

**CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM**

Meeting Date: April 4, 2023
To: Honorable Mayor and City Councilmembers
From: Ad Hoc Committee for City Manager and or City Attorney Recruitment
Human Resources Consultant
Subject: Options for Consideration for City Manager and City Attorney Recruitment
Recommendation: It is recommended that the Council: Receive the report, take public comment, move further discussion of options to a closed session meeting and approve Obtaining Request for Proposals (RFP) Executive Firm for City Manager recruitment and Request for Qualifications (RFQ) for City Attorney Services
Funding: Currently Budgeted: _____ Yes ___X*___ No _____ N/A
Net General Fund Cost: _____

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION:

This item is to request that the City Council Receive the report, take public comment, and approve obtaining Request for Proposals for Executive Firm for City Manager Recruitment and Request for Qualifications for City Attorney Services. Staff has scheduled closed session meetings for further discussion of options. **It should be noted that any discussion of the options for Closed Session topics cannot be conducted in Open Session but will need to be discussed in a City Council Closed Session Meeting. Tonight's item is only for Council to Receive the options, take public comment, and approve Obtaining Request for Proposals for Executive Firm and Request for Qualifications for City Attorney Services.**

INFORMATION ON DISCUSSION OF TONIGHT'S ITEM/PUBLIC COMMENT/AND CLOSED SESSION REQUIREMENTS

REQUIREMENT FOR CLOSED SESSION: The Brown Act allows a legislative body to convene a closed session in order to meet privately with its advisors on specifically enumerated topics. The most common reason for a closed session is to consider personnel-related issues to consider employment, promotion, discipline, and/or performance evaluation of employees. Further, legislative bodies are permitted to meet in closed session to give direction to their labor negotiators on matters related to contract negotiations. As the options for the future employment of a City Manager relate to current employee related matters and future contract negotiations, the Council will not be able to discuss certain items in the Open Session of a Council meeting and will need to conduct a closed session. This protects Employees and City by avoiding the revealing of confidential information that may, in specified circumstances, prejudice the legal or negotiating position of the agency or compromise the privacy interests of employees. As it relates to applicants for a position, it can create issues for a candidate at their current employer if it becomes known that the candidate is interested in alternative employment.

For these reasons, the Brown Act allows for discussion of confidential information that is specifically related to the reason for the closed session and cannot be discussed during the Open session of the meeting. The Council will report out any final action taken in closed session.

The legislative body must report in open session certain actions taken in closed session, and the vote of each member, including Action to appoint, employ, dismiss, release, accept resignation of, or affect the status of any employee.

However, a report out may be deferred under certain circumstances, usually because it is contingent upon approval by another party.

No person may disclose confidential information that has been acquired by being present in an authorized closed session to unauthorized persons,

The Brown Act is clear that public employment personnel matters shall be discussed in closed session.

The City and Council appreciate the public's questions and comments related to this item. Public comments related to this item received tonight will inform Council deliberation in future Council sessions both closed and open. The Council welcomes questions and comments related to the employment of a City Manager (including comments related to salary, benefits, and other terms and conditions of employment). However, tonight, Council members will refrain from answering any questions posed by members of the public in open session.

BACKGROUND

After 36 years as the City Attorney and 12 years as City Manager/City Attorney for the City of Sebastopol, Larry McLaughlin has announced that he is retiring. In late October, City Manager / City Attorney Larry McLaughlin publicly announced his pending retirement and to fill the position, the Council began embarking on the process of discerning a path forward and with this item has undertaken or is being asked to undertake the following:

1. Created an Ad Hoc Committee
2. Ad Hoc worked with HR consultant and City staff to discuss next step in the process to fill these critical roles which was to create this agenda item for the Council to receive the options and timelines to fill these critical roles.
3. Receive agenda item tonight on options for Filling Positions
4. Discussion of Request for Proposals for Executive Firm for City Manager Recruitment and Request for Qualifications for City Attorney
5. Take options into a closed session meeting for discussion
6. Take actions necessary in future meetings to acquire staff or services to meet the obligations of the City Manager and City Attorney roles.

