



# ***Agenda Report***

## ***Fullerton City Council***

**MEETING DATE:** OCTOBER 1, 2019

**TO:** CITY COUNCIL / SUCCESSOR AGENCY

**SUBMITTED BY:** KENNETH A. DOMER, CITY MANAGER

**PREPARED BY:** GRETCHEN BEATTY, HUMAN RESOURCES DIRECTOR

**SUBJECT:** FINAL CONSIDERATION AND APPROVAL OF A  
PROPOSED SIDE LETTER TO THE MEMORANDUM OF  
AGREEMENT BETWEEN THE CITY OF FULLERTON AND  
THE FULLERTON POLICE OFFICERS' ASSOCIATION –  
POLICE SAFETY UNIT

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### **SUMMARY**

A proposed Side Letter of Agreement between the City of Fullerton and the Fullerton Police Officers' Association – Police Safety Unit presented for final consideration and approval by the City Council.

### **RECOMMENDATION**

1. Adopt Resolution No. 2019-XX.

RESOLUTION NO. 2019-XX – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, APPROVING THE SIDE LETTER AGREEMENT TO THE MEMORANDUM OF AGREEMENT BETWEEN THE CITY AND THE FULLERTON POLICE OFFICERS' ASSOCIATION – POLICE SAFETY UNIT

2. Approve budget transfer of \$487,000 from Police Department salaries and benefits into the City's IRS Section 115 Trust fund.

### **PRIORITY POLICY STATEMENT**

This item matches the following Priority Policy Statement/s:

- Fiscal and Organizational Stability
- Public Safety.

## FISCAL IMPACT

The fiscal impact of the proposed side letter is reflected on the attached audited fiscal analysis. The projected value of the amendment for the 2019-20 Fiscal Year is cost neutral for the fiscal year, including \$487,000 related to an increase in the CalPERS liability for past service which will first be reflected in City rates in Fiscal Year 2022-23. Reallocation of the \$487,000 to the City's IRS Section 115 Trust is in anticipation of the increase impacting City rates in future years.

The projected fiscal impact for the 2020-21 Fiscal Year is a net increase of \$572,370. This amount includes the same \$487,000 increase in CalPERS liability for past service. Again, it will not be payable during the year, but rather, will begin to appear in the City's rates in future years. As such, the anticipated costs payable during the 2020-21 year are \$85,370 above current projections.

Staff will include funding recommendations for continuing contributions to the IRS Section 115 trust fund in future fiscal years to address the long term impacts of the proposed changes. As referenced in the Bartel Associates actuarial review, the total increase of \$5.3 million related to past service is amortized over a twenty year period with the estimated annual increase being \$487,000.

## DISCUSSION

The Fullerton Police Officer's Association – Police Safety Unit (FPOA-PSU) represents employees in sworn Police classifications of Police Officer, Police Corporal and Police Sergeant as well as employees in the nonsworn classification of Police Officer Trainee. (An employee hired into the Police Officer Trainee position is promoted to Police Officer upon completion of a police training academy. Such employees are typically hired into budgeted Police Officer positions in anticipation of promotion to the officer rank.).

During the last several months, the City and the FPOA-PSU have been informally discussing recruitment and retention challenges faced by the Fullerton Police Department. The department is impacted by attrition not only related to retirements, but also of mid-career officers leaving for other agencies. Compounding the loss of experienced officers is the difficulty competing with other agencies for qualified candidates. The recommendations contained in this agenda letter are a result of these informal discussions.

### Background:

The City entered into a Memorandum of Agreement with FPOA-PSU in fiscal year 2015-2016. The agreement included across-the-board salary increases of 6%, 3%, 2% and 2.5% for the successive years of the four-year term. Midterm in the agreement the FPOA-PSU reached out to the City to offer to spread out the last two increases to assist with the City's efforts to close the budget deficit in fiscal year 2017-18. Thereafter, the parties entered into a side letter extending the term of the 2015 agreement to June 30, 2021 with an FPOA-PSU option to extend one additional year to June 30, 2022. In addition, the 2% and 2.5% across-the-board salary increases due in fiscal years 2017-18 and 2018-19 were spread out over four years in increments of 1%, 1%, 1% and 1.5%.

**Attrition:**

While the most significant increases occurred in the first two years of the 2015 agreement, during those same two years eight police officers with experience ranging from two to fifteen years voluntarily separated from the police department to move to other local police agencies. The next year, five officers similarly separated from the department, resulting in an average loss of experience of ten years. In 2018-19, the year that was to have been the final year in the original agreement, another three experienced officers with an average length of service of nine years left to move to other local agencies.

