



**Meeting Date:** 11/5/2020

**From:** Thomas McMorrow, Interim City Attorney

**Subject:** Revise City Manager Employment Agreement

### **Community Goal/Result**

Stabilize City management in the wake of the Covid-19 pandemic and limit City exposure to volatile individual mortgage investments by converting investments to secured debt.

### **Purpose**

Extend City Manager's retirement date in light of Covid-19 and conform the City's prior housing assistance to the City Manager with City policy favoring conservative investments.

### **Recommendation**

It is recommended that the City Council adopt Resolution 2020-63 approving amendments to the attached City Manager Employment Agreement consistent with the City Council's action and authorizing the Mayor to sign the Amendment.

### **Background**

The City Manager is currently scheduled to retire in July 2021. He has offered to extend his retirement date to help with the City's recovery from the Covid-19 pandemic.

The City has faced significant difficulties in recruiting candidates for senior leadership positions. Recruiting from outside the region has been particularly difficult due to the high cost of housing in the City and region.

The City has responded by offering the prospect of housing assistance to out-of-area candidates for management positions to help them purchase a home in the City, generally by extending a loan and in a few instances by making an equity investment in the property. This approach is consistent with housing assistance other cities in the region have offered (*e.g.*, offering housing stipends, extending credit or investing in a property), but is inconsistent with current City policy of investing City funds in conservative investments with predictable returns.

In 2008, the City and a manager agreed to housing assistance in the form of a loan at the Local Agency Investment Fund (LAIF) rate, plus one percent for administrative expenses. (LAIF is the statewide fund at which local agencies invest funds that they do not need for immediate expenses.) The loan is secured by a deed of trust on the property, meaning that if the loan were to default the City could foreclose on the property. (There has not been a default.)

Also in 2008, the City provided assistance to the City Manager by extending \$200,000 to him as an equity investment in a home he purchased in the City. The City's interest is to be paid from the sale of the home, net of to be agreed expenses, and is estimated to be worth roughly \$269,000 currently, with housing at near record highs. Had the City lent the \$200,000 at LAIF + 1% in 2008, the City Manager would owe the City about \$251,500 at the end of 2020.

In 12 years, the at risk investment in the City Manager's home has marginally outperformed a LAIF + 1% fully secured loan similar to the one given to another City official the same year. This modest return does not appear to justify the risk inherent in investing in an individual home.

### **Conclusion**

The City should continue to be open to providing housing assistance for candidates for senior positions that do not already live in the area, but should favor assistance that adheres to its policy of investing City funds in conservative investments with predictable returns.

The City Council is considering the City Manager's offer to extend his retirement date to at least 2022 to help the City recover from the COVID-19 pandemic. The City Attorney recommends, and the City Manager has agreed, that the City Council should also consider amending the City Manager's Employment Agreement to require that the City's \$200,000 interest in the City Manager's home be converted to a secured mortgage loan, consistent with the City's investment policy and past practice, and direct the City Attorney to effectuate this change.

### **Fiscal Impact**

There is no current fiscal impact to the City from converting the City's equity position in the City Manager's home to a secured loan. The loan will continue to be reported on the City's balance sheet, and the risk of fluctuations in home prices will be shifted to the homeowner.

### **Measure of Success**

Remove City risk of investments in individual homes in favor of conservative investments with predictable returns such as secured mortgage loans.

*Thomas R. McMorrow*

Thomas R. McMorrow, Interim City Attorney

**RESOLUTION NO. 2020-63**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE APPROVING THE FIRST AMENDMENT TO THE JULY 18, 2019 EMPLOYMENT AGREEMENT WITH THE CITY MANAGER**

WHEREAS, Clayton Holstine is the appointed City Manager of the City of Brisbane and currently serves under an Employment Agreement between the City and Mr. Holstine dated July 18, 2019; and

WHEREAS, the City and Mr. Holstine wish to amend the Employment Agreement concerning Mr. Holstine's estimated date of retirement from the City and to revise the terms of the housing assistance the City extended to Mr. Holstine for his residence in Brisbane, as set forth in the agenda report to the City Council from the City Attorney dated November 5, 2020.

**NOW, THEREFORE**, the City Council of the City of Brisbane resolves as follows:

Section 1. The First Amendment to the July 18, 2019 Employment Agreement between the City and Clayton Holstine is approved, subject to the City Attorney approving the final form of the amendment, and the Mayor is authorized to sign such Amendment, once in final form.

Section 2. The City Clerk is directed to post the First Amendment, once fully executed, on the City's website under "City Manager's Contract".

Section 3. This Resolution shall take effect immediately upon adoption.

Terry O'Connell, Mayor

I hereby certify that the foregoing Resolution was adopted as a regular agenda item at a regularly scheduled meeting of the Brisbane City Council on November 5, 2020 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN

Ingrid Padilla, City Clerk