of commercial and residential developments. • Knowledge of the principles and methods concerning roadway geometric and the transportation characteristics of vehicles and pedestrians • Extensive professional background and skills in coordinating work with other departments, public agencies, and in dealing with the public. |

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| Describe the content and requirements of the position in terms of the following key factors. | |
| SKILL / KNOWLEDGE: | SCOPE/IMPACT: |
| <ul style="list-style-type: none"> • Maintain thorough knowledge of current design practices, materials, techniques and construction methods related to municipal works; including water, drainage, subdivision development, road geometrics and traffic signal design and installation. • Knowledge and understanding of the factors affecting traffic conditions such as roadway designs, lighting, pavement markings, signage and traffic/pedestrian volumes and collision history. • Ability to study traffic conditions, identify issues and assess possible solutions and their effectiveness • Be familiar with all Authorities Having Jurisdiction over any component work affected by a proposed development, i.e. Newfoundland Power, Department of Environment and Conservation, Government Services, Canada Post, etc. • Ability to multitask, coordinate, and establish priorities for the processing of multiple development applications in a timely manner. • Confidence in dealing with people during | <p><i>When outlining the SCOPE and IMPACT - Considers the actions of this position. - does it only affect own work, that of a work team, other departments, across the organization</i></p> <ul style="list-style-type: none"> • Technical reviews prepared by this position have a direct impact on whether a development application is approved or rejected. • During the review process the incumbent is responsible for consulting with other various departments for review, including the Streets Division, Traffic Division, Construction Division and Regional Fire Department. • The incumbent is responsible to provide information, summaries and recommendations to upper management and Council related to various traffic issues within the City. • Solutions and recommendation provided by the incumbent can result in an impact on all city roadway end users including motorists and pedestrians • It is the incumbent's duty to ensure that all traffic related factors are considered during the development review process and any issues identified to ensure the applicant is held responsible for any/all corrective measures as provided by the incumbent. These steps are critical to ensure the city's roadways continue to operate in an efficient manner while saving the City the responsibility and financial investment required to complete the necessary upgrades. • Position requires consulting and coordinating application reviews with the Development Engineers. |

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| TITLE: Transportation Engineer | File No. |
| Section: Division: : Engineering Department: Planning, Development & Engineering | Date: |
| Incumbent (if any): | |

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| <p>stressful situations and appropriate conflict management</p> <ul style="list-style-type: none"> Knowledge and use of computer applications for engineering and project management activities including traffic simulation software, signal timing and coordination, surveying and computer drafting principles. | <p>DIMENSIONS: Describe any data that would define the size of the position, such as sales, assets or people influenced by the position, capital or expense budgets controlled by this position.</p> <ul style="list-style-type: none"> The incumbent is responsible to ensure that the impacts of existing and future developments are identified and infrastructure is installed, during the development phase, to remediate these issues thereby saving the City future financial expenses. Identifying future road network and intersection upgrades while ensuring other City Departments are aware as to reduce the potential for unnecessary City expenditure and construction costs to the City. Improvements and/or changes identified by the incumbent can cost many millions of dollars depending on the complexity of the required installation. Recommendations made by the incumbent have the potential to affect all users of the City's roadway network, including various roadway with excess of 25,000 to 65,000 vehicle trips per day. | <p>DECISION-MAKING: Does the position have Direct or Indirect/Advisory influence over key decisions? Describe the nature of the problems the position deals with. Is there a guidebook/manual or do problems require unusual or new solutions?</p> <ul style="list-style-type: none"> Use of sound judgment and decision making skills to evaluate potential developments and their associated traffic impacts both locally and on a city wide scale. A thorough knowledge and understanding of transportation issues and the ability to effectively communicate these issues to upper management, City Council and the general public so that informed decisions can be made. Ability to balance the social and economic needs of various developments while trying to influence the attitudes towards alternative solutions. Recommendations provided to City Council and management on various traffic related issues directly affect the potential outcome. Position has the ability to effectively reject a development application due to the potential or cited traffic concerned identified during the review process. Position has a direct impact on the implementation and enforcement of current policies and procedures used in development. Position has an indirect influence on the development and recommendation of new procedures, practices, and policies relating to development. | <p>GENERAL CAPABILITIES: Describe any other skills and capabilities that would be useful in this position (e.g. Communication and Interpersonal skills, People Management, Execution, Thinking skills, Business Savvy, Customer Orientation, etc.)</p> <ul style="list-style-type: none"> Ability to deal with people effectively, objectively and courteously, and establish and maintain effective working relationships with other employees, general public, developers, property owners, contractors, and consultants. Ability to always exercise professional judgment, degree of care, skill and diligence in providing services on behalf of the City's taxpayers. Ability to effectively use conflict management when necessary to resolve issues and promote positive outcomes. Excellent analytical, communication and interpersonal skills with the ability to work under one's own supervision, within a team and liaise with others throughout the organization. Ability to prepare and communicate complex issues effectively through clear and precise correspondence of a technical and administrative nature, and to present to senior administration, developers, committees, and the public. Physical ability to perform the essential functions of the job in a standard office setting, or in field as required. A commitment to continuous professional development. |
| <p>WORKING CONDITIONS: Describe the physical environment the position is located in. Are there unusual physical requirements or mental stress factors that impact the position? (e.g. regular outdoor work, climbing towers, frequent business related travel or having to sit for extended periods of time at a PC, or reception desk).</p> | | | |

Position Description

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| TITLE: Transportation Engineer | | File No. |
| Section: Division: : Engineering Department: Planning, Development & Engineering | Incumbent (if any): | Date: |

Work is performed mostly in an office setting. Occasional travel within the City is required to inspect various developments or construction sites.

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| APPROVED BY: | Manager: | Date: |
| | Director | |
| | Deputy City Manager | MARSH 18, 2014 |
| | | MAR 19, 2014 |

For Human Resources Department Use:

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|--------------------------|--|
| Job code | |
| Position Title - Generic | |
| Pay grade | |
| Union Group | |
| Location | |
| Vehicle Required | |
| Last revised | |