DISCUSSION:

While there exists a handful of City Manager / City Attorney combined roles in California, the separation of the roles is most common and the pool of candidates for City Manager and candidates and firms for City Attorney is much larger.

The current employee's resignation in combination with a clause in the agreement between the Employee and the City dating back to 2012 when the employee as City Attorney was also first engaged in the City Manager's role, and providing the right of the Employee to return to City Attorney, effectively separates the roles. Should the City Council or Employee decide not to continue his employment in the role of City Attorney, the City Council must decide whether to seek candidates for a combined or separate set of roles and the process in which roles will be filled.

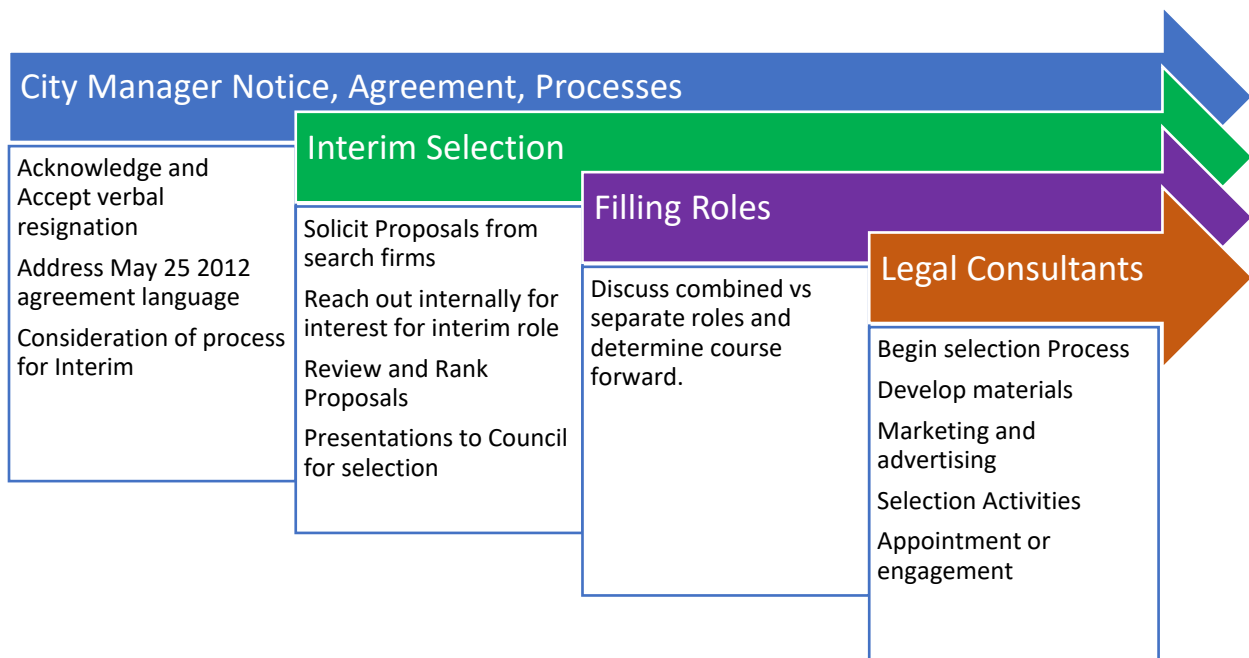
This report will provide options, timelines and estimates of costs related to various options.

NOTE: Most if not all of the options below will require a closed session meeting as many of the options presented relate to current and future employment contracts. The City Council will only receive the options tonight and shall conduct a future closed session meeting to discuss these options.

The only actions the Council can take tonight is to receive the options, take public comment, and approve direction to staff for Request for Proposals for Executive Firm for City Manager Recruitment and Request for Qualifications for City Attorney Services.

KEY CONSIDERATIONS /OPTIONS FOR COUNCIL DISCUSSION:

As shown in the diagram below, the City has several key options for consideration in the wake of employee's notice to retire from his role as City Manager. The options for consideration for a future City Council Closed Session are shown in the chart as well as explained below.



