



City of Palo Alto

City Council Staff Report

(ID # 9461)

Report Type: Action Items

Meeting Date: 8/20/2018

Summary Title: Appointment of new City Manager

Title: Approval of Employment Agreement With Edward Shikada as City Manager

From: City Manager

Lead Department: Human Resources

Recommended Motion

Staff recommends that Council approve the employment agreement of Edward Shikada providing for his employment as City Manager for the City of Palo Alto effective December 20, 2018 or the date of retirement of current City Manager James R. Keene, Jr., whichever is sooner.

Executive Summary

The Council Appointed Officer Committee of the City Council is charged with overseeing the selection process for Officers of the City (Municipal Code section 2.08.010.) After several closed session meetings, the City Council selected Ed Shikada as City Manager effective December 20, 2018 or the date of retirement of current City Manager James R. Keene, Jr., whichever is sooner. The Council must approve an employment agreement for salary or benefits for the City Manager that are not already included in the Compensation Plan for Management and Professional Personnel.

Effective on the employment start date of Edward Shikada as City Manager, the Employment Agreement between City of Palo Alto and Edward Shikada, initially entered into on October 5, 2015, for the purpose of employing Shikada as Assistant City Manager, as amended in October 2016 for the purpose of employing Shikada as Utilities General Manager (Utilities Director)/Assistant City Manager, will be terminated and will be of no further force or effect.

Mr. Shikada has been serving Palo Alto since April 8, 2015 as Assistant City Manager (serving on an interim basis for the first several months), and has had the added responsibilities of General Manager of the Utilities Department since October 2016.

Mr. Shikada has diverse experiences relevant to Palo Alto. He has served as the City

Manager of San Jose and prior to that served in San Jose as the Assistant City Manager, Sr. Deputy City Manager and Deputy City Manager. Mr. Shikada also held a variety of key positions in the City of Long Beach including Director of Public Works. He has a Bachelor of Science degree in Civil Engineering from University of Hawaii, a Master's degree in Public Administration from the University of California, Los Angeles and he attended the Senior Executives in State and Local Government Program at Harvard University's Kennedy School of Government.

Resource Impact

Mr. Shikada will be an "at will" employee, which means he will serve at the pleasure of the City Council and can be terminated or asked to resign at any time. His annual salary will be \$356,000, including \$18,500 City contribution annually to a 401(a) defined contribution retirement plan.

Mr. Shikada will be entitled to severance pay equivalent to twelve months salary and benefits if he is terminated or asked to resign. Consistent with other lateral executive hires and in recognition of extensive prior public service, Shikada will accrue vacation at the longterm employee rate. On or about the Employment Start Date, Shikada agrees to reside within the corporate limits of the City; the City will compensate up to \$4,000 per month for rental or lease costs within the city limits. All of the other benefits Mr. Shikada will receive are consistent with the Compensation Plan for Management and Professional Personnel.

Policy Implications

This recommendation is consistent with existing City Policies.

Attachments:

- Exhibit A - Shikada Employment Agreement

Attachment A

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF PALO ALTO AND EDWARD SHIKADA**

THIS AGREEMENT is between the City of Palo Alto, a California municipal corporation and chartered city ("City") and Edward Shikada, an individual ("Shikada"). It is effective on the latest date next to the signatures on the last page.

This Agreement is entered into on the basis of the following facts, among others:

- A. City hired Shikada in April 2015 to be City's Assistant City Manager. Since then, Shikada has also served as City's Utilities General Manager while continuing to serve as Assistant City Manager;
- B. City, acting by and through its duly elected City Council, now desires to employ Shikada as its City Manager, effective December 20, 2018 or on the date of retirement of current City Manager James R. Keene, Jr., whichever is sooner, subject to the terms and conditions set forth in this Agreement and in the provisions of the Charter of the City of Palo Alto (the "Charter");
- C. The Charter provides, among other things, that the City Manager shall be appointed for an indefinite term by a majority vote of the City Council and that he or she may be removed at the pleasure of the City Council by a two-thirds vote on a resolution passed for that purpose;
- D. Shikada desires to be employed by the City of Palo Alto as its City Manager, subject to the terms and conditions set forth in this Agreement and in the Charter;
- E. City and Shikada desire to establish specific terms and conditions relating to compensation and benefits, housing assistance, performance evaluations, and related matters;

BASED UPON THE FOREGOING, CITY AND SHIKADA AGREE AS FOLLOWS:

