

**June 9, 2009****SUBJECT: Amendment to the Salary Resolution - Military Reservist
Extension of Benefits and Supplemental Salary****REPORT IN BRIEF**

This report recommends approval of an extension of military leave benefits and supplemental salary for eligible employees who are current United States military reservists.

This action would continue the extended benefits and supplemental salary for mandatory active duty per Executive Order 13223 issued on September 14, 2001, and to any involuntary extension related to the same Order. Such extension would continue until expiration of Executive Order 13223 or until such time as Council takes action to amend or discontinue such benefits and supplemental salary.

The City has a total of seven employees who are currently military reservists. Five of these employees have received supplemental pay and benefits for periods ranging from two to thirty-six pay periods. There is currently one employee on active duty, and one employee's military service is scheduled to end in July 2009.

To fund this proposal, it is recommended that the unspent FY 2008/2009 Military Reservist Leave Budget, estimated at \$267,889, be carried over to FY 2009/2010. These funds, as well as the regular military leave budget for FY 2009/2010, are expected to be sufficient to fund the extension in benefits and supplemental salary for those military reservists who may be called to active duty during the fiscal year. It is further recommended that the remaining balance at the end of each fiscal year while the extension is in place be carried over to the next fiscal year.

BACKGROUND

The Council first adopted extended military benefits and supplemental salary in October 2001. Extensions were approved in April 2003, May 2004, June 2005, June 2006, May 2007, and June 2008. The purpose of the Council's action is to minimize the impact of a call to active duty on these City employees

and their families because of the unusual length of mandatory military service that would deprive them of full-time employment income and benefits.

EXISTING POLICY

Current policy exceeds the requirements of state law (Military and Veteran's Code, Section 395), the 1994 Uniformed Services Employment and Reemployment Rights Act (USERRA), the Veterans Benefits Improvement Act of 2004 (VBIA), and the final VBIA rule in March 10, 2005.

Existing City policy provides continuation of City benefits and supplemental salary for qualified individuals. Funding for the current program expires on June 30, 2009.

DISCUSSION

It is recommended that military leave benefits and supplemental salary be extended for employees who may be involuntarily recalled to active duty under Executive Order 13223. Employees will continue to reimburse the City the amounts received for military service plus allowances, including the Basic Allowance for Housing (BAH). The mandatory active duty eligibility requirements remain the same as stated in the Report to Council 06-196 approved on June 13, 2006.

Those who elect not to return to City employment would be required to repay the City for the cost of benefits and supplemental salary exceeding those required by law, plus interest at the 26-week Treasury Bill rate. The City Manager will have the discretion to not require repayment in the event of an employee's death or disability as a result of active military duty.

Supplemental Salary

The City will provide or continue to provide base salary, plus any other compensation the employee would have received had he/she been actively working.

Benefits

The City's contribution and employee's deductions toward applicable benefits (retirement, medical, dental, dental premiums to PSOA, vision and the Employee Assistance Program) will continue as if the employee was actively working. Life insurance coverage, short-term disability coverage, and long term disability coverage cease upon deployment or redeployment to active military duty.

FISCAL IMPACT

To fund this proposal, it is recommended that the unspent FY 2008/2009 Military Reservist Leave Budget, estimated at \$267,889, be carried over to FY 2009/2010. This amount, along with the regular military leave for FY 2009/2010, is expected to be sufficient to extension during the fiscal year. While the extension is in place, any remaining balance at the end of a fiscal year will be carried over to the next fiscal year.

Under the unlikely scenario, in which all current reservists are deployed, additional funds could be required. However, adequate funds will likely be available through salary savings from the operating programs where the reservists are budgeted. These positions are typically backfilled at a lower salary rate through use of overtime or temporary personnel or not backfilled during all or part of the military reservists' leave period. If additional funds are needed, this item will return to City Council for further consideration.

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. Adopt a Resolution to extend benefits and supplemental salary until the expiration of Executive Order 13223 or until such time as Council takes action to amend or discontinue such benefits and supplemental pay. The extension will be funded by carrying over the remaining unspent Military Leave Budget from the current fiscal year to the next fiscal year each year the extension is in place, and appropriating salary savings in the operating programs where the reservists are budgeted, if necessary. The current FY 2008/2009 Military Reservist Leave Budget available for carryover to FY 2009/2010 is estimated to be \$267,889.
2. Adopt a Resolution to extend benefits and supplemental salary through June 30, 2010 (a one-year extension).
3. Do not adopt a Resolution to extend the current military benefits and supplemental salary beyond June 30, 2009.
4. The City Council modifies any portion of the recommendation.