City Manager Notice, Agreement, Processes

Acknowledge and Accept verbal resignation
Address May 25 2012 agreement language
Consideration of process for Interim

Key Consideration/Option Acknowledge and accept Mr. McLaughlin's resignation from joint role addressing his exemplary service

Time Line: City Council to discuss with employee (This is anticipated to be discussed within 30 days)

Key Consideration/Option Consideration of how to address the existing May 25, 2012 City Attorney / Interim City Manager employment agreement language in relation to returning to City Attorney position

Time Line: City Council to discuss in Closed Session (This is anticipated to be discussed within 30 days)

Key Consideration/Option Consideration of Extension of Contract for Current City Manager / City Attorney (Consideration of Extension of current employment of City Manager/City Attorney until such time that a City Manager Is Hired)

Time Line: City Council to discuss in Closed Session (This is anticipated to be discussed within 30 days)

Key Consideration/Option Consideration of process for selection of interim assistance (whether internal or external) of either City Manager and/or City Attorney.

Time Line: City Council to discuss in Closed Session (This is anticipated to be discussed within 30 days)

The process for filling the role for interim could take one to two months or longer. A common search has two main phases:

- Month 1: Solicit Interest and interview in closed session qualified employees
- Month 2: Announce selection in a regular Council meeting and transition and backfill activities

Fiscal Impacts: For an Internal Interim: City employees who are temporarily promoted receive between 5% and 10% above their current regular hourly pay or base salary (depending on their level in the organization and the level of the position they are filling). Over a period of six months, the cost to the City is estimated to be between \$9,900 and \$13,200 per employee temporarily promoted or \$1,650 - \$2,200 a month per temporarily promoted employee.

Or

Consideration of External Interim: This process could also take one to three months or longer as a similar process would be used.

- Month 1: Establishment of profile
- Month 2: Marketing and selection activities in closed session
- Month 2 or 3: Reference and Background
- Month 3: Appointment

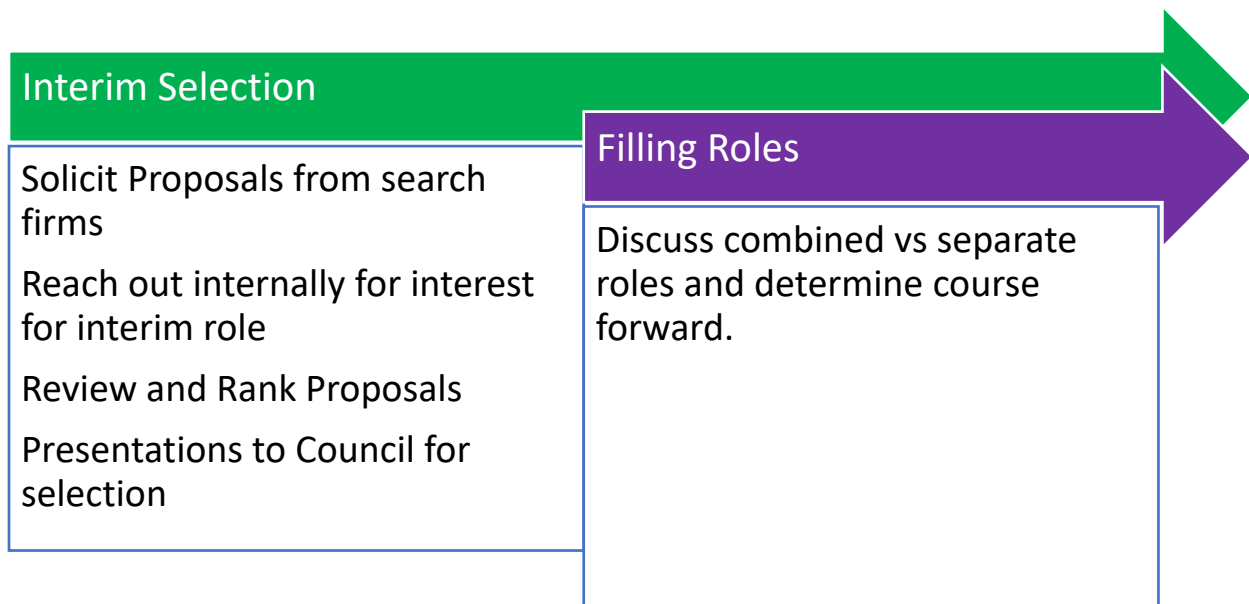
*If the interim selected is a retired annuitant already working with the City, a reference and background is not required, and the timeline could be shortened.

