



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 11, 2014

TO: Mayor and Councilmembers

FROM: Mayor and Council Ad Hoc Recruitment Committee

SUBJECT: City Attorney Employment Agreement

RECOMMENDATION:

That Council approve, and authorize the Mayor to execute, an employment agreement with Ariel Pierre Calonne to serve as the City Attorney for the City of Santa Barbara effective not later than March 17, 2014.

DISCUSSION:

On August 16, 2013, City Attorney Stephen P. Wiley announced that he would be retiring at the end of the year.

Council formed an ad hoc committee to search for his replacement and David Morgan, of Ralph Anderson and Associates, was hired to conduct the recruitment. The City Council met in closed session to interview the top applicants for the position on January 17, 2014, and interviewed finalists on January 30, 2014.

On February 4, 2014, Council announced the selection of Ariel Pierre Calonne as the new City Attorney. The proposed employment agreement is attached. Mr. Calonne will begin his employment as his other commitments allow, not later than March 17, 2014.

BUDGET/FINANCIAL INFORMATION:

There is no budget impact related to this staff change, as Mr. Calonne will receive the salary and fringe benefit package that was budgeted for Fiscal Year 2014.

ATTACHMENT: Draft Employment Agreement with Ariel Pierre Calonne

PREPARED BY: Paul Casey, Assistant City Administrator

EMPLOYMENT AGREEMENT

Agreement No. _____

The City of Santa Barbara, a municipal corporation, hereinafter referred to as "Employer" and Ariel Pierre Calonne, an individual, hereinafter referred to as "Employee" enter into this Agreement on this 11th day of February 2014 for Employee's services as City Attorney for the City of Santa Barbara.

WHEREAS, the City Council of the City of Santa Barbara, hereinafter "City Council", determined that Employee has the necessary qualifications and experience for the office of City Attorney as required by the City Charter; and

WHEREAS, on February 11, 2014, the City Council appointed Employee to the office of City Attorney, with an effective date of no later than March 17, 2014.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

SECTION 1: TERM AND STATUS.

- A. In accordance with Section 701 of the City Charter, Employee shall serve at the pleasure of the City Council.
- B. Employee's employment status is at-will. Employee understands and agrees that Employer may terminate his City employment at any time, subject only to the notice and severance provisions of Section 5 of this Agreement and Section 701 of the City Charter. Employee understands and agrees that Employer has made no implied or express oral or written assurances of continued employment with the City. Employee further understands and agrees that he has no property right in City employment and that Employer requires no cause to suspend or terminate his City employment.
- C. Employee will commence employment as City Attorney no later than March 17, 2014.

SECTION 2: POWERS AND DUTIES.

- A. Employee shall perform the duties of City Attorney as set forth in Section 703 of the City Charter and as determined and controlled by the City Council. Employee shall report directly and solely to the City Council.
- B. In the performance of the duties of City Attorney, Employee agrees to comply with all federal, state and local laws, ordinances, rules, regulations and City Charter, which are applicable to the office of the City Attorney. Employee acknowledges that he is subject to the common law and statutory conflict-of-interest provisions, including but not limited to the Political Reform Act set forth at California Government Code section 87100 and following, The Fair Political Practices Commission Regulations set forth at California Code of Regulations, Title 2, section 18700 and following, and California Government Code section 1090 and following, as they may be amended. Employee agrees that he will be acquainted with the above-referenced provisions,

comply fully with them and not take any action, which results or could appear to result in a violation of such provisions.

SECTION 3: COMPENSATION

A. Base Salary.

1. As compensation for Employee's services, Employer agrees to pay Employee, on a bi-weekly basis, an annual base salary of \$223,704. Effective July 1, 2014, the annual base salary shall increase by 2% to a base salary of \$228,178 in accordance with management salary plan adopted by City Council Ordinance No. 5623 on June 25, 2013.
2. Employee's compensation shall be reviewed annually and may, from time to time, be increased based on Employee's satisfactory performance, as solely determined by the City Council.

B. Health and Welfare Benefits.

Employee shall receive the same health and welfare benefits provided to the City's Group 1 Managers ("Executives"), including but not limited to long term disability and life insurance, as set forth in the Management Performance and Compensation Plan. Any future changes in such benefits shall inure to Employee without amendment of this Agreement.

C. Retirement.

Employee shall receive retirement benefits through the Public Employees Retirement System (hereinafter "PERS") Miscellaneous Plan. Employee shall pay a variable contribution toward retirement under the same formula applicable to the City's Group 1 Managers ("Executives"). The current employee contribution is 8.223%.

D. Automobile Allowance.

Employee shall receive the same automobile allowance provided to the City's Group 1 Managers ("Executives") of \$605 per month. Any future changes in such benefits shall inure to Employee without amendment of this Agreement.

E. Leave.

1. Employee shall receive the same leave benefits provided to the City's Group 1 Managers ("Executives"), including but not limited to holiday leave and catastrophic leave, as set forth in the Management Performance and Compensation Plan. Any future changes in such benefits shall inure to Employee without amendment of this Agreement, unless this Agreement provides a greater benefit.
2. Employee shall be entitled to a beginning balance of 96 hours of sick leave and 80 hours of vacation leave on the effective date of employment.

3. Employee will be credited with six years of prior years of service for purposes of determining vacation accrual rate for the City's Group 1 Managers.

SECTION 4: PERFORMANCE EVALUATION.

- A. Employer shall evaluate the performance of Employee as City Attorney on an annual basis. Employee shall be responsible for providing written notice to the City Council of the need to complete the performance evaluation.
- B. Employee understands and agrees that the failure to evaluate Employee annually shall not affect the rights of the parties in this Agreement, including termination of Employee's employment.

SECTION 5: TERMINATION

- A. Termination by Employee.

Employee may voluntarily resign as City Attorney by delivering a letter of resignation to the City Council not less than 30 days prior to the effective date of termination.

- B. Termination by Employer.

- Employer may unilaterally terminate Employee's employment, with or without cause in accordance with Section 701 of the City Charter. No cause for termination need exist because Employee recognizes that he serves at the pleasure of the Employer as an at-will employee. Except as otherwise provided by this Agreement or by law, including Section 701 of the City Charter, Employee is exempt from any pre- or post-termination due process rights (such as Skelly rights).
- Employer shall provide Employee at least 30 days notice prior to the effective date of termination. Employer shall provide Employee the reasons for termination upon his request.
- Employee shall receive twelve (12) months severance pay consisting of Employee's base salary, the cash value of twelve (12) months of cafeteria plan and automobile allowance at the effective date of termination and a cash payment of accrued vacation leave. The PERS Retirement contribution shall not be included in the severance pay. Nothing in this section shall extend the amount of time served for purposes of receiving any benefit provided in this Agreement.

SECTION 6: MISCELLANEOUS

- A. Use and administration of benefits shall conform to the requirements of the Management Performance and Compensation Plan and any other City policy or regulation, unless otherwise specified in this Agreement.
- B. This Agreement may be modified only upon the written consent of the parties.

- C. This Agreement is a personal services agreement, and as such, may not be assigned by either party.
- D. This Agreement constitutes the entire agreement between the parties and shall be interpreted in accordance with the laws of the State of California.

The parties hereto have executed this Agreement in duplicate the day and year noted above.

Ariel Pierre Calonne, an individual

CITY OF SANTA BARBARA

BY: _____
Helene Schneider, Mayor

Attest:

City Clerk

APPROVED AS TO FORM:

John Doimas, Deputy City Attorney