



## Agenda Report

20-1189

Agenda Date: 11/17/2020

### REPORT TO COUNCIL

#### SUBJECT

Approval of no cost of living and merit compensation increases for the City Manager and City Attorney and approval to apply the benefit changes for the City Manager and City Attorney, unless stated otherwise in the employment agreement, as included in the new Miscellaneous Unclassified Management Employees (Unit 9) Memorandum of Understanding

#### COUNCIL PILLAR

Enhance Community Engagement and Transparency

#### BACKGROUND

As the Human Resources Director, charged with ensuring compliance with the Council Appointees employment contracts, this report recommends COLA, merit, and benefit changes to the City Manager and City Attorney, similar to those included in the Unit 9 successor MOU for calendar years 2019 and 2020. The City Manager and City Attorney each have employment contracts that outline the compensation for each incumbent. For the salary and benefits, unless articulated differently in their individual agreements, prior cost of living adjustments (COLA) for both City Manager and City Attorney were aligned with those received by the Miscellaneous Unclassified Management Employees (Unit 9) Memorandum of Understanding (MOU). For example, on December 16, 2018, Unit 9 received a 4% COLA, which the City Council also approved for the City Attorney, and also provided to the City Manager in accordance with the terms of the City Manager's employment contract. Additionally, both the City Attorney's and City Manager's employment contracts provide, to varying degrees, that fringe benefits will align with those benefits provided to Unit 9.

The City of Santa Clara's collective bargaining agreement with Unit 9 expired on December 14, 2019. On or about November 3, 2020, the City and Unit 9 reached an overall Tentative Agreement on the terms to be contained in the successor Memorandum of Understanding (MOU) between the City and Unit 9. The terms of the MOU are placed on the November 17, 2020, Consent Calendar for City Council approval. The successor MOU includes a term of December 15, 2019 through and including December 31, 2024. For the period of December 2019 through December 2021, the Unit 9 MOU provides a 0% COLA and changes to the Vacation and Management Leave benefits.

#### DISCUSSION

Government Code, Section 54953(c)(3) requires that, "Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken."

**COLA Increases**

The City Manager and City Attorney previously received the same percentage COLA increase as Unit 9. Both of their employment contracts reference Unit 9 for purposes of a COLA adjustment, which shall be effective when approved by the City Council. The suspension of COLA increases for a two year term results in no salary growth and the Council Appointees will be effected by the same provisions as Unit 9. The City Manager's employment agreement also ties cost of living increases to Unit 9 and a suspension of COLA is consistent with the employment agreement. Therefore, it is recommended that the City Manager and City Attorney not receive a COLA from December 15, 2019 to December 25, 2021.

**Merit Increases**

Consistent with Unit 9, the City Manager and City Attorney will not receive merit increases for the same two-year term that Unit 9 has agreed to through its MOU (January 1, 2021 - December 31, 2022).

**Benefit Changes**

The contracts of the City Attorney and City Manager to varying degrees link to fringe benefits in the Unit 9 MOU. Most Unit 9 MOU fringe benefits remain unchanged by the MOU, and therefore, it is recommended that the benefits of the City Manager and City Attorney should not change prior to the 2022 calendar year, with two exceptions: vacation leave and management leave. First, applicable to both the City Attorney and City Manager, the Unit 9 Agreement includes revisions to the Vacation accrual maximum, lifting the vacation cap, and shifting accrued unused vacation hours to the Temporary Supplemental Vacation Accrual balance. Second, applicable to the City Attorney, the Unit 9 Agreement includes revisions to rollover up to 120 hours of management leave. It is recommended that these benefits be extended to the City Manager and City Attorney consistent with their employment contracts. With respect to the Management Leave rollover limit, this will not apply to the City Manager as the employment contract for the City Manager provides the specific amount of annual Management Leave and is silent on rollover limit.

**ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

**FISCAL IMPACT**

The recommendation provides no salary changes for the City Manager and City Attorney, therefore, there is no additional increased cost.

The Management Leave and Vacation Leave benefits provide time off and have no cost impact unless the incumbent separates employment, resulting in a payout of any unused accrued vacation leave.

**COORDINATION**

This report has been coordinated with the Finance Department and the Assistant City Attorney. As the Human Resources Director, charged with implementing all employment contracts including

Council Appointees, this item is being advanced to ensure compliance with employment agreements and alignment to Unit 9 MOU changes.

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>>.

**RECOMMENDATION**

Approve to make no Cost of Living or Merit Pay Adjustments to the City Manager and City Attorney compensation effective December 15, 2019 to December 25, 2021; no merit increase adjustments effective January 1, 2021 to December 31, 2022; extend the Unit 9 benefit changes to the City Manager and City Attorney as articulated in this staff report.

Approved by: Aracely Azevedo, Director of Human Resources