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OAKLAND

2013 SEP 27 PM 12: 29

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: D. LaWanna Preston
Employee Relations Director

SUBJECT: Unrepresented Employee Conditions
of Employment

DATE: September 16, 2013

City Administrator
Approval

Date

9/25/13

Council District: Citywide

RECOMMENDATION

Staff recommends that the City Council accept this Annual Report Detailing the Terms and Conditions of Employment for Unrepresented Employees and Executive Leave Balances as Required by City Ordinance No. 12903 C.M.S.

EXECUTIVE SUMMARY

City Ordinance No. 12903 C.M.S. adopted on November 18, 2008, (*Exhibit A*) establishes the Council's compensation policies and provisions for City Employees, Officials and Officers. The ordinance memorializes the authority and discretion the Council has granted to the City Administrator regarding fixing compensation and supplements City Ordinance No. 12187 C.M.S.

Section 1.20 of Ordinance No. 12903 C.M.S. states "Ordinance No. 12187 C.M.S. thereby gives the City Administrator the discretion to grant unrepresented employees the same compensation and other terms and conditions of employment that are provided to represented employees under the City's collective bargaining agreements (labor MOUs), or to provide unrepresented employees less compensation than the compensation provided to represented employees in each category or type of compensation."

Additionally, Ordinance No. 12903 C.M.S. requires the City Administrator to provide an annual report detailing the number of employees who were authorized to carry over Executive Leave to a subsequent fiscal year, including current monetary value, that has been carried over in each City department.

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OUTCOME

In August of this year, the City reached agreement with all miscellaneous unions on new collective bargaining agreements. Pursuant to City Ordinance No.12903 C.M.S., the City Administrator may grant unrepresented employees the same or lesser compensation and other terms and conditions of employment as provided to represented employees. Therefore, effective July 1, 2013, all unrepresented employees in bargaining units UK1 and UK2 received a two percent (2%) wage increase, valued at \$ 91731.00. Effective July 1, 2014, all unrepresented employees shall receive a one percent (1%) wage increase valued at \$ 46,514.00.

Pursuant to City Ordinance No.12903 C.M.S. the following department directors were allowed to carry over Executive Leave:

Executive Leave Carry Forward Calculation			
Blackwell, Fred Glover	Assistant City Administrator	19 hours	\$2,153.27
DeLoach Reed, Teresa Lynette	Fire Chief	75 hours	\$7,002.00
Flynn, Rachel Marie	Deputy Director, Comm. & Economic Development	75 hours	\$6,505.50
Kahn, Kelly M.	Director of Development	75 hours	\$6,840.00
		Total	\$22,500.77

PUBLIC OUTREACH/INTEREST

Council approving this report will not impact the public.

COST SUMMARY/IMPLICATIONS

The budget assumes the same compensation and benefits for unrepresented employees as those represented by organized labor, including the a two percent (2%) wage increase for unrepresented employees in FY 2013-14, and a one percent (1%) wage increase in FY 2014-2015. These wage increases for unrepresented employees are within the City Administrator's authority granted under Ordinance No. 12187 C.M.S., Sec. 2.20, and Ordinance No. 12903 C.M.S., Sec. 1.20. Staff further recommends that the Council accept the information provided regarding the carry forward of Executive Leave.

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SUSTAINABLE OPPORTUNITIES

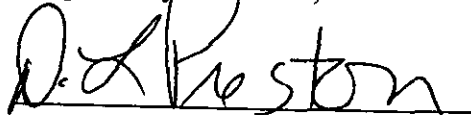
Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

Social: There are no social opportunities associated with this report.

For questions or concerns regarding this report, please contact LaWanna Preston at 510-238-6466.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. LaWanna Preston", written over a horizontal line.

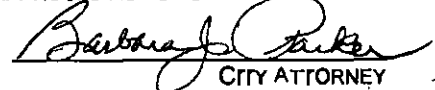
D. LaWanna Preston
Employee Relations Director

Attachment(s): Attachment A - Ordinance 12903

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INTRODUCED BY COUNCIL MEMBER
OAKLAND

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY

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ORDINANCE NO. 12903 C.M.S.

AN ORDINANCE (1) AMENDING THE SALARY ORDINANCE, (2) SETTING FORTH THE COUNCIL'S COMPENSATION POLICIES AND PROVISIONS FOR CITY EMPLOYEES, OFFICIALS AND OFFICERS, (3) MEMORIALIZING THE AUTHORITY AND DISCRETION THE COUNCIL HAS GRANTED TO THE CITY ADMINISTRATOR REGARDING FIXING COMPENSATION AND (4) SUPPLEMENTING ORDINANCE NO. 12187 C.M.S.

WHEREAS, Oakland City Charter section 207 charges the City Council with fixing the compensation of all City employees, officers and officials unless otherwise provided by the Charter; and

WHEREAS, the Council has determined that it is not clear precisely what authority and discretion the Council has granted to the City Administrator regarding compensation over the years; and

WHEREAS, the City Council desires to memorialize the authority and discretion it has granted to the City Administrator regarding fixing compensation as well as the Council's compensation policies and provisions for City employees, officers and officials, including compensation in the form of fringe benefits such as sick leave, vacation, management leave and automobile allowances; now therefore

The City Council of the City of Oakland does ordain as follows:

Sec. 1.00 Purpose. This ordinance sets forth the authority and discretion the Council has delegated to the City Administrator regarding fixing compensation as well as the compensation policies and provisions that the Council has authorized for employees, officials and officers.

