



## Agenda Report

21-1299

Agenda Date: 9/28/2021

### REPORT TO COUNCIL

#### **SUBJECT**

Action to Adopt a Resolution Approving and Adopting an Updated As-Needed Salary Plan Reflecting Amended Changes, Adopt Resolutions for an Exception to the 180 Day Waiting Period To Appoint Two Retired Annuitants To Serve as Temporary Extra Help (Government Code Sections 7522.56 and 21224); Authorize the City Manager to execute funding Agreements with Related Santa Clara and Destination Marketing Association to partially fund a Retired Annuitant; Freeze 1.0 Senior Management Analyst in the City Manager's Office; Unfreeze 1.0 Deputy City Clerk (Job Code 178) in the City Clerk's Office; and Related Budget Amendments

#### **COUNCIL PILLAR**

Manage Strategically Our Workforce Capacity and Resources

#### **BACKGROUND**

##### As-Needed Salary Plan

Section 9 of the Personnel and Salary Resolution requires City Council approval of compensation plans for both classified and unclassified positions. California Code Regulations Section 570.5 governs and requires the adoption of updated publicly available salary schedules by the governing body. The proposed Council action satisfies these applicable requirements.

The City of Santa Clara contracts with the California Public Employees' Retirement System (CalPERS) to provide retirement benefits for employees in both classified and unclassified positions. When the City makes modifications to the salary schedules for its classified or unclassified positions, the City Council must approve and adopt the publicly available salary schedules to comply with California Code of Regulations (CCR) section 570.5. The As-Needed Salary Plan has been modified to retitle the As-Needed Consultant (Job Code 349) to Temporary Employee (Job Code 349) and delete the Associate Consultant (Job Code 241) classification. It is also recommended to change the As-Needed Temporary Employee (Job Code 349) (formerly Consultant) classification range to be \$15.65 - \$200.00. The proposed updates to the As-Needed Salary Plan are recommended to be effective October 3, 2021.

##### Exception to the 180 Day Waiting Period To Appoint A Retired Annuitant To Serve as Temporary Extra Help

Generally, the Public Employment Retirement Law (PERL) requires that retired annuitants serve a 180-day wait period before working in a retired annuitant position. However, the PERL also provides for exceptions to this waiting period if certain criteria are met and the governing body of the public agency adopts a non-consent calendar resolution at a public meeting approving the appointment as a critically needed position before the 180 days has passed. The adoption of the resolution allows the employer to hire a retired annuitant to perform work of a limited duration, such as specialized work

and limited term complex projects.

There are two types of post-retirement appointments possible under Govt. Code Section 7522.56: 1) Extra help retired annuitants hired to perform work of limited duration such as special projects (Govt. Code Section 21224); and 2) Appointment to a vacant position on an interim basis while a permanent replacement is being recruited (an active recruitment must be in place for this type of appointment, and the appointment must end when the replacement is hired, Govt. Code Section 21221(h)). Staff is requesting action under the first type only.

#### Deputy City Clerk Position

On March 9, 2021, the City Council approved Phase 1 budget reductions, which included freezing 1.0 Deputy City Clerk (Job Code 178) in the City Clerk's Office. Since that time, the Clerk's Office has had some vacancies due to resignations and promotion: 1) Senior Management Analyst (Job Code 742) vacancy, 2) Office Records Specialist (Job Code 934) vacancy due to a promotion; and 3) As-Needed support staff vacancy.

While the Administration is actively recruiting for the Senior Management Analyst (Job Code 742), and will soon commence a recruitment for the Office Records Specialist (Job Code 934), these positions remain vacant and represent a large portion of lost capacity to sustain workload during a time when the workload is higher than average. With an upcoming resignation in the City Manager's Office, it is recommended to freeze 1.0 Senior Management Analyst (Job Code 742) in the City Manager's Office and unfreeze 1.0 Deputy City Clerk (Job Code 178) to provide additional staffing resources in the Clerk's Office. The trade-off with this action is that while the City Manager presents a cost-neutral proposal to offer additional resources to the City Clerk's Office, it is at the loss of capacity in the City Manager's Office while other vacancies are imminent.

