

EMPLOYMENT AGREEMENTS

Date: November 30, 2022
Department: Office of the COO
Meeting Date: December 13, 2022

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Presenters: Marissa Madrigal, Chief
Operating Officer; Carrie MacLaren, Metro
Attorney
Length: 30 minutes

ISSUE STATEMENT

In March 2020, Metro Council held a work session to discuss delegation authority for the Chief Operating Officer (COO) to enter into employment agreements with department directors. At that work session, Council affirmed staff's recommendation to amend Code Section 2.02.010 to clarify who is included as a director, requirements for amendments and definition of compensation to include vacation accrual, as well as salary. This work was put on hold because of the COVID-19 pandemic. Office of Metro Attorney has prepared Code changes and an updated employment agreement template in accordance with previous policy direction from Metro Council.

ACTION REQUESTED

Metro Council affirm their support for previous policy direction or provide updated policy direction on changes to Code Section 2.02.010.

IDENTIFIED POLICY OUTCOMES

Changes to Code Section 2.02.010 would clarify COO authority to enter employment agreements with director-level staff and higher. This would allow the COO to maintain flexibility in recruiting and hiring director-level positions without seeking Council approval for each agreement.

POLICY QUESTION(S)

Does Metro Council wish to continue to delegate authority to the COO to enter into employment agreements with certain employees?

Should OMA clarify language in Code Section 2.02.010 to ensure consistent and transparent execution of employment agreements?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

Provide direction to amend Code Section 2.02.010 in accordance with previous direction.

- Code Section 2.02.010 contains ambiguous language that would be clarified to clearly define the executive-level positions included in the COO's delegation authority, include a requirement that employment agreements may only be

amended by Metro Council approval and delegate authority to the COO to execute employment agreements as a group where all terms in those agreements are identical except for compensation (rather than salary).

- If current direction aligns with previous direction, staff will bring the changes to Metro Council to consider in January 2023.

Provide new direction to amend Code Section 2.02.010.

- Metro Council could provide new direction to clarify Code Section 2.02.010. This would likely result in a delay in implementation of changes.

Provide direction to not amend Code Section 2.02.010.

- Code Section 2.02.010 contains ambiguous language that would remain in Metro Code.

STAFF RECOMMENDATIONS

Reaffirm previous direction to clarify Code Section 2.02.010.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Known Opposition: None

Legal Antecedents: Metro Code Section 2.02.010; Ordinance No. 14-1350

BACKGROUND

In 2014 Council approved a code change that gives the COO authority to approve employment agreements in some situations. This practice allows flexibility when negotiating employment terms for executive positions at Metro. In 2017 Council passed a resolution delegating authority to the COO to approve employment agreements for department directors.

In January 2020, the Metro Auditor released an audit of employment agreements which included recommendations for clarification of delegation authority and increased transparency and oversight on separation agreements. Management agreed with all recommendations except one, where the Metro Auditor recommended that Council remove delegation authority from the COO.

In March 2020, Metro Council held a work session to discuss employment agreements and provided direction to staff where management and the Auditor did not agree. At the March 2020 work session, Metro Council expressed consensus to maintain delegation authority to the COO to enter into certain employment agreements. They directed staff to:

- continue to delegate authority to the COO to execute employment contracts;

- include department directors, venue directors, as well as the Deputy Chief Operating Officer and General Manager of Visitor Venues in the group of executives the COO has authority to enter into agreements with;
- include vacation accrual as well as salary as delegated terms for negotiation;
- retain the existing terms for increased vacation accrual and three months' severance;
- require the COO to bring agreements seeking any different terms to Council for approval;
- to require amendments be brought back to Council for approval.

This body of work was paused due to the COVID-19 pandemic and staff seek Council policy guidance.

ATTACHMENTS

[For work session:]

- Is legislation required for Council action? ☒ Yes ☐ No
- If yes, is draft legislation attached? ☒ Yes ☐ No
- What other materials are you presenting today? none