

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: AMY REEVE, DIRECTOR OF HUMAN RESOURCES
SUBJECT: APPROVAL OF AMENDMENT NO. 4 TO CITY ATTORNEY'S
EMPLOYMENT AGREEMENT AND INTRODUCE AN
ORDINANCE TO INCREASE THE COMPENSATION OF THE
CITY ATTORNEY

AGENDA ACTION: RESOLUTION AND ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the Human Resources Department that the Council, by resolution, approve Amendment No. 4 to the Employment Agreement of the City Attorney and introduce an Ordinance to increase the compensation of the City Attorney by providing, effective May 8, 2022, 1) a 5% merit increase in salary, and 2) a 3% increase in deferred compensation for a total City contribution of 8%.

EXECUTIVE SUMMARY

The Human Resources Department recommends that the Council consider amending the Employment Agreement of the City Attorney and introduce an Ordinance increasing the Compensation of the City Attorney by providing the City Attorney a 5% salary increase and a 3% increase in deferred compensation, for a total City contribution of 8%, both effective and retroactive to May 8, 2022 (the first pay period following the City Attorney's employment anniversary date).

BACKGROUND

The City Attorney's salary and compensation are set by ordinance adopted by City Council as required by the City Charter, and the City's employment agreement with the City Attorney is approved by the Council by resolution.

As established by ordinance, and provided in the City Attorney's employment agreement ("Employment Agreement"), the City Attorney's current salary is \$20,468.88 per month.

The Employment Agreement currently provides that "Subject to the limitations set forth in Government Code section 3511.2, the City Attorney's compensation shall change by the percentage of the cost of living salary adjustment, if any, paid to the City's executive management employees for the 2018-19 fiscal year and each fiscal year thereafter.

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Said cost of living increases shall not exceed the annual California Consumer Price Index for Urban Wage Earners and Clerical Workers as calculated by the Department of Industrial Relations, unless expressly approved by the Santa Rosa City Council. The City Attorney's compensation shall also change by the benefits adjustment, if any, paid to the City's executive management employee for the 2017-18 fiscal year and each fiscal year thereafter. In addition, upon completion of an annual performance evaluation as set forth in section 5, the City Council shall consider whether to provide a merit increase in the City Attorney's salary subject to the maximum salary range established for the City Attorney classification. Whether to provide a merit increase, and the amount of any such increase, shall be in the exclusive discretion of the City Council, and such determinations shall be final. In setting the City Attorney's annual compensation, the Council recognizes the City Attorney's salary should be set at a reasonable differential higher than the salaries of the attorneys whom she supervises, giving consideration for the comprehensive responsibilities of managing the City Attorney's Office."

The City Council has completed the City Attorney's annual performance evaluation.

PRIOR CITY COUNCIL REVIEW

On April 18, 2017, Council, by resolution RES-2017-061, appointed Sue Gallagher to the position of City Attorney, approved the Employment Agreement – City Attorney and authorized the Mayor to execute the agreement on behalf of the City.

On May 2, 2017, Council adopted Ordinance ORD-2017-007 Establishing Salary and Other Compensation and Benefits for the City Attorney setting the City Attorney's salary at \$17,083.34 per month.

On June 26, 2018, Council approved Amendment No. 1 to the Employment Agreement by resolution providing a 3% cost of living adjustment in the City Attorney's salary effective July 8, 2018 and a contribution by the City of equal to 0.5% of base salary contribution to the City Attorney's Retiree Health Savings Plan.

On July 10, 2018, Council adopted an Ordinance setting the City Attorney's salary at \$17,595.84 per month as of July 8, 2018. This increase was based on the cost of living allowance received by Executive Management.

On December 3, 2019, Council approved Amendment No. 2 to the Employment Agreement by resolution providing a 7.5% merit increase, a 2.5% increase in deferred compensation for a total contribution of 5% of base pay and a 2.5% cost of living adjustment to salary and an increase to the City contribution for the 2019-2020 fiscal year in an amount equal to 0.25% of base wage, to employee Retiree Health Savings Plan, for a total City contribution of 0.75%, to take effect on July 7, 2019.

On December 10, 2019, Council adopted an Ordinance setting the City Attorney's salary at \$18,916 per month as of May 12, 2019, based on a merit increase; and at \$19,388 per month as of July 7, 2019, based on the cost of living allowance received by Executive Management.

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On November 9, 2021, Council approved resolution RES-2021-193, a three-year Wages, Hours and other Terms and Conditions of Employment Agreement for Executive Management. The Agreement includes a one-time non-pensionable lump sum payment of \$5,000; effective November 7, 2021, a 3.0% cost of living salary adjustment and \$500 annually for wellness. It also includes, effective the first full pay period following April 1, 2022, a 2.5% cost of living salary adjustment.

On March 15, 2022, Council, by resolution RES-2022-049, approved Amendment No. 3 to the Employment Agreement for the City Attorney salary providing: 1) a 3% cost of living salary adjustment effective November 7, 2021; (2) a 2.5% cost of living salary adjustment effective April 10, 2022; (3) a one-time non-pensionable lump sum payment of \$5,000; and (4) \$500 annually for wellness effective November 7, 2021. This increase was based on the cost of living allowance received by Executive Management in November 2021.

On March 29, 2022, Council adopted Ordinance ORD-2022-002, setting the City Attorney's salary at \$19,969.64 per month effective November 7, 2021, and then \$20,468.88, effective April 10, 2022.

ANALYSIS

The Employment Agreement currently provides in part that "In addition, upon completion of an annual performance evaluation as set forth in section 5, the City Council shall consider whether to provide a merit increase in the City Attorney's salary subject to the maximum salary range established for the City Attorney classification. Whether to provide a merit increase, and the amount of any such increase, shall be in the exclusive discretion of the City Council, and such determinations shall be final. In setting the City Attorney's annual compensation, the Council recognizes the City Attorney's salary should be set at a reasonable differential higher than the salaries of the attorneys whom she supervises, giving consideration for the comprehensive responsibilities of managing the City Attorney's Office."

The City Council has completed the City Attorney's annual performance evaluation and Council indicate universal appreciation for the City Attorney and rated her as exceptional. It is noted that the City Attorney's salary has historically been under market. The recommended 5% merit increase is based upon excellent performance by the City Attorney, and places the incumbent within the maximum of the salary range for the City Attorney classification.

FISCAL IMPACT

The fiscal impact of this resolution and ordinance for the Fiscal Year 22-23 is approximately \$20,633. Additionally, this change will have an ongoing impact to the General Fund. The current year impact can be absorbed within the existing General Fund budget.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guidelines Section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Resolution / Exhibit A – Amendment No. 4 to Employment Agreement
- Ordinance

CONTACT

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