Sec. 1.10 Represented Employees. Compensation for represented employees is set forth in its entirety in the Memoranda of Understanding ("MOU") between the City and the recognized employee organizations.

No additional compensation may be authorized by the City Administrator, any other appointing authority, any Department or Agency head or other employee, officer or official of the City without the City Council's express approval, except as provided in this Ordinance or Ordinance No. 12187 which this Ordinance supplements. Any such approval/authorization must be memorialized in an amendment to this ordinance or the MOU.

Neither the City Administrator, nor any Department or Agency Head or other City employee, official or officer has authority to change the compensation that is provided for represented employees under the MOUs. If the terms and conditions of City employment established by an approved MOU are inconsistent with any provisions of this ordinance, such Memoranda shall control with respect to the represented employees governed thereby.

Sec. 1.20 Unrepresented Employees. Ordinance No. 12187 C.M.S. provides at section 2.20 that the City Administrator, by Administrative Instruction, may define the unrepresented employees, if any, to whom the terms and conditions of employment specified in MOUs may also apply.

Ordinance No. 12187 thereby gives the City Administrator the discretion to grant unrepresented employees the same compensation and other terms and conditions of employment that are provided to represented employees under MOUs, or to provide unrepresented employees less compensation than the compensation that is provided to represented employees in each category or type of compensation. For example, if an MOU grants a cost of living increase to represented employees, the City Administrator may grant unrepresented employees the same increase or the City Administrator could grant unrepresented employees a lower cost of living increase or a one-time "payment" that would not increase the salary range.

The sole and complete authority and discretion that the Council has delegated to the City Administrator and other appointing authorities regarding compensation are set forth in this Ordinance and in Ordinance No. 12187 C.M.S. which this ordinance supplements.

The City Administrator and other appointing authorities have absolutely no additional authority to increase or change compensation by issuing Administrative Instructions, Employee Benefits circulars, General Orders, or any other instruction, order or document; or by signing agreements, including but not limited to side letters, with collective bargaining units that have not been approved or ratified by the Council or otherwise.

Once the City Administrator determines which terms and conditions of employment will apply to unrepresented employees, the City Administrator will submit an annual report to Council at the end of the first quarter of the fiscal year detailing the terms and conditions of employment for unrepresented employees.

Sec. 1.30 Management Leave, Sick Leave, Vacation for Elected Officials. The City Attorney and the City Auditor have received management leave and accrued sick leave and vacation for many years. No other elected officials receive such leave or accrue sick leave or vacation.

No elected official shall receive management leave, nor shall any elected official accrue sick leave or vacation after the effective date of this Ordinance.

Sec. 1.40 Hiring Incentives. In addition to the severance payments that are authorized under Section 2.10 of Ordinance No. 12187 C.M.S., the City Administrator and other appointing authorities have discretion after the effective date of this Ordinance to provide the following as hiring incentives to attract into City service qualified employees whose City services are exempt from the protections of the Civil Service under Article IX of the City Charter: (1) bonus vacation days placed in bank equal to or less than the number of days the employee will accrue during the first year of employment (2) up to two weeks of Executive Vacation Leave. The written hiring incentives must be memorialized in hiring agreements and the agreements will be maintained in the employee's personnel file and summarized in an annual report to the Council. Executive Leave may be granted only at the time an employee is hired.

Executive Leave must be used in the year in which it is awarded or it will be forfeited; the City Administrator and other appointing authorities can allow an employee to carry over Executive Leave if the employee is not able to use Executive Leave due to a determination by the appointing authority that the employee's services are or were needed on a time sensitive or urgent project.

The appointing authority's determination must be in writing and a copy of the determination must be provided to the City Administrator and placed in the employee's personnel file. A separate determination must be made for each employee and for each fiscal year. The City Administrator must provide the Council an annual report identifying the number of employees who were authorized to carry over Executive Leave to a subsequent fiscal year and the total amount of Executive Leave that has been carried over in each City department and the current monetary value of the Executive Leave that has been carried over in each Department.

Sec 1.50 Bonuses. Employee bonuses shall only be given if explicitly budgeted for as part of a bonus program by the Council.

Sec. 1.60 Amendments. Amendments to any provision of this ordinance shall hereinafter be entitled "Amendments to the Salary Ordinance".

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 18 2008

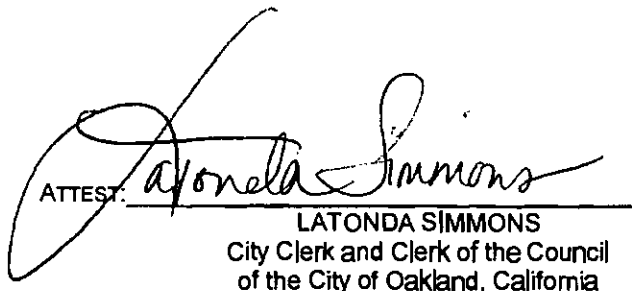
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, DE LA FUENTE, KERNIGHAN, NADEL, QUAN, AND ~~BBB~~ - 7

NOES- ~~0~~

ABSENT- ~~Reid~~ - 1

ABSTENTION- ~~0~~

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California