COUNCL AGENDA: 10/31/2006
ITEM: 3.4

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Scott P. Johnson
Alex Gurza

SUBJECT: **MILITARY LEAVE PROGRAMS FOR CITY EMPLOYEES**

DATE: October 26, 2006

Approved Kay Winer Date 10/26/06

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

(a) Approval to continue to provide supplemental pay and benefits, pursuant to Resolution No. 73180, to employees who are military reservists and who are called to active duty.

(b) Direction to staff to continue to work to resolve the pending issues involving the military reconciliation process and implement procedures to help minimize these issues in the future.

OUTCOME

As discussed at the October 18, 2006 Rules Committee Meeting regarding the revised Military Leave Policy, the improved informational packet for reservists, as well as the development of written procedures for the reconciliation process, will help to resolve many of the current issues involving the military leave reconciliation process.

BACKGROUND

Various issues, such as the reconciliation process for supplemental pay, were discussed at the October 18, 2006, Rules Committee meeting. During the meeting, City staff informed the Committee that both the City Manager's Office and the Finance Department are working on responding to and resolving the ongoing issues regarding supplemental pay for military reservists on active duty and who are also City employees.

Eligible City employees who are military reservists receive their full salary and benefits continuation for thirty (30) calendar days per fiscal year when engaged in specific military duty, including active military training, encampment, naval cruises, special exercises, or like activity. This is a continuing policy that is contained in City Policy Manual Section 4.2.2.

In situations of significant military action, such as the war on terror following September 11, 2001, the City Council from time to time has enhanced the benefits for reservists who were called to active duty beyond the thirty (30) calendar days referenced above. Specifically, the City has paid the difference between the employee's military pay and the pay they would have received as a City employee (military supplemental pay). If the military pay (including base pay and allowances which constitute additional compensation) is more than the City would have paid the employee, then the employee is not eligible to receive the military supplemental pay. In addition to the salary supplement, the City continues the employee's health and dental benefits, and continues the employee's vacation and sick leave accruals. Upon the employee's return to City service, the City pays the retirement contributions owed by both the City and the employee.

A resolution was adopted on May 8, 2006 extending the enhanced military leave program to eligible City employees who are called to active military duty during the period from January 1, 2003 to December 31, 2007, for reasons related to terrorist attacks or impending or actual armed conflict. Employees who are also reservists are required to sign an agreement prior to leaving for active duty assignments beyond thirty (30) days per fiscal year. By signing this agreement, the employee acknowledges that there may be over payments due to variations in military pay and that they will be required to repay the City for any such over payments.

The following table is an example of how supplemental pay is calculated:

	City Compensation (Monthly)	**Military Compensation (Monthly)**
Basic Monthly Rate	$6,172.80	$3,245.90
Special Pay	$1,100.00	$360.00
Total Monthly Pay	$7,272.80	$3,605.90
Difference in Pay	$3,666.90 ($7,272.80 - $3,605.90)	
Amount of Supplemental Pay	**$3,666.90**	

ANALYSIS

Reconciliation Issues

The Supplemental Military Leave Program for employees who receive supplemental compensation for active duty assignments longer than thirty (30) days requires reconciliation between the pay the employee would have earned in their City employment and the pay the employee received from the

military. The Program provides that the Finance Department closely estimate the employee's military pay pending receipt of verification from the employee. Due to the frequent variations of military pay that a military reservist receives while on duty, an overpayment in supplemental pay may result. Unfortunately, there have been instances in which the amount of the overpayment to the employee has been significant. Whenever there is an overpayment in supplemental pay, the Finance Department works with the employee on a repayment schedule. The employee is not expected to repay the amount in a lump sum.

The City Manager's Office has been working with the Finance Department to address the overpayment issues. In 2005, a new methodology was adopted for the reconciliation process to help minimize the issues resulting in the overpayment of supplemental compensation. The Finance Department has continued to make every effort to minimize the number of overpayments, however many of the current reconciliation issues involve payments that were made prior to the new adopted methodology.

As an additional effort to help minimize the overpayment issues in the future, we are in the process of updating and improving the informational packet that is provided to City employees who are also reservists prior to their departure for active duty assignments longer than thirty (30) days. The revised information packet outlines specific documentation that the City needs to receive from the City employee in order to properly calculate the amount of supplemental pay. The updates and improvements to the informational packet are expected to be completed by October 31, 2006.