Fiscal Impacts: An external interim candidate typically earns the top step of the current manager's salary range of a retired annuitant, which is \$89.92 for all hours worked. Candidates who are not CalPERS retired annuitants often want prevailing wages with no benefits which can range from \$90 - \$130 per hour with no benefits or overtime. Reasonable expenses are usually reimbursable in both cases. If we assume a 55-hour work week, a retired annuitant will run \$21,431 per month or \$128,586 over six months, and a non-retired annuitant will run between \$21,450 and \$30,983 per month and between \$128,700 and \$185,900 over six months.

Key Consideration/Option Consideration of Process(es) for filling the vacated role(s).

Time Line: The process for filling the role of a city executive normally takes a minimum of four to six months and could take longer.

ACTIONS FOR CONSIDERATION TONIGHT: Actions requested tonight will be done concurrently while closed session meetings are being conducted:



EXECUTIVE SEARCH CITY MANAGER:

Action 1:

Direct City staff to work with the City's Human Resources Advisor to solicit proposals, conduct a preliminary assessment of proposals, and return to Council with a matrix to show proposal features and

ranking. The top 3-4 firms will be invited to provide 15-minute presentations of their services during the Council meeting. Once selected staff will work with the successful firm to create an agreement and staff report for approval at the next Council meeting.

Timeline: Typically 1 to 2 months. 1 week to prepare and send out proposal requests, 2 weeks for proposals to be submitted, and 1 week to assess them. Council agenda items will be set up in advance to expedite the process. Then .5 to 1 month for Council meetings if at a regular session. This item could be heard and approved on consent and at any special meeting.

Fiscal Impact: The fiscal impact for the search and engagement of an existing employee or retired annuitant would be the hours required by the City's Human Resource Consultant which would be less than \$2,500 over the term of the agreement. A formal Executive Recruitment for City Manager for other than existing employee or retired annuitant would be between \$35,000 to \$50,000 for the consultant. This amount does not include recruitment costs for City Attorney services if the Council chooses that direction in the future.

Time Line: A Common Executive Search Process: Search processes may have six to eight major phases, including:

- Month 1: Stakeholder Engagement Meetings
- Month 2: Profile and Materials Development
- Month 3 to 4 Outreach and Marketing - Search for Candidates
- Month 5 Preliminary Screening – Final Candidate List
- Month 5 to 6: Selection Processes
- Month 6 to 7: Reference, Background, and Appointment

About Executive Search Timelines

The timeline for an executive search depends on the number and method of processes developed under steps one, two, and five and the available pool of qualified candidates. Periodically, recruitment will not result in a successful candidate. In those cases, the search firm will often reopen the search process or begin a new visioning and search process, expand the geographical reach for candidates, or may suggest other alternatives.



Legal Consultants

Begin selection Process
Develop materials
Marketing and advertising
Selection Activities
Appointment or engagement

Action 2:

Initiate an immediate RFQ for interim City Attorney services. The RFQ will include outside counsel currently engaged with the City as well as other options. Once proposals are ranked, staff will return to Council with the results and a recommendation. Council will authorize and approve the engagement in a public Council meeting.

Timeline: 2-3 months. This process will include the development of a scope of work, reaching out to known firms to request qualifications and fee information, review of the responses, creation of an agenda item, and placement on a coming City Council agenda.

Please note: Both compensations for each recruitment will be discussed in an Open Session City Council Meeting and will need to be decided prior to recruitment.

FOR INFORMATION ONLY: Tables have been provided relative to the current market. This is informational only and not the proposed compensation for these positions and is not for discussion tonight.

Sebastopol's City Manager Salary is about 17% behind the market and results in a difference between the current salary and a competitive market salary is \$3,167 a month or \$38,000 a year which approximates \$58,916 with benefits as shown in the chart below. The pensionable benefitted cost of the salary increase may be mitigated by providing some of the salary or increase in non-pensionable vehicles such as Retirement Health or Deferred Compensation arrangements.

The current City of Sebastopol City Manager/City Attorney Salary reflects ¾ time allocated for City Manager and ¼ time allocated for City Attorney.