- 1. Employment Start Date. City hereby appoints and employs Shikada as City Manager, and Shikada hereby accepts the appointment and employment, for an indefinite term that begins on December 20, 2018 or on the date of retirement of current City Manager James R. Keene, Jr., whichever is earlier (the "Employment Start Date"), provided Shikada actually reports for and starts work on that date. If Shikada does not actually report for and start work on or before December 20, 2018, the Employment Start Date will be the date, if any, as otherwise mutually agreed by the parties.
- 2. Termination of Prior Agreement. Effective on the Employment Start Date, the Employment Agreement between City of Palo Alto and Edward Shikada, initially entered into on October 5, 2015, for the purpose of employing Shikada as Assistant City Manager, as amended in October 2016 for the purpose of employing Shikada as Utilities General Manager (Utilities Director)/Assistant City Manager, is terminated and shall be of no further force or effect.
- 3. Duties of Manager. Shikada shall perform the duties established for the City Manager by the Charter, Palo Alto Municipal Code, direction of the City Council, or as otherwise provided by law, ordinance, or regulation.
 - 3.1. Full Energy and Skill. Shikada shall devote his full energy, skill, ability, and productive time to the performance of the City Manager's duties. Shikada understands that the Charter requires that the City Manager devote his entire work time to the discharge of the duties of the office.

3.2. No Conflict. Shikada shall not engage in any activity which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Shikada's duties.

3.3. Uncompensated Professional Activities. Shikada may attend and/or participate in uncompensated professional activities, including but not limited to the activities described in subsections 9.3 and 9.4, provided that Shikada's ability to perform the duties described in this Section 3 is not unreasonably compromised or impaired. Shikada shall inform the City Council in writing in advance of absences of more than one day related to such activities.

4. Compensation. Shikada shall be compensated as provided in this Section 4.

4.1. Initial Compensation. Commencing on and continuing from the Employment Start Date, Shikada will receive an initial base annual salary of Three Hundred Fifty-Six Thousand Dollars (\$356,000), prorated and paid on City's normal paydays.

4.2. Salary Adjustments. Not less than once each year, the City Council shall meet for the express purpose of evaluating the performance of Shikada and determining whether to grant him an increase in annual base salary based on performance. The City Council will act in good faith in determining whether to provide an increase based on performance, but the ultimate decision in this regard is within the sole discretion of the City Council. The Council may also adjust Shikada's annual base salary due to labor market and/or internal equity conditions.

5. Regular Benefits and Allowances. Except as otherwise provided in this Agreement, Shikada will be eligible for, and shall receive, all regular benefits (e.g., health insurance, CalPERS contributions paid by City) and vacation, sick leave, and management leave as are generally set forth in the Compensation Plan for Management and Professional Personnel and Council Appointees, as it may be amended or updated from time-to-time by the City Council. Shikada shall comply with all rules and procedures, and shall make any and all employee contributions (such as employee contributions towards the City's CalPERS contribution) set forth in the Compensation Plan for Management and Professional Personnel and Council Appointees.

6. Additional Benefits and Allowances. In addition to the benefits specified in section 5, Shikada will receive the following additional benefits and allowances.

6.1. 401(a) Defined Contribution Retirement Plan. City will contribute Eighteen Thousand Five Hundred Dollars (\$18,500) annually, prorated and contributed on the City's normal paydays, to a 401(a) retirement plan account established for Shikada.

6.1.1 Shikada will make any additional contributions required under the plan, if any, and may make additional voluntary contributions, if permitted.

6.2. Parking. City shall provide parking at the Civic Center at no cost to Shikada.

6.3. Vacation Accrual Rate. Shikada's vacation accrual rate will be based on the maximum accrual rate as specified in the Compensation Plan for Management and Professional Personnel and Council Appointees, which is currently two hundred (200) hours per year.

7. Housing Assistance. On or about the Employment Start Date, Shikada agrees to reside within the corporate limits of the City.

7.1. Initial Temporary Housing. The parties contemplate that initially, and continuing until a residence is purchased as described in Section 7.2 below, the City will provide assistance for housing in Palo Alto through a monthly cash payment. The City will bear the actual and reasonable monthly rental or lease cost, not to exceed Four Thousand Dollars (\$4,000) per month, for rental housing located within the corporate limits of the City.

7.1.1 Shikada will keep an accurate record of all such expenses and present such records with his request for payment or reimbursement. City will advance any refundable deposits and will be reimbursed for such deposits by Shikada (including interest, if any, paid by the deposit holder) at the time the refund is paid or if the refund is refused by holder, at the time it would otherwise be due.

