



Council Meeting: November 18, 2008

SUBJECT: City Manager and City Attorney: Salary Adjustment of Control Point; Approval of City Manager's Pay for Performance Bonus in Accordance with the Agreement for Services Between the City of Sunnyvale and the City Manager; Amendment to the Agreement for Services Between the City of Sunnyvale and the City Attorney; and Amendment to the Schedule of Pay for Pay Plan Category F

REPORT IN BRIEF

This report recommends action on four items (i) implementing the new Control Points for the City Manager and the City Attorney for Fiscal Year 2008/2009 in accordance with procedures previously adopted by the City Council; (ii) authorizing a 10% performance bonus for the City Manager for Fiscal Year 2007/2008 as a result of a recent performance evaluation by the City Council; (iii) amending the Agreement for Services with the City Attorney; and (iv) amending the Salary Schedule for Pay Plan Category F Job Code 0140.

BACKGROUND

The recommended new salary control points for City Manager and City Attorney are based upon the completion of a comprehensive market survey. This survey, prepared by Human Resources staff, establishes the control points based upon the market average of wages and employer-paid employee retirement contributions of the top twenty City Managers and City Attorneys in California with a population range of 50,000 below and 50,000 above the population of the City of Sunnyvale.

The current agreement for services with the City Manager requires that the City Council conduct an annual performance review for the City Manager's performance and establish an annual performance rating to determine an applicable performance bonus.

The current Agreement for Services with the City Attorney provides certain benefits. The provisions related to annual compensation setting and deferred compensation are not consistent between the two positions appointed by the City Council, and the recommendation is to amend the Agreement for Services with the City Attorney to provide such consistency.

On October 21, 2008, the City Council approved an amendment to the Salary Schedule for Pay Plan Category F (applies to Unclassified Department Directors). Included in that schedule was the salary for the current Director of Employment Development. The revised salary, pursuant to the Workforce Investment Act (WIA) provisions, was not intended to impact the current incumbent.

EXISTING POLICY

7.0 Planning and Management Element, Legislative Management Sub-Element
Goal D: Maintain a quality workforce, 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; Action Statement D.1a: Maintain a competitive pay and benefit package for employees.

DISCUSSION

Based upon the survey, the new Control Point for the City Manager is to be \$258,868, and is effective retroactive to June 29, 2008. This new Control Point represents a 2.5% adjustment. Based upon the survey, the new Control Point for the City Attorney is to be set at \$211,945, and is effective retroactive to June 29, 2008. The new Control Point represents a 5.0% adjustment. Copies of the summary surveys are attached to this report.

With the assistance of Royleen White and Associates, the City Council prepared the performance review required pursuant to the agreement for services with the City Manager. The City Council has determined that the City Manager is eligible for a 10% bonus for Fiscal Year 2007/2008. The review process consisted of a confidential interview between Royleen White and all City Council members, a 360 evaluation by all the City Manager's direct reports, and an evaluation-rating sheet completed by all City Council members. A 10% bonus is being recommended based upon the total aggregate ranking developed by the City Council. The bonus is payable as an increased percentage of the City Manager's control point throughout the fiscal year. The City Council discussed this matter in closed session on November 3, 2008, but formal public action is required by the City Council to implement this item in accordance with Government Code Section 54957.

Periodically, the agreements for service for City Manager and City Attorney are reviewed and amendments may be adopted. To maintain consistency for the two positions appointed by the City Council, it is recommended that the Agreement for Services with the City Attorney be amended to include the same

language as in the agreement for services with the new City Manager for annual compensation setting and deferred compensation. The City Council discussed this matter in closed session on October 28, 2008, but formal public action is required by the City Council to implement this item in accordance with Government Code Section 54957.

It is recommended that the salary for the current Director of Employment Development be increased to the same level as the other classifications in Pay Grade 22, and the salary change pursuant to the WIA be implemented upon the hire of the new Director of Employment Development.