### **DISCUSSION**

#### As-Needed Salary Plan

The As-Needed Salary Plan is recommended to be modified to retitle the Consultant (Job Code 349) to Temporary Employee (Job Code 349) and delete the Associate Consultant (Job Code 241) classification. It is also recommended to adjust the salary range for the newly retitled Temporary Employee (Job Code 349) classification to \$15.65 - \$200.00. The bottom of the range has been updated to align with the current minimum wage rate and the maximum hourly rate has been increased in order to compete with private sector hourly rates (without benefits) and to attract/retain essential workers to perform highly specialized and critical work for the City. Employees that are currently in the Associate Consultant (Job Code 241) classification, which will be deleted, will be moved to the Temporary Employee (Job Code 349) classification. There is no salary change or impact to reclassify these employees.

#### Exception to the 180 Day Waiting Period To Appoint A Retired Annuitant To Serve as Temporary Extra Help

The administration is requesting an exception to the 180-day waiting period for two (2) individuals to be brought back under the provisions of the Government Code Sections 7522.56 and 21224.

The first request is to rehire retired annuitant, Craig Temple, a Principal Engineer (Job Code 142) in the Public Works Department whose primary responsibilities included management of the Field

Services Division. Mr. Temple retired with the City on July 15, 2021. The City would like to rehire him to assist with construction management and inspection within the Field Services Division, including potential tasks associated with the City's Related Santa Clara Project. The Field Services Division has currently been unsuccessful in recruiting and filling an engineering vacancy, so obtaining some additional help is imperative. While the City undertakes a new recruitment process, Mr. Temple's services are needed to sustain Field Services Division duties. Mr. Temple has over 30 years of experience in public works and his vast institutional knowledge and extensive experience in construction management will greatly assist City staff with pending projects and the Department's strategic plan.

Specifically, Mr. Temple will be appointed to a limited term As-Needed Temporary Employee (Job Code 349) classification as a retired annuitant to perform essential work needed by the Department of Public Works. This position will perform duties comparable to the Principal Engineer (Job Code 142) classification. This position will provide critical planning and strategic consultation to the City as it relates to budget preparation and monitoring, construction management, and inspection. Mr. Temple will be assigned to assist the Field Services Division and various special projects, including a variety of Capital Improvement Projects. This employment arrangement would fall under the type 1 appointment (Govt. Code Section 21224) as Mr. Temple will be providing consulting services to assist with limited duration special projects.

The second request is to rehire a prospective retired annuitant, Ruth Shikada, Assistant City Manager (Job Code 016). Ms. Shikada is expected to retire with the City on October 15, 2021. The City would like to rehire Ms. Shikada to assist with critical and high-profile projects. Ms. Shikada's institutional knowledge and extensive experience leading the execution of the Related Santa Clara Project is critical to the Project's completion, as Phase 1 development documents will be submitted to the City in October 2021. Similarly, with Ms. Shikada's institutional knowledge with the DMO and Convention Center structural changes, and ensuring the public's interests are met, her skills in this area of work are needed to optimize this partnership during a time of its re-establishment. Related Santa Clara is a unique partnership between the City of Santa Clara and Related Companies to create a LEED-certified, multi-phased, mixed-use destination including residential units, restaurants, entertainment venues, hotels, retail, and office space to establish a new neighborhood within the City. Additionally, with the extended vacancy of the DMO Executive Director position and the need to continue to build upon the synergistic business activity between the City, DMO, and Convention Center, Ms. Shikada's continued assignment to this effort further supports this private-public relationship at this critical time.

Ms. Shikada's position is anticipated to be funded from various funding sources including Related Santa Clara (@ \$40,000), Destination Marketing Association (@ \$40,000) and the Convention Center Capital Fund (@ \$40,000). Therefore, authorization for the City Manager to execute funding agreements with Related Santa Clara and Destination Marketing Association are also recommended. Coordination with these entities has already taken place and each expressed a desire to continue to work in a part-time capacity with Ms. Shikada to leverage her skills during this critical time for these economic development projects that advance Santa Clara's local recovery and economy. In addition, it is recommended that \$40,000 from the Convention Center Capital Fund be transferred to the General Fund to partially fund the position. Specifically, Ms. Shikada will be appointed to a limited term As-Needed Temporary Employee (Job Code 349) classification as a retired annuitant to perform critical work needed by the City Manager's Office. This employment arrangement would fall under the Type 1 appointment (Govt. Code Section 21224) as Ms. Shikada will be providing consulting services

to assist with limited duration special projects.