7.2. Long Term Housing. Within a reasonable period of time as agreed to by the parties, Shikada agrees to make his primary residence within the corporate limits of the City. The amount of the City contribution and any contribution from Shikada, the method of financing, and other elements of a purchase transaction will be determined through good faith negotiations and mutual agreement, and documented in an amendment to this Agreement.

8. Duration of Employment. Shikada understands and agrees that he has no constitutionally protected property or other interest in his employment as City Manager. He understands and agrees that he works at the will and pleasure of the City Council and that he may be terminated or asked to resign at any time, with or without cause, subject only to the requirements of Section 3 of Article IV of the Charter, a copy of which has been provided to Shikada. Shikada understands and agrees that the public hearing accorded to the City Manager upon termination as provided in Section 3 of Article IV of the Charter is not a hearing in which witnesses will be called and examined nor in which the City Manager may formally contest the reasons for termination. The hearing is solely for the purpose of affording the City Manager an opportunity to publicly respond to any reasons given for his termination by the City Council.

8.1. Severance Pay. If Shikada is terminated or asked to resign in lieu of termination, he shall receive a cash payment, or payments (without interest) at intervals specified by Shikada, equivalent to the sum of his then-current monthly salary multiplied by twelve (12) and the cash value, as reasonably determined by City, of his monthly non-salary benefits multiplied by twelve (12). The monthly non-salary benefits shall be those specified in sections 5 and 6. All normal withholdings as required by law shall be made with respect to any amounts paid under this section.

8.2. Non-Payment of Severance Under Certain Conditions. If Shikada were to be terminated after conviction of a felony, he would not be eligible for severance pay.

9. Payment of Expenses of Employment. City shall pay the following usual and customary employment expenses:

9.1. The cost of any fidelity or other bonds required by law for the City Manager.

9.2. The cost to defend and indemnify Shikada to the full extent of the law as provided by the California Government Claims Act (Government Code § 810 et seq.).

9.3. Reasonable dues for Shikada's membership in professional organizations associated with the office of City Manager. City will allow Shikada reasonable time away from the City to attend the meetings and annual conferences of such organizations and will pay the cost of such attendance in accord with applicable City policies and procedures. The organizations and activities include but are not limited to the International City/County Management Association, League of California Cities, Alliance for Innovation and California City Management Foundation.

9.4. The cost of attending other conferences or events (i.e. retirement dinners, out of town meetings, etc.) necessary to the proper discharge of his duties.

10. Miscellaneous.

10.1. Notices. Notices given under this Agreement shall be in writing and shall be either:

- a. Served personally; or
- b. Delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or
- c. Sent by Federal Express, or some equivalent private mail delivery service.

Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

CITY:
Attn: Mayor City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301
Phone: (650) 329-2226

SHIKADA:
Edward Shikada
c/o 250 Hamilton Avenue
Palo Alto, CA 94301
Phone: (650) 329-2563

10.2. Entire Agreement/Amendment. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties. Any such amendment must be in writing, dated, approved in the same manner as the original Agreement, and signed by the parties and attached hereto.

10.3. Attorney's Fees. If any legal action or proceeding is brought to enforce or interpret this Agreement, the prevailing party as determined by the court shall be entitled to recover from the other party all reasonable costs and attorney's fees, including such fees and costs as may be incurred in enforcing any judgment or order entered in any such action.

10.3.1 Alternate Dispute Resolution. Nothing in this subsection shall be read to prevent the parties from agreeing to some alternative method of dispute resolution.

10.4. Severability. In the event any portion of this Agreement is declared void or unenforceable, such portion shall be severed from this Agreement and the remaining provisions shall remain in effect, unless the result of such severance would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.

10.5. Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

10.6. Employee's Independent Review. Employee acknowledges that he has had the opportunity and has conducted an independent review of the financial, tax and legal effect of this Agreement. Employee acknowledges that he has made an independent judgment upon the financial, tax and legal effects of this Agreement and has not relied upon any representation of City, its officers, agents or employees other than those expressly set forth in this Agreement.

10.7. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Shikada and City agree that venue for any dispute shall be in Santa Clara County, California.

10.8. Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

Dated: _____

CITY OF PALO ALTO

By _____
Liz Kniss, Mayor

Attest

City Clerk
Dated: _____

Shikada

By _____
Edward Shikada
Dated: _____

Approved as to Form:

City Attorney
Dated: _____