FISCAL IMPACT

The salary increase for the City Manager was included in the Fiscal Year 2008/2009 base budget. The salary increase for the City Attorney is slightly more than that which was included in the Fiscal Year 2008/2009 base budget; however, the amount is insignificant (less than \$1,500 annually) and it is expected that it can be absorbed within the current budget. The salary adjustment for the Director of Employment Development was included in the Fiscal Year 2008/2009 base budget.

PUBLIC CONTACT

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

ALTERNATIVES

1. Implement the salary adjustment to the Control Points for the City Manager and City Attorney, representing a 2.5% increase for City Manager and a 5.0% increase for City Attorney; based on City Council direction given to staff at the closed session on November 3, 2008, authorize a 10% performance bonus for the City Manager for Fiscal Year 2007/2008; based on Council direction given to staff at the closed session on November 3, 2008, amend the Agreement for Services with the City Attorney and authorize the Mayor to execute the Amendment to the Agreement for Services; and amend the Salary Schedule for the classification of Director of Employment Development (Pay Plan Category F Job Code 0140).

2. Authorize select actions as determined by the City Council.

RECOMMENDATION

Staff recommends approval of Alternative #1; implement the salary adjustment to the Control Points for the City Manager and City Attorney, representing a 2.5% increase for City Manager and a 5.0% increase for City Attorney; based on City Council direction given to staff at the closed session on November 3, 2008, authorize a 10% performance bonus for the City Manager for Fiscal Year 2007/2008; based on Council direction given to staff at the closed session on November 3, 2008, amend the Agreement for Services with the City Attorney and authorize the Mayor to execute the Amendment to the Agreement for Services; and amend the Salary Schedule for the classification of Director of Employment Development (Pay Plan Category F Job Code 0140).

Reviewed by:

Erwin Young, Director of Human Resources

Prepared by: Tammy Parkhurst, Senior Management Analyst

Approved by:

Robert Walker

Assistant City Manager

Attachments

- A. Summary Surveys
- B. Resolution
- C. Amendment to Agreement for Services between the City of Sunnyvale and the City Attorney

CITY OF SUNNYVALE

Population per State Report: 137,538

61 CITIES TO BE SURVEYED

(Population Range: 87,538 - 187,538) July/August 2008

Classification: CITY MANAGER		ANNUAL	Effective	EE PERS	Retirement	TOTAL	
AGENCY	POPULATION	Control Point	Date	Paid by	Dollars		
(top 20)		current survey	current survey	Agency			
Victorville	107,408	306,168	07/01/07	8.0%	\$24,493	\$330,661	
Ontario	173,690	304,968	01/01/08	8.0%	\$24,397	\$329,365	
Vallejo	121,097	296,669	06/24/08	8.0%	\$23,734	\$320,403	
Rancho Cucamonga	174,308	293,280	07/01/08	8.0%	\$23,462	\$316,742	
Temecula	101,057	277,529	07/01/08	8.0%	\$22,202	\$299,731	
Roseville	109,154	273,817	01/06/08	8.0%	\$21,905	\$295,722	
Rialto	99,767	264,120	07/06/08	7.0%	\$18,488	\$282,608	
Moreno Valley	183,860	257,275	01/01/08	8.0%	\$20,582	\$277,857	
Santa Monica	91,439	273,216	07/06/08	1.3%	\$3,552	\$276,768	
Torrance	148,965	258,048	07/01/08	7.0%	\$18,063	\$276,111	
Corona	147,428	258,240	09/01/07	5.0%	\$12,912	\$271,152	
Palmdale	147,897	244,305	10/01/07	8.0%	\$19,544	\$263,849	
Daly City	106,361	241,540	10/01/07	8.0%	\$19,323	\$260,863	
Pasadena	148,126	235,928	03/06/06	8.0%	\$18,874	\$254,802	
Santa Clarita	177,045	236,891	07/01/08	7.5%	\$17,767	\$254,658	
Lancaster	145,243	236,900	05/25/08	7.0%	\$16,583	\$253,483	
Simi Valley	125,657	232,474	12/10/07	7.0%	\$16,273	\$248,747	
El Cajon	97,934	229,112	07/01/08	8.0%	\$18,329	\$247,441	
Santa Clara	115,503	244,632	06/29/08	0.0%	\$0	\$244,632	
Costa Mesa	113,955	226,776	08/19/07	7.0%	\$15,874	\$242,650	
Total Cities: 20						6.8%	
						avg. PERS	
MARKET AVERAGE :		\$ 259,594				\$277,412	
SUNNYVALE CURRENT (CP) :		\$252,554	07/01/07	7.0%	\$ 17,679	\$270,233	
DIFF. IN SUNNYVALE (CP):		\$ (7,040)				(\$7,180)	
% DIFF.(+,OR -) IN SUNN.(CP):		-2.79%				-2.66%	
% DIFF. TO NEAREST .50%:		-3.00%				-2.50%	