Since January of 2003, 58 reservists have served on a total of 316 military tours of duty. As of the most recent pay period ending October 21st, there were 15 reservist who were out on active duty. Since supplemental military leave is paid based on projections of both City and military compensation, Finance staff must reconcile employees' actual compensation and retirement benefits in accordance with the approved Council resolutions concerning supplemental military leave.

It is important to understand that each reservist may have multiple military tours and each tour may have multiple components, resulting in many separate reconciliation tasks per reservist. Therefore, each of the 316 tours currently in the database requires reconciliation, regardless of the length of the tour. Temporary staff resources are being deployed in Finance to assist in working on the backlog. An assessment will also be done to determine the resources necessary to maintain and update the reconciliations. Finance will make every effort to complete each outstanding reconciliation within thirty (30) days of receipt of all necessary documents for each reservist's tour that has ended. In addition, Finance will also be proactive in working with reservists to ensure that all information necessary to verify actual military pay is received in a timely fashion.

Finance has prepared a general distribution memo to reservists reinforcing their responsibility to provide supporting documentation, reiterating what items are required and the related time lines to provide the documentation to Finance. Finance is also developing written internal procedures for reconciling supplemental pay. This will ensure all future reconciliations are completed promptly, consistently, and accurately.

Retirement Contributions

The Finance Department and Retirement Services will continue to work together to ensure that employee/employer contributions are made upon an employee's return to City Service and that the appropriate amount of service credit is applied. Finance staff will meet with Retirement Service staff to investigate alternatives for automating the current manual process for posting the military service credits, similar to that for regular employee retirement service hours.

Eligibility for Supplemental Pay

In accordance with resolution 73180, an employee who is also a military reservist, and who has been a City employee for at least one (1) year, and who is called to active duty for longer than thirty (30) days per fiscal year related to terrorist attacks or actual or impeding armed conflict, is also eligible to receive supplemental pay and benefits through December 31, 2007.

Military Leave Liaison

The City Manager's Office of Employee Relations is the City's Military Leave Liaison and is available to assist City employees who are also called to active duty with any questions or issues they may have regarding military leave and/or supplemental pay and benefits.

The Office of Employee Relations is currently working to revise the City's Military Leave Policy to include a section explaining that from time to time, the City Council approves resolutions that provide for additional paid leave and benefits to City employees who are also military reservists called to active duty beyond thirty (30) days. The draft revisions to the City's Military Leave Policy have been sent to the bargaining units for review. The revised policy should be finalized and posted to the City Policy Manual in November 2006.

In an effort to help minimize the overpayment issues in the future, we are in the process of updating and improving the informational packet that is provided to City employees who are also reservists prior to their departure for active duty assignments longer than thirty (30) days. The revised information packet outlines specific documentation that the City needs to receive from the employee in order to properly calculate the amount of supplemental pay. The updates and improvements to the informational packet are expected to be completed by October 31, 2006.

The Office of Employee Relations has also worked to inform employees of their rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA) by posting the appropriate USERRA notice in the same locations that other required workplace notices are posted. The Office of Employee Relations maintains an intranet page that contains links to all of the required workplace notices, including the USERRA notice. An email to all City employees was sent on October 10, 2006, with a link to this intranet page as an additional effort to remind employees of the various required workplace notices.

Veterans' Preference

In accordance with State law (Government Code Section 50088), when any city, county, or city and county, general law or chartered, has an established civil service system and entrance examination for hiring, the City Council is required to either implement a veterans' preference system giving preference to a veteran over other identically qualified applicants or adopt a resolution identifying reasons that it does not implement a veterans' preference system.

The Department of Human Resources is in the process of reviewing the issues surrounding a veterans' preference system. If it is recommended that the City implement a veterans' preference system, it will be subject to review by the bargaining units. The Administration's recommendation will be brought before the City Council within 90 days.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**

- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Public Outreach does not apply to this item; however, this item will be placed on the October 31, 2006 Council Agenda.

COORDINATION

The City Manager's Office, the Finance Department, and the Department of Retirement Services have been working together to ensure that Military Leave and supplemental pay and benefits are administered appropriately. We are also working together to thoroughly and promptly resolve the pending reconciliation issues and to minimize such occurrences in the future. This memorandum was also coordinated with the City Attorney's Office.

COST SUMMARY/IMPLICATIONS

The adopted budget already provides full salary and benefits for these employees. Therefore, no additional appropriations will be required to fund the recommendation since these personnel costs are currently budgeted.

CEQA

Not a project.

SCOTT P. JOHNSON
Director of Finance

ALEX GURZA
Director of Employee Relations

For questions please contact Alex Gurza, Director of Employee Relations at 535-8150.