The following table reflects the attrition history in FPOA-PSU ranks in fiscal years 2012-2013 through the present.

Attrition in the ranks of Police Sergeant, Police Corporal, Police Officer, and Police Officer Trainee				
Fiscal Year	Total Attrition	Percent of Budgeted	Resignations for Lateral Moves	Average Years of Service
2012-2013	15	11%	1	1
2013-2014	9	7%	0	n/a
2014-2015	9	7%	0	n/a
2015-2016	5	4%	2	6
2016-2017	26	18%	6	8
2017-2018	16	11%	5	10
2018-2019	21	15%	3	9
2019-2020	1	1%	0	n/a

Attrition = Retirement, Resignation, Dismissal, and Promotion to management due to attrition in higher ranks

While the increased attrition rate has significant impacts to the Police Department operation, it should be noted that there is a slight offsetting benefit in the reduced cost of retirement benefits for most new employees. The Public Employees' Pension Reform Act of 2013 (PEPRA) established reduced pension formulas for employees newly entering public service. The PEPRA formula for safety is 2.7% @ 57. The current percentage of employees in the FPOA-PSU ranks who are enrolled in the PEPRA benefit level in CalPERS is 52%. Another 7% is enrolled in the City's 3% @ 55 second tier for Classic employees. Classic employees are those who became members of a public retirement system before PEPRA was enacted. The City of Fullerton proactively implemented this second tier for employees in 2012. The longer serving officers are enrolled in the 3% @ 50 plan. The percentage of FPOA-PSU employees on this plan is currently at 41% but may reduce to 36% within the next fiscal year if all retirement age eligible employees opt to retire.

Despite the benefit of shifting more employees to the PEPRA benefit level, loss of experienced officers to other local agencies is of significant concern to the organization not only because of the loss of expertise, training and succession preparedness opportunities, but also because of the resultant impact to the City's CalPERS costs. An

employee who separates from Fullerton and moves to a higher paying agency will increase the value of his / her years' of service with Fullerton. Although these changes will not immediately work their way into Fullerton's CalPERS rates, through time, the City will see the impact for those with significant lengths of service moving to higher paying agencies. The impact to CalPERS rates is similar to the impact of the proposed changes in the side letter but on an individualized basis rather than across-the-board.

Traditionally, this impact was seen primarily when an employee left the organization to pursue top management opportunities in other agencies, for example when a Police Captain separated to accept a Chief of Police position in another agency. A lateral move to another agency will typically have a lesser severity than moves for promotion to management given the reduced number of years of service a laterally moving employee will typically take with him or her. However, such moves are occurring with a greater frequency and have the potential of creating significant impacts to Fullerton retirement rates.

A number of the lateral moves in the past years have been to the Anaheim and Irvine Police Departments, both known to have higher compensation packages than the Fullerton Police Department. Anaheim is in the midst of a testing process currently and is simultaneously poised to implement significant compensation increases. As many as five current Fullerton officers (including some at the corporal rank) are verified or believed to be participating in this process.

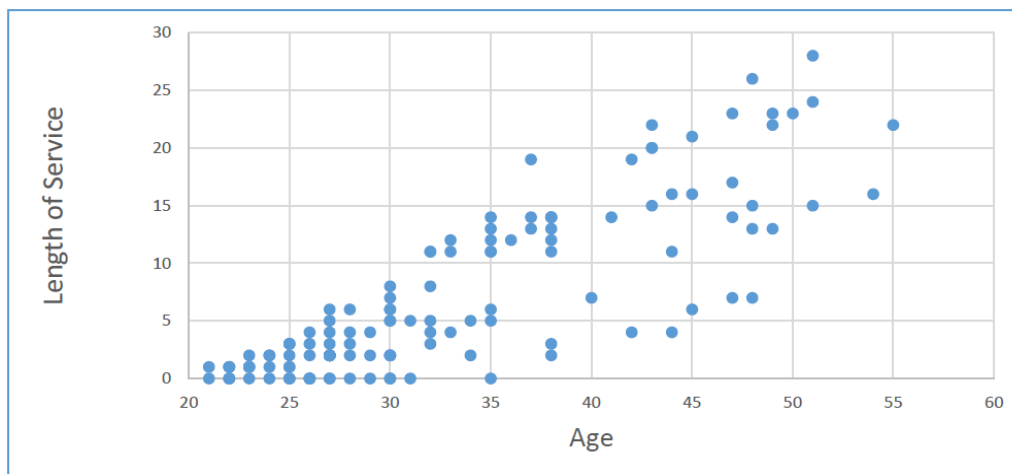
#### Age and Length of Service:

Along with the challenges posed by a significant vacancy rate, the department is staffed with a high number of young employees with limited years of experience in their ranks. The average length of service at the Police Sergeant rank is 16 years. However, only four of the 21 Sergeants have eight or more years of experience in the rank while 11 of the current Sergeants have less than two years of experience as Sergeant.

