Summary Title: Council Delegation of Paid Administrative Leave for COVID-19 to Council Appointed Officers Per Merit

Title: Council Delegation of its Authority to the Council Appointed Officers to Authorize Emergency Leave of Absence With Pay to Address the Workforce Needs to Respond to COVID-19, for a Period Not to Extend Beyond the Pay Period Including June 30, 2020, Per the City Merit System Rules and Regulations, Section 808

From: City Manager

Lead Department: City Manager

Recommendation
Staff recommends that Council delegate its authority per the City Merit System Rules and Regulations Section 808, to the City Manager to authorize emergency COVID-19 paid administrative leave and to determine specific work rules under which paid administrative leave is granted through the pay period including June 30, 2020 or earlier. Paid administrative leave is intended for the purpose of workforce stability, maintaining a sufficient pool of Disaster Service Workers, including a pool of employees available for redeployment during this emergency.

Executive Summary
Given the totality of circumstances described in this report, it is recommended that Council delegate its authority per the City’s Merit System Rules and Regulations Section 808 to ‘grant a regular or part-time employee a leave of absence with pay’ for a period not to exceed June 30, 2020 to the City Manager. This authority is to be used for employees who are unable to work due to COVID-19 related reasons. This will allow the City to retain all available employees for deployment as Disaster Service Workers, ensure the continuity of essential services and continue pay and medical coverage for impacted employees and may be used through June 30, 2020, however, may be terminated earlier depending on the evolving emergency situation.

It should be noted that this authority in no way grants an entitlement to pay without work. The City will continue to ensure that maximum value provided through staff work, including continuity of ongoing services, including preparation for community recovery following the Shelter in Place order. This includes ongoing work as well as appropriate use of employees’ paid leave balances. Should the current Shelter in Place Order ending May 3, 2020 be extended, staff will revisit our approach.
Financial impacts associated with this action are detailed in the financial impacts section of this report.

Discussion
On March 17, 2020, the Santa Clara County Public Health Office enacted a COVID-19 Shelter In Place Order which urged all residents of the county to remain at home, except for essential activities or to perform essential work. To comply with this order, the City minimized the number of employees required to report to work in person. The City’s executive team, under the direction of the City Manager, made operational decisions to meet the objectives of the order. A variety of actions were taken, including:

- Canceled City activities involving public gathering;
- Closed public facilities where possible;
- Assigned staff to telework if possible;
- Reduced operations and assigned crews to work on a rotational basis; or
- Stopped certain work activities if required by the order or if there were no negative impacts to infrastructure.

When these actions were taken, the City workforce moved quickly to implement the multi-step transitions, stakeholder engagement, and notifications required. Concurrently, City Manager exercised his authority under the City’s Merit Rules to provide paid administrative leave to employees whose hours were reduced or stopped as a result of the order after alternative assignments were explored. This emergency paid leave provided the City Manager to keep employees in the role of Disaster Service Workers on an as-needed basis and allowed the City to focus on emergency response.

Employees who were authorized for paid administrative leave included employees falling into circumstances such as:

- Quarantined, waiting for test results, or ill from COVID-19;
- Assigned to facilities that are closed and could not be immediately redeployed;
- Working a reduced or rotational schedule from changes in operations; or
- Unable to work due to lack of care for a child or children at home.

In the first pay period of the order through March 27, approximately 135 of 1,070 authorized full-time employees were granted some administrative leave, with a wide range of hours weekly. Most of the employees worked a portion of their schedule, and among the full-time staff used administrative leave for an average of 43% of their hours. An additional 132 part-time hourly employees were unable to be redeployed but were paid and remained on call as Disaster Service Workers.

For the newly issued order extending Shelter In Place requirements through May 3, the County enacted further restrictions and stronger directives. With this new “phase 2” of the order, the City was required to further minimize on-site operations and transition work schedules where possible.

Under normal circumstances when there are two scenarios that could occur when an employee is unable to work:

1. **Use of leaves until leaves are exhausted.** Under this scenario, employees who are unable to work may be permitted to use their accrued leaves to continue in a pay status until the leaves are exhausted. Once leaves are exhausted, the employee is placed on an unpaid leave. Unpaid leave
requires the employee to pay the full medical premium under COBRA (including the employee and City share.) If the employee is unable to pay the premium in full, medical coverage is cancelled. An example of current premiums for an employee on an unpaid leave is as follows:

**Kaiser Premium Under COBRA:**
- $784 per month for a single employee;
- $1,568 per month for single plus one dependent (such as a single parent with one child);
- $2,038 per month for family coverage.