CITY MANAGER **New Control Point: \$ 258,868** applying adjusted total compensation percentage increase of 2.50% to base salary.

Classification: CITY ATTORNEY		ANNUAL	Effective	EE PERS	Retirement	TOTAL
AGENCY	POPULATION	Control Point	Date	Paid by	Dollars	
(high to low)						
		current survey	current survey	Agency		
Torrance	147,018	249,240	07/01/08	7.0%	\$17,447	\$266,687
Roseville	104,655	235,800	01/06/08	8.0%	\$18,864	\$254,664
Vista	94,440	228,804	07/04/08	8.0%	\$18,304	\$247,108
Pasadena	146,138	225,114	04/01/08	8.0%	\$18,009	\$243,123
Palmdale	141,012	224,254	06/22/07	8.0%	\$17,940	\$242,194
Santa Monica	90,750	239,004	07/06/08	1.3%	\$3,107	\$242,111
Escondido	140,766	220,041	07/01/07	7.0%	\$15,403	\$235,444
Burbank	106,879	212,340	07/01/08	8.0%	\$16,987	\$229,327
Carlsbad	98,607	207,127	01/01/08	8.0%	\$16,570	\$223,697
Santa Barbara	89,548	219,318	07/01/08	1.101%	\$2,415	\$221,733
Moreno Valley	174,565	202,813	08/12/07	8.0%	\$16,225	\$219,038
Daly City	104,820	202,150	10/01/07	8.0%	\$16,172	\$218,322
Vacaville	96,395	216,817	07/01/08	0.0%	\$0	\$216,817
Orange	137,801	199,044	02/17/08	8.0%	\$15,924	\$214,968
Concord	124,436	198,834	07/01/07	8.0%	\$15,907	\$214,741
Berkeley	105,385	195,943	09/07/08	8.0%	\$15,675	\$211,618
Ventura (San Buenaventur	106,710	195,756	07/01/07	7.0%	\$13,703	\$209,459
Thousand Oaks	127,644	193,659	07/12/08	7.0%	\$13,556	\$207,215
Santa Clara	110,771	206,664	06/29/08	0.0%	\$0	\$206,664
Oceanside	174,925	191,880	07/13/08	6.5%	\$12,472	\$204,352
Total Cities:		20			6.2%	
				avg. PERS		
MARKET AVERAGE :		\$ 213,230				\$226,464
SUNNYVALE CURRENT :		\$201,852	07/01/07	7.0%	\$14,130	\$215,982
DIFF. IN SUNNYVALE :		\$ (11,378)				(\$10,482)
% DIFF.(+,OR -) IN SUNN. :		-5.64%				-4.85%
% DIFF. TO NEAREST .50% :		-5.50%				-5.00%

CITY ATTORNEY **New Control Point: \$ 211,945** applying adjusted total compensation percentage increase of 5.00% to base salary.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE ESTABLISHING THE CONTROL POINTS FOR THE POSITIONS OF CITY MANAGER AND CITY ATTORNEY, AND AMENDING RESOLUTION NO. 190-05, THE CITY'S SALARY RESOLUTION, BY AMENDING THE PAY SCHEDULE FOR CATEGORY F JOB CODE 0140

