



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

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### **REPORT TO COUNCIL**

#### **SUBJECT**

Consider Amending the Salary Schedule of the City's Salary Resolution to Increase the Control Point for the City Attorney Position and Amend the Employment Agreement between the City of Sunnyvale and City Attorney John A. Nagel to Increase the Salary

#### **BACKGROUND**

The City Council met in closed session on July 11, 2017 to discuss the City Attorney's annual performance evaluation. The City Attorney's compensation must be determined in a public meeting.

Section 7.130 of the Salary Resolution provides for employees to receive an annual increase, not to exceed the control point, following 26 pay periods from the prior salary increase and with satisfactory performance. The City Attorney will complete 26 pay periods from his prior salary increase as of July 16, 2017 and is eligible for a merit increase consistent with the Salary Resolution and Section 5 of his employment agreement.

#### **EXISTING POLICY**

Council Policy 7.3.1 Legislative Management - Goals and Policies, Goal 7.3D: Maintain a quality work force, consistent with state and federal laws, City Charter, and adopted policies in order to assure that City services are provided in an effective, efficient, and high quality manner.

Salary Resolution 7.130. Merit Increase. Management - The pay rate for employees in Categories D, F and K will be considered for adjustment beyond that granted after the first 13 pay periods of service following the completion of 26 pay periods from the prior increase in salary, up to but not exceeding the Control Point.

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with 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.

#### **DISCUSSION**

The City Attorney's Employment Agreement provides that the City Attorney shall be entitled to retirement and other benefits as applicable to department directors. Pursuant to the Salary Resolution Article 7.130, employees may receive an annual increase in salary, typically 5%, not to exceed the control point, with a satisfactory performance evaluation. The intent when the City Attorney was hired at a salary under control point was that he would be eligible for the salary adjustment described in the Salary Resolution, consistent with all other management employees. The City Attorney's Employment Agreement also provides for increases in the annual salary by written

agreement of the parties or by inclusion of the agreed salary amount in any duly adopted ordinance or resolution of the city setting the City Attorney's salary or employee salaries generally. This amendment will be posted with the Employment Agreement for the City Attorney on the City's website.

The salary control point for the City Attorney's classification is \$222,669. The City Attorney was hired on January 19, 2016 at 92.06% of the control point with an annual salary of \$205,000. Council approved an increase of the City Attorney's salary to 97.06% of the control point for an annual salary of \$216,122 effective July 17, 2016. Based on the City Attorney's satisfactory performance and consistent with the Salary Resolution providing for an annual salary increase of 5%, not to exceed the control point, the City Attorney is eligible for an increase in salary to 100% of the control point at \$222,669 per year.

As the salary range is approved by the City Council, there is an opportunity for the City Council to adjust the control point for the City Attorney and to determine the salary placement. If the Council desires to increase the City Attorney's compensation beyond the existing control point, the salary schedule must be amended to reflect any change in the control point for the City Attorney position because CalPERS requirements provide that employee compensation must be consistent with rates in a published salary schedule.

If the City Council chooses to revise the salary schedule and increase the City Attorney's salary beyond the current control point, the attached Employment Agreement Amendment will be revised consistent with the action taken by the City Council.

### **FISCAL IMPACT**

The FY 2017/18 Budget for Program 750 - Comprehensive Legal Services includes full funding of salary and benefits for the City Attorney.

### **Funding Source**

The City Attorney is funded by three funds dependent on the type of legal work that is being completed. They are the General Fund (79.5%), the Redevelopment Successor Agency Fund (0.5%), and the Development Enterprise Fund (20%). A portion of the General Fund costs are also recovered through fund level transfers from the Utility Enterprise Funds.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Consider amending the City's salary schedule to modify the control point of the City Attorney's salary in an amount to be determined by the City Council, and authorize the Mayor to approve an amendment to the City Attorney's agreement to increase the annual salary by an amount determined by the City Council and consistent with the revised salary schedule, effective July 16, 2017.
2. Approve an amendment to the City Attorney's employment agreement to increase the City Attorney's salary to 100% of the current control point for an annual salary of \$222,669 effective

July 16, 2017.

**RECOMMENDATION**

Staff makes no recommendation.

This report is developed to facilitate conversation for the public hearing and action by the City Council.

Prepared by: Michelle Ahlberg, Human Resources Manager

Reviewed by: Teri Silva, Director, Human Resources

Approved by: Walter C. Rossmann, Assistant City Manager

**ATTACHMENTS**

1. Amendment to Salary Resolution to Increase the Control Point for the City Attorney Position
2. Second Amendment to Agreement for Services between the City of Sunnyvale and John A. Nagel, City Attorney for the City of Sunnyvale