Agency	Class Title	Max Monthly Salary	Max Annual Salary	Max Hourly Salary
Sebastopol	City Manager / City Attorney	\$15,588	\$187,056	\$90
Santa Rosa	City Manager	\$23,064	\$276,768	\$133
Healdsburg	City Manager	\$22,452	\$269,424	\$130
Petaluma	City Manager	\$20,401	\$244,812	\$118
Rohnert Park	City Manager	\$19,519	\$234,228	\$113
Sonoma	City Manager	\$17,992	\$215,904	\$104
Cotati	City Manager	\$16,938	\$203,256	\$98
Windsor	City Manager	\$16,741	\$200,892	\$97
Cloverdale	City Manager	\$13,570	\$162,840	\$78
Median of Comparators		\$18,756	\$225,066	\$108
% Sebastopol Above/Below		-16.89%		
Average (Mean) of Comparators		\$18,835	\$226,016	\$109
% Sebastopol Above/Below		-17.24%		
Number of Matches		8		

Sebastopol City Manager	\$15,588	\$187,056	\$90
Median of Comparators	\$18,756	\$225,066	\$108
Average (Mean) of Comparators	\$18,835	\$226,016	\$109
Difference Sebastopol to Median	(\$3,168)	(\$38,010)	(\$18.27)
Cost 1 month	\$3,168		
Cost Salary Annual	\$38,010		
Include est benefits	\$58,916		

Filling the City Attorney Role will also increase costs to the City. As a separate role, City Attorneys in Sonoma County have mostly been engaged under contract allowing municipalities to utilize the full resources of a firm rather than just one individual employee. This also removes the pension and other benefit costs associated with an employee.

Hiring a City Attorney through a firm under contract may require around \$22,000 - \$24,000 a month and about \$260,000 annually. In contrast, a City Attorney who is an employee on staff (similar to the City of Santa Rosa), is salaried at a top step of \$248,136 and with benefits would approach \$385,000 as a City employee. The advantage of an hourly rate from a firm includes access to experts in other bodies of law and lower costs in months with fewer meetings and fewer legal matters. Conversely, costs will go up in times of high legal need. The chart below reflects the budgeted expenditures for City Attorneys under contract and the salary of Sebastopol, Santa Rosa, and Petaluma's attorneys.

Agency	Class Title	Max Monthly Salary	Max Annual Salary	Max Hourly Salary
Sebastopol	City Manager / City Attorney	\$15,588	\$77,875	\$37
Santa Rosa	City Attorney	\$20,678	\$248,136	\$119
Healdsburg	City Attorney (Contract)	\$30,625	\$367,500	\$177
Petaluma	City Attorney	\$19,550	\$234,600	\$113
Rohnert Park	City Attorney (Contract)		\$0	\$0
Sonoma	City Attorney (Contract)	\$28,083	\$337,000	\$162
Cotati	City Attorney (Contract)	\$29,333	\$351,997	\$169
Windsor	City Attorney (Contract)	\$21,639	\$259,670	\$125
Cloverdale	City Attorney (Contract)	\$18,074	\$216,889	\$104
Median of Comparators		\$21,639	\$259,670	\$125
% Sebastopol Above/Below		-27.96%		
Average (Mean) of Comparators		\$23,998	\$287,970	\$138
% Sebastopol Above/Below		-35.04%		
Number of Matches		7		

*Rohnert Park 23-24 budget shows \$996,267 for all attorney's fees and we were not able to reduce it to sole City Attorney role costs. Therefore they are not included in this comp table.

Sebastopol City Attorney	\$15,588	\$187,056	\$90
Median of Comparators	\$21,639	\$259,670	\$125
Average (Mean) of Comparators	\$23,998	\$287,970	\$138
Difference Sebastopol to Median	(\$6,051)	(\$72,614)	(\$34.91)
Cost 1 month	\$6,051		
Cost Salary Annual	\$72,614		
Include est benefits	\$112,552	\$259,670	

Average Attorney Fees for the City of Sebastopol:

For FY 21, 22 and current year to date, listed below are attorney fees for informational purposes only.