2. **Layoff.** When a stoppage of work or lack of work is ongoing, the City is required to invoke a layoff process as defined in union contracts and City merit rules. This involves providing notice to affected unions, creation of a seniority layoff list, and providing impacted employees with a 30-day notice of layoff. If an employee has seniority rights to another position, this may also involve “bumping” of less senior employees, which triggers cascading layoff notices. As such, in a unionized environment such as the City, layoffs are not as immediate as in private sector settings, even under emergency conditions. Once a layoff is effective, the employee can continue medical coverage under COBRA as described above, or coverage is cancelled.

In recognition of the severe financial impacts of the current public health emergency, it is understood the City is likely to be in the scenarios as described above and the City will engage with the employee unions as necessary. The City Manager’s Office and Human Resources are working with Department Directors to further redeploy employees who are not assigned to essential or regular work to other emergency response or additional assignments. Since establishment of the current Shelter in Place order, Assistant City Manager Monique le Conge Ziesenhenne has assumed a lead role to work to ensure all available workers are provided meaningful work assignments throughout the organization. Should the Shelter in Place order be extended further, staff will advance opportunities to maximize redeployments in a manner consistent with the order to address priority services.

As discussed in the Council update on April 6, new Federal legislation, the Families First Coronavirus Response Act (FFCRA) was enacted effective April 1, 2020 to provide additional sick leave and extended family leave to employees impacted by COVID-19. The federal act requires employers to implement the leave policies but does not provide funding to employers. (Private employers receive a tax credit, but government agencies are exempt from the tax credit.) As discussed in the presentation, the federal act provides protected leave and limited salary to those who are quarantined or sick or who are unable to work due to childcare. However, the FFCRA as enacted in the City, does not cover quarantine or illness for emergency responders and caps salary at approximately $25/hour for employees unable to work due to childcare. The federal act does not cover employees whose work is reduced or temporarily stopped.

**Fiscal Impacts**

The Santa Clara County Shelter in Place Order was announced on March 16, 2020 and went into effect immediately on March 17, 2020. One payroll period has been processed since this order went into effect. These statistics are based on all employees and all funding sources, approximately 60% of the City’s payroll is General Funded, however, staff is working on a more refined analysis for this specific compliment of the employee population.
During the pay period from March 14 through March 27, 2020, 135 full time employees and 132 part time employees were authorized use of administrative leave during this period. This reflects less than 13 percent of the authorized full time staffing of 1,070 and approximately 18 percent of the total employees processed during this payroll period (1,457 employees). On average, full time staff used 34 hours or 43% of their normal 80-hour work schedule; part-time staffing used on average 20 hours, or 10 hours per week.

This specific payroll period experienced gross salary costs of $4.9 million, which is in line with the average biweekly payroll costs. Administrative leave salary costs comprised approximately 5% or $270,000 for the two-week period.

Based on this experience, it is expected that over a one month (or two pay period) timeframe, salary expenses ranging from $540,000 to $700,000 may be seen. This estimate reflects salary; a partially burdened rate including healthcare (medical, dental, vision) and employer pension contributions would increase these costs by approximately 35% to 40%. These expenses are budgeted and would have been paid as salary and benefits in a normal payroll; however, as a result of the COVID-19 emergency these costs represent non-productive hours, with the majority of hours required to maintain full-time status and medical coverage for full-time benefitted employees. As discussed by the City Council on April 6, these totals are included within the overall preliminary fiscal impact of the Coronavirus emergency for Fiscal Year 2020.

The current Santa Clara County Health Order ends May 3, 2020 and is an approximately 2.5 additional pay periods. Staff will not use this authority once the shelter in place order by the Santa Clara County is lifted. As discussed earlier, should the order continue beyond May 3, 2020, staff will evaluate personnel allocations based on circumstances at that time, including the financial impacts of continuing use of administrative leave, and adjust authorized practices at that time.

Stakeholder Engagement
This item follows up on a Council request or action from the City Council’s meeting on April 6, 2020.

Environmental Review
This report does not meet the definition of a “project” under the California Environmental Quality Act and therefore no environmental review is required.