WHEREAS, Section 801 of the Charter of the City of Sunnyvale provides that the City Council shall establish the compensation for the City Manager by ordinance or resolution; and

WHEREAS, the Agreement for Services with the City Manager provides that annually the City Council will establish a control point salary for the City Manager which shall be competitive and shall have a reasonable spread above the next highest paid official of the City of Sunnyvale; and

WHEREAS, the procedures for establishing such compensation were previously adopted by the City Council (RTC 95-380); and

WHEREAS, the Agreement for Services with the City Attorney provides that the City Attorney's salary shall be adjusted annually upon review of the results of the annual survey conducted by the Department of Human Resources and subject to the City Council's evaluation of performance;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE that:

1. The Control Point for the position of City Manager is hereby established as \$258,868, effective June 29, 2008. The provisions of this section shall supersede the salary provisions contained in Resolution No 305-07. This Control Point will remain in effect for Fiscal Year 2008/2009, and for such period of time following the fiscal year until a subsequent salary resolution for the City Manager is adopted.
2. The Control Point for the position of City Attorney is hereby established as \$211,945, effective June 29, 2008. The provisions of this section shall supersede the salary provisions contained in Resolution No 305-07. This Control Point will remain in effect for Fiscal Year 2008/2009, and for such period of time following the fiscal year until a subsequent salary resolution for the City Attorney is adopted.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE that the salary schedule for Category F (applies to Unclassified Department Directors) Job Code 0140 is amended as follows effective June 29, 2008:

<u>Job Code</u>	<u>Job Title</u>	<u>Grade</u>	<u>Range Minimum</u>	<u>Range Maximum</u>
0140	Director of Employment Development	22	\$159,898	\$188,115

Adopted by the City Council of the City of Sunnyvale at a regular meeting held on November 18, 2008, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David Kahn, City Attorney

**AMENDMENT TO AGREEMENT FOR SERVICES
BETWEEN THE CITY OF SUNNYVALE AND
DAVID E. KAHN, CITY ATTORNEY FOR THE CITY OF SUNNYVALE**

The Agreement for Services dated May 23, 2005, and amended on May 1, 2007 and November 20, 2007, by and between the CITY OF SUNNYVALE, a chartered city ("City"), and David E. Kahn, City Attorney for the City of Sunnyvale, is further amended as set for below:

1. Section 4 is amended to read as follows:

- A. The City Attorney's starting salary shall be one hundred seventy-eight thousand dollars (\$178,000) per annum.
- B. The City Attorney's compensation shall be evaluated on an annual basis. This evaluation will include consideration of both merit increases and "across-the-board" increases provided to department directors and non-represented management employees. It will also include consideration of the competitive market compensation for city attorneys in comparable Northern California cities at the time of the performance evaluation. The annual base salary may be increased 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 employee salaries. Nothing in this provision shall require the City to use a set formula, or require the City to provide either a merit or other salary increase at the annual evaluation. However, where the annual performance evaluation is good or excellent, the City shall normally adjust the compensation to provide a reasonable and market-competitive compensation for comparable Northern California cities.

2. Section 5 C is amended to read as follows:

The City shall contribute to the City's 457 deferred compensation plan on behalf of the City Attorney the maximum annual amount allowed by the United States Tax Code for employees age 50 or older (currently \$20,500). Payments shall be made bi-weekly.

Except as amended above, all other terms and conditions of the Agreement dated May 23, 2005, and amended on May 1, 2007 and November 20, 2007, shall remain in effect.

IN WITNESS WHEREOF, City and City Attorney have executed this Amendment to Agreement for Services.

CITY OF SUNNYVALE
MAYOR

Dated: November __, 2008

By _____
Anthony (Tony) Spitaleri, Mayor

Dated: November __, 2008

By _____
David E. Kahn, City Attorney