

Meeting Date: 6/16/2015

Report Type: Consent

Report ID: 2015-00598

Title: Approval of City Manager Employment Agreement

Location: Citywide

Recommendation: Pass Resolution approving the City Manager Employment Agreement.

Contact: Patti Bisharat, (916) 808-4752, Office of the Mayor; Shirley Concolino, City Clerk, (916) 808-5442, Office of the City Clerk

Presenter: None

Department: City Clerk

Division: City Clerk

Dept ID: 04001011

Attachments:

1-Description/Analysis

2-Resolution

3-Exhibit A (City Manager Employment Agreement)

City Attorney Review

Approved as to Form

Sandra Talbott

6/12/2015 3:25:37 PM

Approvals/Acknowledgements

Department Director or Designee: Shirley Concolino - 6/12/2015 3:24:43 PM

Description/Analysis

Background: On August 4, 2011, the City Council appointed John F. Shirey as the City Manager for a three-year term through August 31, 2014. On August 12, 2014, City Council extended Mr. Shirey's contract for an additional term from September 1, 2014 through June 30, 2015. The City and Mr. Shirey desire to extend the terms and conditions of his employment in a written agreement that requires City Council approval. The current agreement will be for a 17-month term ending on November 18, 2016.

Policy Considerations: The City Council alone is vested with the authority to appoint a City Manager and establish the salary associated with the position.

Environmental Considerations: Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are therefore exempt from review.

Sustainability Considerations: Not applicable.

Rationale for Recommendation: The current agreement with the City Manager expires on June 30, 2015. The Council desires to extend his term of employment in a written agreement effective July 1, 2015. Mr. Shirey's salary and other benefits must be approved by the City Council.

Financial Considerations: The City Manager position is an existing budgeted full-time equivalent position and funding is available in the current budget. Mr. Shirey's annual salary will be \$268,423, which is within the City's current salary schedule pay range of \$187,357 - \$281,035.

Local Business Enterprise (LBE): Not applicable.

RESOLUTION NO. 2015-

Adopted by the Sacramento City Council

APPROVING EMPLOYMENT AGREEMENT WITH CITY MANAGER JOHN F. SHIREY

BACKGROUND

- A. On August 9, 2011, the governing body of the City of Sacramento (hereinafter referred to as “the City Council”), appointed John F. Shirey as City Manager effective September 1, 2011 through August 31, 2014.
- B. On August 12, 2014, the City Council appointed John F. Shirey for an additional contract term as City Manager effective September 1, 2014 through June 30, 2015.
- C. The City Council desires to appoint John F. Shirey for an additional contract term as City Manager effective July 1, 2015 through November 18, 2016.
- B. The City Council and John F. Shirey desire to memorialize in a written Agreement certain benefits, terms and conditions of John F. Shirey’s employment.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Sacramento, as follows:

Section 1. The Employment Agreement with City Manager John F. Shirey attached to this Resolution as Exhibit “A” is hereby approved and effective on this date and the Mayor is authorized to execute this Agreement.

Section 2. Exhibit A is attached to and incorporated into this Resolution.

Table of Contents:

Exhibit A - Employment Agreement (City Manager)

EMPLOYMENT AGREEMENT

(CITY MANAGER)

THIS AGREEMENT is made and entered into this ____ day of June, 2015, by and between the City of Sacramento, a California charter city and municipal corporation (“City”), and John F. Shirey (“Employee”).

A. On June 16, 2015 the governing body of the City of Sacramento (hereinafter referred to as “the City Council”), appointed Employee as City Manager effective July 1, 2015 (“Start Date”); and B. City Council and Employee desire to memorialize in this Agreement certain benefits, terms and conditions of employment of Employee.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and the foregoing recitals that are incorporated into this Agreement, the parties agree as follows:

1. Employment. City hereby agrees to employ Employee as City Manager of the City of Sacramento commencing on the Start Date, to serve at the pleasure of the City Council subject to the terms and conditions set forth in this Agreement.

2. Term.

a. This Agreement shall be in effect on the date first written above until November 18, 2016 (“End Date”) unless the Agreement is earlier terminated in accordance with its terms.

3. Duties. Commencing on the Start Date Employee shall perform the functions and duties of the City Manager as specified in Article V of the City Charter and such other legally permissible and proper duties and functions consistent with the office of the City Manager, as City Council assigns.

4. Performance Evaluation. The City Council shall conduct a performance evaluation no later than September 30, 2015 and not less than one performance evaluation of Employee per year.

5. Salary. City agrees to pay the Employee for services rendered a starting salary in the sum of Two Hundred Sixty-Eight Thousand Four Hundred Twenty-Three dollars (\$268,423.00) per year commencing on the Start Date, payable in installments at the same time and in the same manner as other career City employees. Additionally, in recognition of Employee’s accomplishments and outstanding performance, City Council may grant merit increases and equity adjustments to Employee as part of an annual performance review.