FY21 = \$258,823.68

FY22 = \$400,513.03

FY23 YTD thru Feb activities = \$327,674.40

This information is not for discussion tonight, but is for information/background to the Council and community as the City Council is considering approval of a RFQ for City Attorney services. Legal fees vary each year for all cities as they are dependent upon the number of lawsuits filed, grievances, arbitration, etc. As noted above, the compensation for Attorney services will be discussed at an Open City Council Meeting once the RFQs have been received.

CITY COUNCIL AND/OR GENERAL PLAN GOALS

Goal 5: Provide Open and Responsive Municipal Government Leadership

5.3.3. Encourage and increase public awareness of City Policies, decisions, programs, and all public processes and meetings, by investigating effective methods of communication and obtaining feedback from the community.

Goal 6: Maintain a highly qualified Staff that works to provide services to serve and protect the residents, visitors, and businesses of this community.

Action CHW 5c: Practice an open-door policy in City programs, and actively engage and encourage participation from all individuals regardless of ethnicity, race, religion, class, disability, sexual orientation, and gender.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, according to CEQA Guideline section 15378.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the consent calendar.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours before the scheduled meeting date.

FISCAL IMPACT:

As shown in each of the sections above, the estimated fiscal impacts of the various key choices are shown in the table below:

		Monthly	Six months	annual	Low		High	
					FY 22-23	FY 23-24	FY 22-23	FY 23-24
Promoting an Employee	Low	1650	9900	19800		\$19,800		
	High	2200	13200	26400			\$26,400	
Retired Annuitant City Manager		21431	86323.2	86323.2		\$86,323	\$86,323	
Non Retired Annuitant CM	Low	21450	128700	257400	\$21,450	\$128,700		
	High	30983	185898	371796			\$61,966 \$185,898	
Executive Search Firm						\$25,000	\$35,000	
City Manager Salary		3168		38010		\$38,010	\$38,010	
City Attorney (not incumbent)		21639.17		259670		\$259,670	\$259,670	
					\$21,450	\$557,503	\$61,966	\$631,301

RECOMMENDATION:

That the City Council Receive the report, take public comment, move further discussion of options to a closed session meeting, and:

1. approve Obtaining Request for Proposals for Executive Firm for City Manager Recruitment; and
2. approve Request for Qualifications for City Attorney Services

It should be noted that any discussion of the options cannot be conducted in Open Session but will need to be discussed in a City Council Closed Session Meeting. Tonight's item is receipt of options only as well as approval to obtain RFPs and RFQs.

*Staff will return to a future council meeting with a request for budget amendment for Executive Firm RFP once the City receives responses to the Request for Proposals for City Manager Recruitment. As noted above, it is anticipated that the costs could range from \$35,000 to \$50,000 based on current Request for Proposals conducted by other Cities.

ATTACHMENT:

Options Table. *This Table Contains Options but May Not Be All Inclusive.* Discussion of the options cannot be conducted in Open Session but will need to be discussed in a City Council Closed Session Meeting.

A presentation will be provided at the City Council Meeting.

Options	Status of Roles	City Manager	City Attorney	Incumbent	Additional Information
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ATTACHMENT 1 A variety of options follow in this table. This is not a complete list and each option may have several additional steps required to fulfill it that may not be reflected here.

Option 1	Recruit/appoint combined role	NOTE: Interim may be required, can be staff or outside	NOTE: Contract interim may be required	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Hire as Status Quo (City Manager/City Attorney): The staffing study recommends separating the functions of the City Manager and City Attorney
Option 2	Separate roles	Recruit for City Manager NOTE: Interim may be required, can be staff or outside	Recruit for City Attorney NOTE: Contract interim may be required	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Separate Positions: Hire A City Manager and a City Attorney (City Attorney to be on site City employee position)
Option 3	Separate Roles	Recruit for City Manager NOTE: Interim may be required, can be staff or outside	RFP or RFQ process for City Attorney. NOTE: Contract interim may be required	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Separate Positions: Hire A City Manager and Conduct Request for Proposals for City Attorney Functions (Whether a Consultant/Attorney Firm – Not City Employee)
Option 4	Separate Roles	Recruit for City Manager NOTE: Interim may be required, can be staff or outside	Negotiate agreement with incumbent for continued City Attorney services Note: current employment agreement provides that CITY MANAGER/CITY ATTORNEY returns to CITY ATTORNEY when no longer CITY MANAGER	Retain incumbent (current employee) in combined role through recruitment if possible	Separate Positions: Hire A City Manager and Retain Current City Attorney Per Employee Contract. Employment contract states that if Employee is no longer the City Manager, employee would remain as City Attorney.
Option 5	Separate Roles	Seek and Appoint Interim City Manager (staff or external) Take time in recruiting for permanent Role	Recruit for City Attorney Note: Contract interim may be required	Retain incumbent in combined role through	Hire Interim City Manager (Either conducting Internal and/or External Recruitment or Appoint City Employee on Emergency Basis)/Not Recruit for Permanent City Manager at this time