For Police Officer / Police Officer Trainee the average length of service is 2.9 years. More than a third of all Police Officers / Police Officer Trainees have less than two years of experience in the rank. Fifty-one of the current Police Officers / Police Officer Trainees are under the age of 30 with half of this number being age 25 or younger.

On the other end of the spectrum, 22% of employees in the FPOA-PSU ranks are within three years of retirement age: nine Police Sergeants, four Police Corporals and two Police Officers. As many as nine of these employees are likely to retire in within the next 12 months. This attrition due to retirement will have the effect of further reducing the balance of the experienced officers to the new officers as the City has limited success in attracting experienced officers to join the workforce due in part to our 3% @ 55 second tier retirement benefit formula for Classic employees. This formula requires an employee to work to age 55 (as opposed to age 50 under the 3% @ 50 retirement benefit formula) to achieve the maximum benefit under the formula. Mid-career employees with the 3% @ 50 retirement benefit formula in their current agencies are often unwilling to move to an agency with a lesser formula and no offsetting increase in benefits or other substantial contributing reasons.

The following table reflects the age and length of service of current employees in the FPOA-PSU ranks.



#### Vacancies:

The 2019-20 budget adopted by City Council includes funding for 21 Police Sergeants, 54 Police Corporals and 67 Police Officers. Thirteen Police Corporal positions are currently vacant. Another three are underfilled with Police Officer Trainees. The current vacancy rate in the FPOA-PSU ranks is 9%. This is a dynamic number as retirements, lateral moves, failures to complete initial probation and separations for other reasons continue throughout the year. The percentage in the sworn ranks has reached as high as 15% in the past years.

The limited age and experience in the department reduces the success of internal recruitments. For example, a January 2019 recruitment for the rank of Police Corporal resulted in an eligible list with 15 qualified candidates. After all successful candidates were promoted to the positions, 16 Police Corporal positions remained unfilled or underfilled.

#### Related Staffing and Recruitment Concern in Police Management Ranks:

While those serving in Police Management ranks are not reflected in the data above and not subject to the proposed side letter, it is appropriate to consider attrition and vacancy concerns at the level of Police Lieutenant and Police Captain in the discussion of recruitment and retention in the Police Department. During the fiscal years 2012-13 through 2018-19, six employees separated from the position of Police Captain and another six separated from Police Lieutenant. Five of the separations occurred in fiscal year 2017-18 alone. Those five had an average length of service of 28 years. The total budgeted positions in these ranks is currently seven, down from eight at the beginning of the period - an attrition rate of greater than 150%. The two budgeted Police Captain positions have been vacant or filled with a part-time retired annuitant since October 2018. A recruitment conducted in early 2019 was unsuccessful. No current employees applied for the position given that all five Lieutenants were in their initial probation period at the time of the recruitment and not eligible to compete for the Captain rank. The Chief interviewed a number of candidates from outside the organization who later

withdrew during the process for a variety of reasons including that the compensation package for Captain in Fullerton is less than the candidates' compensation as Lieutenant in other agencies. In addition, the City's Classic second tier retirement formula of 3% @ 55 reduces the pool of interested lateral applicants for these management positions.

Side Letter Proposal:

Given the continued recruitment and retention concerns within the sworn Police ranks and the challenges that come with an inexperienced workforce with limited in-house training and mentoring opportunities, the City began talks with the FPOA-PSU about potential measures to aid with retaining experienced officers and attracting quality candidates. An impediment to a number of options discussed over the course of months was finding options that were likely to have a meaningful impact and had an identifiable funding source. Ultimately the parties began discussion of the concept that led to the proposal submitted for first consideration by the City Council herein. In summary, the proposal provides increased compensation for officers at all levels through a combination of across-the-board salary increases, additions of steps to the salary ranges and implementation of a City contribution to a retiree medical trust fund. The funding sources for these increases comes from defunding and downgrading vacant positions in the 2019-20 budget. This concept was introduced into the discussion only after careful consideration by the Chief of Police and City Manager.

