



## REPORT TO THE CITY COUNCIL

**DATE:** Regular Meeting of March 26, 2019

**TO:** Members of the City Council

**SUBMITTED BY:** Dan Romero, Mayor  
Dion Bailey, Councilmember

**SUBJECT:** Proposed Amendment to Employment Agreement for City Manager David Biggs

**RECOMMENDED ACTION:** Adopt a Resolution of The Hercules City Council Approving Amendment No. 2 to the Employment Agreement with City Manager David Biggs Extending the Term of the Agreement To December 31, 2021 with an Option for Two (2) Additional One Year Extensions, and Effective July 1, 2019, Providing a 5% Deferred Compensation Match and a 10% Increase in Annual Salary

### **FISCAL IMPACT OF RECOMMENDATION:**

The proposed amendment to the employment agreement will increase the City Manager's annual salary by 10% from \$224,400 to \$246,840 as detailed in the attached amendment. All other benefits Mr. Biggs will receive are consistent with the benefits provided to Executive level employees. The incremental fully loaded annual cost increase from the original contract is approximately \$37,000 including employer-paid benefits. This cost will be included in the FY 2019-20 Budget and will be effective on July 1, 2019, with 50% of the cost allocated to the General Fund and the balance to other City operating funds.

### **BACKGROUND**

In 2014, the City Council engaged the services of Avery and Associates to conduct an open and broad search for the most qualified candidates to serve as the City of Hercules City Manager. Approximately 50 applications were received by Avery and the six top candidates were interviewed by the members of the City Council. A second interview was also conducted and Mr. David Biggs was ultimately selected as the finalist.

The City Council approved an Employment Agreement with Mr. Biggs on June 10, 2014, and he has served as the City of Hercules City Manager since that date. A copy of the Original Agreement is provided as Attachment “1” to this report.

## **DISCUSSION**

The initial term of Mr. Biggs’ Employment Agreement was for three years, with two-one year extension periods, and that full five years will expire June 30, 2019. There has been one contract amendment during this five (5) year period, which was approved in 2018, and which applied the same new employee contribution of 3% of the employer CalPERS costs with a 2% wage offset as agreed to by all employees in 2018 and which is being implemented in March of 2019 (Attachment 2). That increased the City Manager’s base salary to \$224,400, or by \$4,400 annually with the City Manager to pay \$6,732 of the employer CalPERS retirement contribution on a pre-tax basis, resulting in a net savings to the City.

The City Council desires to formalize an extension of his original Employment Agreement, and has designated Mayor Dan Romero and Councilmember Dion Bailey to serve as the Council Liaisons to work with the City Attorney to negotiate with Mr. Biggs an amendment to the original 2014 Employment Agreement. The attached Amendment No. 2 (Attachment 4) is the product of this negotiation process.

## **RECOMMENDATION**

Designated Council Liaisons Mayor Romero and Councilmember Bailey recommend adoption by the full City Council of the proposed Amendment No. 2 to the original Employment Agreement of City Manager David Biggs.

The draft Resolution approving adoption of Amendment No. 2 is provided as Attachment 3 to this Report; Amendment No. 2 is provided as Attachment 4 to this Report.

The proposed resolution would authorize amendments to the Original Agreement as follows:

- Extend the term of the Original Agreement to December 31, 2021, with an option for two (2) additional one year extensions.
- Provide, effective July 1, 2019, a 5% compensation match. The 5% deferred compensation match is a condition of the Original Agreement, which provides that the City Manager is entitled to receive benefits on the same terms and conditions as other senior management employees as provided for in the Senior Management Employment Agreement.
- Increase Mr. Biggs’ adjusted salary by 10%. Mr. Biggs has not had an increase in his base annual salary since the beginning of his term of employment in 2014. The salary increase would increase Mr. Biggs’ adjusted annual salary of \$224,400 to \$246,840. The proposed 10% increase in annual salary would be one-time with no future cost of living adjustments (“COLA”) unless the Employment Agreement were amended in the future.

- Waive the annual Performance Review for 2019, but continue annual Performance Reviews each year thereafter on or about Mr. Biggs' anniversary.
- Clarify that the City Manager may elect to deposit any one-time payments into the ICMA Section 457 Deferred Compensation Plan or the VantageCare Retirement Health Savings Account.

All other terms and conditions of the Original Agreement would remain in full force and effect for the entire term of Amendment No. 2.

Attachments:

1. Original 2014 Agreement with David Biggs for City Manager Services
2. Amendment No. 1
3. Resolution Approving Amendment No. 2 to Original Agreement
4. Amendment No. 2 to Original Agreement