



City of Emeryville
CALIFORNIA
Management of Emeryville Services Authority

M E M O R A N D U M

Date: April 20, 2021
To: Mayor/Chair Dianne Martinez and City Council/MESA Board Members
From: Michael Guina, City Attorney/General Counsel
Subject: City Attorney Employment Agreement

Resolution Of The Board Of Directors Of The Management Of Emeryville Services Authority (MESA) Approving Amended Agreements Of Employment Between MESA And Michael Guina As City Attorney/General Counsel For The Period Of July 1, 2018, Through July 30, 2020; And From August 1, 2020, Through July 31, 2022; And Authorizing The Chair Of The Board Of Directors To Execute Said Agreements On Behalf Of The MESA

Resolution Of The City Council Of The City Of Emeryville Approving And Consenting To An Agreement Of Employment Between The Management Of Emeryville Services Authority And Michael Guina As City Attorney/General Counsel For The Period Of July 1, 2018, Through July 30, 2020; And From August 1, 2020, Through July 31, 2022

RECOMMENDATION

Staff recommends the MESA Board of Directors and City Council consider the staff report and public testimony and thereafter adopt the attached resolution approving Amended Agreements of Employment ("Agreements") between MESA and Michael Guina as City Attorney/General Counsel for the period of July 1, 2018, through July 30, 2020; and from August 1, 2020, through July 31, 2022.

The MESA resolution approves the Amended Agreements and authorizes the Chair of the Board of Directors to execute the Amended Agreements with Mr. Guina. The City Council resolution approves and consents to the Amended Agreements between MESA and Mr. Guina. The proposed Amended Agreements are attached as Exhibits A and B to both resolutions.

BACKGROUND

In 2016, the MESA and City Council adopted resolutions approving an Agreement of Employment with Michael Guina as City Attorney for the period July 1, 2016 – June 30, 2018¹. In 2018, the MESA and City Council adopted resolutions² approving an Agreement of Employment with Mr. Guina for the period July 1, 2018 through July 30, 2020. In 2020, the MESA and City Council adopted resolutions³ approving an Agreement of Employment with Mr. Guina for the period August 1, 2020 through July 31, 2022. Each of the Agreements provided a base salary; in addition the Agreements provided cost of living increases to base salary in the same amount as provided to employees in the Confidential Administrative, Managerial and Professional (CAMP) bargaining unit, as well as performance adjustments.

DISCUSSION

Each new Agreement should have reflected the base salary as adjusted by applicable cost of living increases and performance adjustments from the previous period. However, beginning with the 2018-2020 Agreement, the base salary described in the Agreement did not accurately reflect the salary as adjusted by prior cost of living increases and performance increases. The 2018-2020 Agreement specified a beginning base salary of \$16,671.58 per month. However this base salary did not account for previous cost of living increases and performance adjustments provided in the previous contract term (2016-2018). The correct base salary including the cost of living and performance increases was \$17,506, which is the amount Mr. Guina was due and was actually processed by payroll.

Furthermore, during the 2018-2020 period, additional cost of living and performance adjustments also accrued. As a result of those adjustments, by the end of the 2018-2020 Agreement, the base monthly salary as adjusted was \$18,803. However, the 2020-2022 Agreement specified a base salary of \$17,680, the same initial base salary as the start of the 2018-2020 Agreement, and did not account for the cost of living and performance increases during the 2018-2020 period.

While the Human Resources Department had processed paychecks in the correct amounts, there is a discrepancy between the salary figures provided in the 2018-2020 and 2020-2022 Agreements, in comparison to the payroll records. In order to provide consistency between the payroll records of amounts actually paid, and the amounts specified in the Agreements, staff recommends the MESA and City Council approve amendments to the Agreements for the 2018-2020 and 2020-2022 periods. The Amended 2018-2020 Agreement provides the starting base monthly salary of \$17,506, and the Amended 2020-2022 Agreement provides a starting base salary of \$18,803, which is consistent with the figures used in processing payroll.

¹ Nos. MA25-16 and 16-155, respectively

² Nos. MA03-18 and 18-79, respectively

³ Nos. MA01-20 and 20-69, respectively

FISCAL IMPACT

There is no fiscal impact in adopting the Amended Agreements. The correct salary amounts have been included in the current budget.

CONCLUSION

Staff recommends the MESA Board and City Council adopt the respective resolutions authorizing the Amended Agreements.

PREPARED BY: Trish Raver, Human Resources Director

Respectfully submitted,



Michael A. Guina
City Attorney/General Counsel

ATTACHMENTS:

- Draft Resolution (MESA)
 - Exhibit A: Proposed Amended Agreement 2018-2020
 - Exhibit B: Proposed Amended Agreement 2020-2022