As mentioned above, there are 54 Police Corporal positions included in the approved 2019-20 budget. Thirteen of these positions are vacant and three are underfilled with Police Officer Trainees. Given the high likelihood that the vacancy rate in the sworn ranks will be an ongoing problem as successful recruitment efforts bringing in new officers are matched or exceeded by attrition out of the department, the Chief of Police has expressed his support of the concept of defunding ten of the current budgeted Police Corporal positions and reclassifying the remaining six vacant or underfilled Police Corporal positions to Police Officer.

By removing the ten positions from the budget and reclassifying six, sufficient funding remains in the current budget to fund the salary enhancements included in the proposed side letter. In addition, there is funding available to move to a designated trust fund for the purpose of prefunding the future increases to the CalPERS liabilities predicted to be an outgrowth of these changes.

Given the significant nature of the proposed changes to compensation, Staff worked with an actuary to project the impact of the changes to the CalPERS liability. City Council will note that the costs for CalPERS is broken out in the audited costing of the proposal attached to this agenda letter into projected Normal costs (for service credit earned during the year) and Unfunded Actuarial Liability (for increased cost of past service credit). An excerpt from the report is pictured here (See Attachment 3 for the full audited report).

FPOA – Police Safety Unit Side Letter of Agreement  
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<u>FULLERTON POLICE OFFICERS' ASSOCIATION</u> <u>POLICE SAFETY UNIT (POA)</u>	Current 2019/20	Current 2020/21	Proposed 2019/20	Variance to Current	Proposed 2020/21	Variance to Current
Term 2 years July 1, 2019 thru June 30, 2021						
Salary	1.0%	1.5%	2.5% across the board increase and add 7th step with 5% increase eff 10/5/19		Add 8th step with 2.5% increase	
Positions			Unfund (10) corporal positions and downgrade (6) corporal positions to police officer			
Retiree Medical Trust			Retiree Medical Trust fund contribution of \$100/mo per employee eff 10/5/19			
Employee Costs:						
Salaries	14,481,374	15,006,619	13,898,195	(583,179)	14,822,651	(183,968)
Vacation/Sick Leave Benefits	1,079,950	1,204,267	1,060,452	(19,498)	1,204,563	297
Holiday Leave Benefits*	561,358	582,177	546,825	(14,533)	575,320	(6,857)
Medicare	230,714	240,356	222,111	(8,603)	237,893	(2,462)
Retirement - Normal Cost	3,226,268	3,597,404	3,361,268	135,000	3,832,404	235,000
Retirement - Unfunded Liability	6,466,896	7,203,211	6,953,896	487,000	7,690,211	487,000
Health Insurance	1,633,557	1,633,557	1,518,517	(115,039)	1,518,517	(115,039)
Retiree Medical Trust	0	0	118,800	118,800	158,400	158,400
Total Employee Costs	27,680,116	29,467,590	27,680,064	(52)	30,039,960	572,370

While the annualized impact to the unfunded liability is noted in the costing of each year remaining on the current amended FPOA-PSU agreement (assuming the unit does not exercise the option year), it is important to recognize that the pay increases will not be factored into CalPERS rates until fiscal year 2022-23. As such, immediate recognition of the impacts will allow the City to set funding aside in a designated trust fund in anticipation of future need. The mechanism for the trust has previously been established by City Council action. Diversion of the funds into the trust fund will secure the monies for the sole purpose of funding CalPERS liabilities.

#### Side Letter Provisions:

The primary components of the proposed side letter include the following:

1. A 2.5% across-the-board pay increase effective October 19, 2019.
2. Addition of a new 7<sup>th</sup> step to the salary range of Police Officer, Police Corporal and Police Sergeant placed 5% above the current step 6 effective October 19, 2019.
3. Advancement of each Sergeant by one step effective October 19, 2019.
4. Addition of a new 8<sup>th</sup> step to the salary range of Police Officer, Police Corporal and Police Sergeant placed 2.5% above the step 7 effective July 11, 2020.
5. Implementation of a City contribution to a Retiree Medical Trust plan established by the FPOA-PSU in the amount \$50 per pay period for the first two pay periods in each month.

The purpose of presenting the proposed side letter is for final consideration by City Council. In the event that City Council ratifies the proposed side letter, Staff will begin

working with the Police Management Unit to assess the compaction of salaries between the management classifications and the FPOA-PSU classifications created by the changes in the side letter and to analyze potential remedies.

Attachments:

- Attachment 1 – PowerPoint Presentation
- Attachment 2 – Draft Resolution 2019-XX (Side Letter Agreement Fullerton Police Officers' Association – Public Safety Unit)
- Attachment 3 – FPOA-PSU Cost Analysis
- Attachment 4 – Bartel Associates Actuarial Review Letter