

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Council

FROM: Peter M. Thorson, City Attorney

DATE: February 27, 2024

SUBJECT: Approve Amendment No. 7 to City Manager Aaron Adams' Employment Agreement

RECOMMENDATION: That the City Council approve Amendment No. 7 to City Manager Aaron Adams' Employment Agreement.

DISCUSSION: On June 11, 2013 the City Council approved the Employment Agreement for Aaron Adams as the City Manager. The Employment Agreement was amended on February 14, 2017, July 1, 2017, June 11, 2019, May 10, 2022, December 13, 2022, and June 13, 2023.

Four changes are proposed for the City Manager's Employment Agreement by Amendment No. 7: 1) Provide a 4.4% cost of living salary adjustment effective July 1, 2024; 2) allow for future automatic cost of living adjustments without Council approval; 3) maintain the existing City contribution to the City Manager's deferred compensation plans, but change the specific plan to which the contribution is made and extend this through the end of the Agreement; and 4) extend the end date of the Agreement by 11 days to January 10, 2027 and allow the City Manager to resign during the period of December 20, 2026 to January 10, 2027 without the normal 60-day notice.

1) Cost of Living Adjustment Effective July 1, 2024.

Section 4.B of the Employment Agreement provides that each year on July 1 for the term of the Agreement the City Manager's annual base salary would be increased by the higher of:

- 1) A Cost of Living Adjustment not to exceed 3%, as defined; or
- 2) A compaction adjustment necessary to keep the annual base salary of the City Manager 10% higher than the top step of the base salary range of the City's next highest paid classification, subject to an amendment to the Agreement.

Section 4.B of the Employment Agreement also provides that any salary adjustment of more than a 3% cost of living increase or the salary compaction adjustment must be approved by the Council through an amendment to the Employment Agreement.

On February 27, 2024, the City Council will consider approving an 4.4% cost of living increase for all City employees effective July 1, 2024 as negotiated with Teamsters 911 in the current Memorandum of Understanding. Since this amount is more than the 3% increase described in Section 4.B.1), the Council will need to approve the 4.4% cost of living adjustment for the City Manager's salary.

2) Future Cost of Living Adjustments without Council Approval.

The proposed amendment to Section 4.B would eliminate the 3% cap on automatic COLA increases without City Council action. Any salary adjustments to prevent compaction would still require Council approval. The COLA is the percentage change in the Annual Consumer Price Index for Urban and Clerical Workers (CPI-W) for all items in Riverside-San Bernardino-Ontario, CA as determined by the United States Department of Labor. The automatic COLA adjustments are formulas that are applied without any subjective determinations and are specifically authorized by Government Code Sections 3511.1 and 3511.2

3) Maintain Existing Deferred Compensation Contributions but Change the Account to which it is Made.

The City Manager's Employment Agreement includes a term providing for a City contribution to his deferred compensation plans. For city employees these are 401(a) and 457(b) deferred compensation established pursuant to the Federal tax laws. Proposed Amendment No. 7 would provide the City Manager with greater flexibility in allocating the City's deferred compensation contributions between his 457(b) Plan and 401(a) Plan and extend this to the end of the term of the Employment Agreement. The City's total contribution to the City Manager's deferred compensation plans will not change, but the allocation of the contribution between the plans would change. It would also confirm that the City Manager may contribute his unused accrued Comprehensive Annual Leave (CAL) time to his 401(a) Plan upon separation from City service.

4) Extend the Term of the Employment Agreement by 11 Days

Given the complexities of the CalPERS statutes and regulations and the Federal Internal Revenue Code provisions and IRS regulations governing deferred compensation, the selection of an exact date for retirement is difficult, particularly at the end of a calendar year. Therefore, in order to provide the City Manager with more flexibility in his contract term to consider separation or extension, Amendment No. 7 would extend the termination date of his Employment Agreement by 11 days from December 30, 2026 to January 10, 2027. The City Manager would also have the option to resign at any time between December 20, 2026 and January 10, 2027 without the usual 60-notice. The Agreement provides that six months prior to the end of the Agreement, the City Council and City Manager will discuss whether he will retire or extend the Agreement so that the Council will have sufficient time to initiate a recruitment should the City Manager decide to retire.

FISCAL IMPACT: If the proposed Amendment No.7 is approved, the City Manager's salary will increase by 4.4% on July 1, 2024.

ATTACHMENTS:

1. Proposed Amendment No. 7 to Employment Agreement for Aaron Adams; and
2. Original Employment Agreement for Aaron Adams with Amendment Nos. 1 to 6