The recommended action would certify that the appointment of Mr. Temple and Ms. Shikada meets the requirements as defined in Govt. Code Sections 7522.56 and 21224, specifically:

1. Appointment is necessary to perform critically needed duties prior to the expiration of the 180-day wait period;
2. Mr. Temple or Ms. Shikada have not and will not receive a Golden Handshake or any other form of retirement-related incentive;
3. Adoption of resolution was not placed on consent calendar;
4. Employment will be limited to 960 hours/fiscal year; and
5. Compensation will be within the posted salary range in the publicly available salary schedule.

#### Deputy City Clerk Position

As described above, it is recommended, that the City Council approve freezing 1.0 Senior Management Analyst in the City Manager's Office effective October 9, 2021; and unfreeze 1.0 Deputy City Clerk (Job Code 178) in the Clerk's Office effective October 10, 2021.

The City Clerk's Office has numerous vacancies due to resignations and promotion: 1) Senior Management Analyst (Job Code 742) vacancy, 2) Office Records Specialist (Job Code 934) vacancy due to a promotion; and 2) As-Needed support staff vacancy. The Administration has been actively recruiting for the Senior Management Analyst (Job Code 742), and has extended three (3) offers, however, each of the candidates have declined the offers. The recruitment for this position is ongoing. In addition, the Office Records Specialist (Job Code 934) position recently became vacant due to promotion; and one (1) as-needed staff member resigned as of September 17, 2021.

In reviewing and assessing the significant workload of the City Clerk's Office, it is important to properly staff and stabilize staffing levels in the Clerk's Office. The Senior Management Analyst (Job Code 742) position in the Clerk's Office will be primarily responsible for the significant volume of Public Records Act Requests that come in, as well as assist with leading the LaserFiche project and manage Legistar city-wide, and assist with day to day administration of the office duties. With the approval of unfreezing the Deputy City Clerk (Job Code 178), this position will be responsible for assisting in coordinating and preparing City Council, Stadium Authority, Sports and Open Space Authority Agendas and special meeting notices; attend meetings; assist in the work involved in the holding of general and/or special municipal elections; and other duties performed in this Office.

The City Manager's Office currently has a Senior Management Analyst (Job Code 742) position that will become vacant on October 9, 2021, therefore, it is recommended that this position be frozen, to fund the Deputy City Clerk (Job Code 178). There will be a significant loss of capacity within the City Manager's Office with the departure of an Assistant City Manager and Senior Management Analyst, on top of the staffing positions that have already been reduced to address the COVID induced budget impacts: however, the ability to utilize Ms. Shikada's part-time services will help stabilize the above critical projects while the City Manager's Office works to manage the remaining workload with far less resources.

#### **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 Public Employees’ Pension Reform Act (PEPRA) sets forth limitations for compensating retired annuitants. All retirees must be paid hourly, at no less than the minimum, nor more than the maximum, paid to employees doing similar work. Retirees also do not receive any benefits.

Based on the CalPERS formula for setting retired annuitant pay rates, Mr. Temple will be paid at the hourly rate for As-needed Temporary Employee (Job Code 349) classification at approximately \$107.27/hour which is equivalent to the top hourly rate of the Principal Engineer (Job Code 142) classification. This temporary extra help assignment will not exceed 960 hours per fiscal year, for a total maximum amount of approximately \$102,970. This position will be funded by vacancy savings within the Department.

Ms. Shikada will be paid at the hourly rate for As-needed Temporary Employee (Job Code 349) classification at approximately \$200.00/hour. This temporary extra help assignment will not exceed 960 hours per fiscal year, for a total maximum amount of approximately \$192,000. It is anticipated that agreements between the City and Related Santa Clara and Destination Marketing Association will provide funding up to \$80,000 (up to \$40,000 from each entity); in addition to \$40,000 from the Convention Center Capital Fund, for a total of up to \$120,000. The budget action to shift the \$40,000 from the Convention Center Capital Fund to the City Manager’s Office is included below. The remaining \$72,000 will be funded by vacancy savings within the City Manager’s Office.