6. Benefits/Retirement. The sums payable to Employee under this Agreement are in addition to all other fringe benefits, retirement plans and contributions, expense and subsistence allowance, leaves, reimbursements and allowances, and other perquisites provided to Charter Officers (“Charter

Officer Benefits”) under City Council Resolution No. 2015-XXXX--The Personnel Resolution Covering Unrepresented Officers and Employees (“Personnel Resolution”) (or any superseding resolution) in effect from time-to-time, except where inconsistent with the terms of this Agreement.

7. Supplemental Benefits/Terms.

a. PERS/401(a)/Technology. Notwithstanding the terms of the Personnel Resolution, Employee agrees: (1) effective June 27, 2015, to receive a 1% salary increase to offset an increase to the PERS contribution of 1% for a total of an eight percent (8%) member contribution for the applicable PERS retirement plan; employee will not receive additional salary increase identified in the Personnel Resolution related to offset of the PERS contribution; (2) that Employee shall receive a four percent (4%) match from the City to a 401(a) account and Employee will participate in the 401(a) program pursuant to the terms of the Unrepresented Resolution; and (3) that Employee shall not receive a technology allowance from City.

b. Leave. Employee will accrue leave as provided in the Personnel Resolution.

c. Auto Allowance. City shall pay Employee a monthly auto allowance of \$500.

d. Deferred Compensation. City shall contribute fifteen thousand dollars (\$15,000) annually to Employee’s city sponsored 401(a) and 457(b) Deferred Compensation accounts as follows: City shall deposit into the Employee’s 401(a) account an amount equal to 4% of the Employee’s salary pursuant to the terms of the Unrepresented Resolution. The remainder of the city contribution shall be deposited in the Employee’s 457(b) account. All deposits required pursuant to this section will be made in 26 equal installments.

e. Professional Associations: The City shall pay dues and/or membership fees for Employee for professional associations that are related to the position and duties held by the Employee, subject to budget appropriations.

8. Termination.

a. Mutual Consent. This Agreement may be terminated at any time upon the mutual, written agreement of both City and Employee.

b. By Employee.

Employee may terminate this Agreement at any time by giving City not less than sixty days (60) days prior written notice.

c. By City without Cause.

City may terminate Employee without cause, upon the affirmative vote of not less than six members of the City Council or as otherwise provided in the City Charter. If employee is

terminated without cause, the Employee will receive the remainder of the Employee's current salary from date of termination through "End Date" not to exceed 6 months of current salary as part of final compensation.

d. By City for Cause. City may terminate Employee for cause subject to all of the following:

(1) Prior to terminating Employee under this subsection (d), City shall give Employee at least ten (10) working days prior written notice of the charges constituting the cause for termination.

(2) Within the ten-day period, but not earlier than five working days after the notice has been given, City Council shall meet with Employee in closed session lawfully agendized under the Brown Act and give Employee an opportunity to address City Council regarding the charges consistent with the Brown Act. After hearing Employee's response to the charges, City Council shall make a decision as to whether to terminate Employee and shall inform Employee in writing of its decision.

(3) "For cause" means Employee's material breach of this Agreement, conviction of a misdemeanor involving moral turpitude or felony under California law (City may place Employee on leave pending resolution of criminal charges brought against Employee), or a final judicial or administrative decision finding that Employee personally committed unlawful acts of sexual harassment or discrimination against a City official or employee.

9. Nondiscrimination.

Employee agrees not to unlawfully discriminate in the performance of Employee's functions and duties on the grounds of or because of race, color, religion, sex, national origin, age, marital status, physical disability, sexual orientation or any other characteristic protected under applicable law.

10. General Provisions.

a. Entire Agreement. This written Agreement contains the entire understanding between the parties as to the subject matter hereof and supersedes all prior and contemporaneous oral and written understandings or agreements of the parties and as such, is fully integrated. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party.

b. Severability. If any portion of this Agreement or the application thereof is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall not be affected and shall remain in full force and effect to the greatest extent permitted by law.

c. Amendments. This Agreement may be amended only in writing and duly authorized and executed by both parties.

d. Governing Law and Venue. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the County of Sacramento.

11. Notices.

Notices pursuant to this Agreement shall be given by depositing such notice in the custody of the United States postal service, postage prepaid, addressed as follows:

City Clerk
City of Sacramento
915 I Street
Sacramento, CA 95814

John F. Shirey



Alternatively, any notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice at the date such notice is given. Notice shall be deemed given as of the date of personal service or on the third day after deposit of such written notice with the United States postal service.

The parties have executed this Agreement the day and year first written above.

EMPLOYEE

John F. Shirey

CITY OF SACRAMENTO

By: _____
Kevin Johnson, Mayor

Approved as to Form:

Attest:

James Sanchez
City Attorney

Shirley Concolino
City Clerk