



# City of Culver City

## Staff Report

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Item #: C-8.

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**CC - CONSENT ITEM: Adoption of a Resolution Approving a Side Letter of Agreement with the Culver City Police Officers' Association Relating to Holiday In-Lieu Pay and Subsequent Clarification of Language in the Memorandum of Understanding (MOU).**

**Contact Person/Dept.:** Steven Pham, Interim Human Resources Director  
**Phone Number:** 310-253-5658

**Fiscal Impact:** Yes  No       **General Fund:** Yes  No

**Attachments:** Yes  No

**Commission Action Required:** Yes  No

**Public Notification:** (E-Mail) Meetings and Agendas - City Council (03/23/2022);

**Department Approval:** Onyx Jones, Assistant City Manager (03/23/2022)

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### **RECOMMENDATION**

Staff recommends the City Council adopt a resolution approving a side letter of agreement with the Culver City Police Officers' Association (CCPOA) relating to Holiday In-Lieu pay and subsequent clarification of language in the Memorandum of Understanding (MOU).

### **BACKGROUND / DISCUSSION**

California Public Employees' Retirement System (CalPERS) requires specific language be included in respective bargaining unit Memorandum of Understandings (MOU) for CalPERS reportable compensation. If the language for this compensation does not meet CalPERS requirements, or conform with California Public Employee's Retirement Law, it can affect the final retirement compensation pay of the respective bargaining unit's employees and existing retirees.

The City was contacted in January 2022 regarding the lack of specific language in the current Culver City Police Officers' Association MOU related to Holiday In-Lieu Pay. This communication was made during a final compensation review for a recently retired CCPOA member. It is standard practice for CalPERS to perform such reviews to ensure the City is in compliance with retiree final compensation pay. CalPERS informed the City that specific language detailing the rates included in the Holiday In-Lieu pay was not clearly stated in the MOU. Without the language, CalPERS would deny that part of the rate not only for the employee under review, but potentially for other retirees who had historically

been receiving this payment as part of final reportable compensation.

To ensure compliance, CalPERS instructed the City to correct the language retroactively, so that previous retirees would also be covered. A side letter was prepared with the assistance of Liebert Cassidy and Whitmore, retroactively correcting the language back to October 9, 1989. The side letter was presented to CalPERS for review, and the City received confirmation on March 1, 2022, that the side letter would meet the requirements of CalPERS once approved by City Council. The side letter is attached to the proposed Resolution (Attachment 1). As of the posting of the agenda, the side letter is still in draft, as the City is waiting for final approval from the CCPOA.

The current CCPOA MOU expires June 30, 2022. During upcoming negotiations with the City, the necessary language will be included to ensure future compliance. During the Mid-Year budget, the City Council also approved funding for the City to retain legal services to review MOUs for all the City's bargaining units to ensure compliance with CalPERS requirements and review setup of the City's Payroll Module in Tyler/Munis.

## **FISCAL ANALYSIS**

On September 27, 2021, Senate Bill 278 (SB 278) was signed and subsequently went into effect January 1, 2022. SB 278 greatly increases the potential costs to CalPERS agencies for reporting errors by shifting almost all the consequences for reporting later disallowed compensation to the employer. If the proposed resolution and side letter are not approved by the City Council, the City may be required to pay CalPERS the full cost of any overpayments made to affected retirees based on the disallowed compensation. The City may also be required to pay a 20-percent penalty on the amount calculated as a lump sum of the actuarial equivalent value of the difference between the retiree's pension calculated with the disallowed compensation and the pension calculated without the disallowed compensation for the projected duration of the benefit. At this time, there is no estimate of what this amount would be for affected retirees.

If the proposed resolution and side letter are approved by the City Council, there will be no additional financial liability. The rate of pay for Holiday In-Lieu will continue to be paid at the rate it has been.

## **ATTACHMENTS**

1. Proposed Resolution amending the Culver City Police Officer's Association Memorandum of Understanding with Exhibit A

## **MOTIONS**

That the City Council:

1. Adopt the Resolution approving the Side Letter of Agreement with the Culver City Police Officers' Association relating to Holiday In-Lieu Pay; and

2. Authorize the City Attorney to review/prepare the necessary documents; and
3. Authorize the City Manager to execute such documents on behalf of the City.