The total compensation cost of the Deputy City Clerk (Job Code 178) is approximately \$178,000, and the total compensation cost for the Senior Management Analyst (Job Code 742) in the City Manager’s Office is approximately \$219,000. With the recommendation to freeze the Senior Management Analyst (Job Code 742) in the City Manager’s Office, there would be no additional cost to the General Fund to fund the Deputy City Clerk (Job Code 178) in the City Clerk’s Office. A budget action to shift \$134,000 from the City Manager’s Office to the City Clerk’s Office is included below and accounts for the cost of the Deputy City Clerk (Job Code 178) position for nine (9) months, funded by freezing the Senior Management Analyst (Job Code 742) position.

For the City Manager’s Office budget action, the net decrease of \$94,000 reflects an increase of \$40,000 funded by a transfer from the Convention Center Capital Fund, offset by a decrease of \$134,000 to fund the position in the City Clerk’s Office for nine months.

### **Budget Amendment FY 2021/22**

	<b>Current</b>	<b>Increase/ (Decrease)</b>	<b>Revised</b>
<b>General Fund</b>			
<u>Transfers From</u>			
Transfer from Convention Center Capital Fund	\$0	\$40,000	\$40,000

Expenditure

City Manager's Office - As-Needed	\$5,442,069	(\$94,000)	\$5,348,069
City Clerk's Office	\$1,470,231	\$134,000	\$1,604,231

**Current****Increase/  
(Decrease)****Revised****Convention Center Capital Fund**Transfer To

Transfer to General Fund	\$0	\$40,000	\$40,000
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Expenditure

Santa Clara Convention Center Condition Assessment Repair Project	\$3,500,000	(\$40,000)	\$3,460,000
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**COORDINATION**

This report has been coordinated with the City Attorney's Office and the Finance Department.

**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>>.

**ALTERNATIVES**

1. Adopt the attached updated As-Needed Salary Plan, Resolutions to permit the City's Retired Annuitants to provide valuable service to the City post-retirement but within the first 180 days of their retirement, Authorize the City Manager to execute agreements with Related Santa Clara and Destination Marketing Association; and authorize the transfer of funds from the Convention Center Capital Fund to the General Fund; or
2. Direct Staff to return with other options.

**RECOMMENDATION**

1. Adopt the Updated As-Needed Salary Plan;
2. Adopt Resolutions for an Exception to the 180 Day Waiting Period To Appoint two Retired Annuitants To Serve as Temporary Extra Help (Government Code Sections 7522.56 and 21224);
3. Authorize the City Manager to execute agreements with Related Santa Clara and Destination Marketing Association to provide funding for a Rehired Annuitant;
4. Consistent with City Charter Section 1305, "At any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative votes of at least five members so as to authorize the transfer of unused balances appropriated for one purpose to another purpose, or to appropriate available revenue not included in the budget," approve the following FY 2021/22 budget amendments:
  - A. In the General Fund establish a Transfer from the Convention Center Capital Fund in the amount of \$40,000, decrease the City Manager's Office appropriation by \$94,000, and increase

- the City Clerk's Office appropriation by \$134,000 **(five affirmative Council votes required to appropriate additional revenue)**.
- B. In the Convention Center Capital Fund, establish a transfer to the General Fund in the amount of \$40,000 and decrease the Santa Clara Convention Center Condition Assessment Repair Project by \$40,000 **(majority affirmative Council votes required)**.
5. Approve freezing 1.0 Senior Management Analyst (Job Code 742) in the City Manager's Office; and
6. Approve Unfreezing 1.0 Deputy City Clerk (Job Code 178) in the City Clerk's Office.

Reviewed by: Aracely Azevedo, Director of Human Resources

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. As-Needed Salary Plan for Council 09-28-2021 (eff 10-03-2021)
2. Resolution for Updated As-Needed Salary Plan
3. Resolution for an Exception to the 180 Day Waiting Period to Appoint A Retired Annuitant to Serve as Temporary Extra Help (C. Temple)
4. Craig Temple Offer Letter
5. Resolution for an Exception to the 180 Day Waiting Period to Appoint A Retired Annuitant to Serve as Temporary Extra Help (R. Shikada)
6. Ruth Shikada Offer Letter