Amendment to the Salary Resolution – Military Reservist
Extension of Benefits and Supplemental Salary

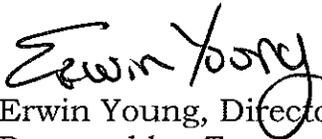
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RECOMMENDATION

Staff recommends adoption of Alternative #1: Adopt a Resolution to extend benefits and supplemental salary until the expiration of Executive Order 13223 or until such time as Council takes action to amend or discontinue such benefits and supplemental pay. The extension will be funded by carrying over the remaining unspent Military Leave Budget from the current fiscal year to the next fiscal year each year the extension is in place, and appropriating salary savings in the operating programs where the reservists are budgeted, if necessary. The current FY 2008/2009 Military Reservist Leave Budget available for carryover to FY 2009/2010 is estimated to be \$267,889.

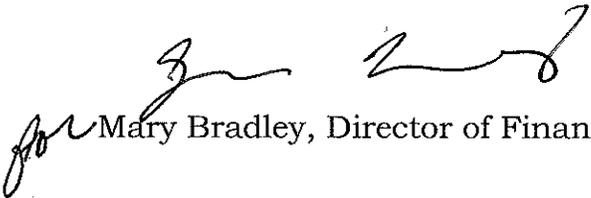
Reviewed by:



Erwin Young, Director of Human Resources

Prepared by: Tammy Parkhurst, Senior Management Analyst

Reviewed by:



Mary Bradley, Director of Finance

Approved by:



Gary Luebbers

City Manager

Attachments

A. Resolution

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING SALARY RESOLUTION NO. 190-05, AS AMENDED, TO PROVIDE AN EXTENSION OF BENEFITS AND SUPPLEMENTAL SALARY FOR ARMED FORCES, NAVAL MILITIA OR NATIONAL GUARD RESERVISTS**

WHEREAS, there are currently employees of the City who are in the armed forces, naval militia or National Guard reservists who may be called to mandatory active duty to serve under the Executive Order 13223 issued on September 14, 2001; and

WHEREAS, any such employees called to such mandatory active duty and their dependents would suffer a serious economic impact as a result of loss of employment income and benefits from the City; and

WHEREAS, the City Council has taken action since 2001 to extend military leave benefits and supplemental salary to eligible employees, most recently through the adoption of Resolution No. ~~215-06~~, ~~322-08~~, which extended military leave benefits and supplemental salary through June 30, 2007~~9~~; and

WHEREAS, in order to minimize the impact that a call to active military duty has on the affected employees and their dependents, staff recommends continuation of these benefits for eligible employees ~~through June 30, 2009~~ until expiration of Executive Order 13223 or until such time as Council takes action to amend or discontinue such benefits and supplemental salary.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT Section 3.550 of Salary Resolution No. 190-05, shall be amended as follows:

SECTION 3.550. MILITARY RESERVISTS: EXTENSION OF BENEFITS AND SUPPLEMENTAL SALARY.

- (a) A person is eligible for the benefits established in this section if he or she meets all of the following qualifications:
- (1) Is an active probationary or regular part-time or full time employee of the City in Pay Plan Categories A, B, C, D/E, F, G, K or L.
 - (2) Is a member of the Armed Forces, Naval Militia or National Guard.

(a-3)-(c) Text unchanged.

(d) All employees who receive the benefits and supplemental salary under this section will be eligible to remain covered under their current retirement, medical, dental, employee assistance and vision plans ~~through June~~

30, 2009 while Executive Order 13223 remains active or until such time as Council takes action to amend or discontinue such benefits and supplemental salary. The City will provide eligible employees, along with supplemental salary, the amount that the City currently contributes toward the benefits plans. If the employee is currently paying a deduction toward these plans, the employee will continue to make those payments.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT the ~~maximum~~ duration of the extended benefit is ~~through June 30, 2009~~ until expiration of Executive Order 13223 or until such time as Council takes action to amend or discontinue such benefits and supplemental salary.

Adopted by the City Council at a regular meeting held on June ____, 2009, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM AND LEGALITY:

David E. Kahn, City Attorney