Options	Status of Roles	City Manager	City Attorney	Incumbent	Additional Information
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ATTACHMENT 1 A variety of options follow in this table. This is not a complete list and each option may have several additional steps required to fulfill it that may not be reflected here.

				recruitment if possible	but take time to ensure Recruitment Brochure/Compensation/Benefits are Reflective of Council/ But Recruit for City Attorney (City Attorney to be on site City employee position).
Options 6	Separate Roles	Seek and Appoint Interim City Manager (staff or external) Take time in recruiting for permanent Role	RFP/RFQ for City Attorney firm Note: Contract interim may be required	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Hire Interim City Manager (Either conducting Internal and/or External Recruitment or Appoint City Employee on Emergency Basis)/Not Recruit for Permanent City Manager at this time but take time to ensure Recruitment Brochure/But Recruit for Attorney Firms (Consultant/Attorney Firm – Not City Employee)
Option 7	Separate Roles	Seek and Appoint Interim City Manager (staff or external) Take time in recruiting for permanent Role	Negotiate agreement with incumbent for continued City Attorney services. Note: current employment agreement provides that CITY MANAGER/CITY ATTORNEY returns to CITY ATTORNEY when no longer CITY MANAGER	Retain in both roles through recruitment, if possible	Hire Interim City Manager (Either conducting Internal and/or External Recruitment or Appoint City Employee on Emergency Basis)/Retain Current City Attorney Per Employee Contract. Employment contract states that is Employee is no longer the City Manager, employee would remain as City Attorney.
Option 8 A subset of Options 5-7	Separate Roles	Council makes internal temporary promotion of City employee to serve as Acting City Manager (6 mos. 960 hrs.)	Recruit, RFP/RFQ, or retain current incumbent for City Attorney role	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Internal Temporary Promotion of Department Head to Acting City Manager for no more than six months (would not require any internal recruitment process)

Options	Status of Roles	City Manager	City Attorney	Incumbent	Additional Information
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ATTACHMENT 1 A variety of options follow in this table. This is not a complete list and each option may have several additional steps required to fulfill it that may not be reflected here.

Option 9 A subset of options 5-7	Separate Roles	Council RFQ-RFP to engage with staffing agency – use to hire and appoint Interim City Manager Note: ideally CalPERS annuitant (960 hours 6 mos.) or retired manager not PERS. Recruit for permanent role	Recruit, RFP/RFQ, or retain current incumbent for City Attorney role	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Interim Hire for City Manager through City Approved Staffing Agency: CALPERS Annuitant (less than 960 Hours) or Retired City Manager Not Falling Under PERS 960 Annuitant
Option 10	Separate Roles	Council may appoint and negotiate with a current City Contract employee for Interim role (retired annuitant 960 hrs. & 6 mos. apply) Recruit for permanent Role	Recruit, RFP/RFQ, or retain current incumbent for City Attorney role	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Hire Current City Contract Employee As Interim through Recruitment/Hiring Period – (960 Hour Annuitant)
Option 11	Separate Roles	Council informally request or seek candidate interest and formally appoint their choice. No formal recruitment processes.	Council informally request or seek candidate interest and formally appoint their choice. No formal recruitment processes.	Retain through recruitment if possible as CITY ATTORNEY or in both roles	Council could choose to not do any recruitment and ask for informal process of interested persons to apply and make appointment with no formal recruitment.