



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: February 3, 2015

TO: Mayor and Councilmembers

FROM: Mayor and Council Ad Hoc Recruitment Committee

SUBJECT: City Administrator Employment Agreement And Amendment Of City Attorney Employment Agreement

RECOMMENDATION: That Council:

- A. Approve, and authorize the Mayor to execute, an employment agreement with Paul Casey to serve as the City Administrator effective February 3, 2015; and
- B. Approve, and authorize the Mayor to execute, an amended and restated employment agreement between the City and Ariel Pierre Calonne, City Attorney, to remove sections of Agreement No. 24,713 attaching health and welfare benefit changes to those provided to other management employees.

DISCUSSION:

City Administrator Agreement

Following the retirement of City Administrator James Armstrong at the beginning of October 2014, Council formed an ad hoc committee to conduct a nationwide search for his replacement. 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 December 17, 2014 and interviewed finalists on January 12, 2015.

On January 27, 2015, Council announced the selection of Paul Casey as the new City Administrator. Mr. Casey, the Assistant City Administrator, had been serving as the Acting City Administrator since Mr. Armstrong's retirement. The proposed employment agreement is attached.

Mr. Casey will be appointed at the existing compensation level for the City Administrator, at a salary of \$240,625.06 per year plus benefits. Mr. Casey's compensation will be reviewed annually with his performance evaluation. Mr. Casey will also be granted a moving expense allowance for household goods and furniture of up to \$5,000 to allow him to move to within City limits within a year.

The new agreement removes contract language that had been included in prior City Administrator agreements tying future benefit increases to those provided to other Group One (executive) managers. Such “me too”-type clauses, when the affected employee might advise an agency on salary and benefit increases that could directly affect his or her own salary and benefits, have been subject to recent reexamination under the spirit of conflict of interest regulations. The modern best practice is not to include such provisions in employment agreements.

City Attorney Agreement

City Attorney Ariel Calonne has requested that the City also amend his contract to remove the language tying his benefit changes to those provided to other executive management employees. Staff recommends this amendment as consistent with best practices.

The new agreements will both require Council approval by ordinance of any benefit increases for these positions, other than normal insurance premium increases for existing benefit levels (e.g. life insurance, PERS rate increases) and the normal annual increase to car allowance, which is based on the Internal Revenue Service mileage reimbursement rate for business travel.

BUDGET/FINANCIAL INFORMATION:

Mr. Casey will receive the same salary and fringe benefit package that was budgeted for Fiscal Year 2015, with the exception of the moving cost allowance, which can be absorbed in the current Fiscal Year 2015 operating budget for the City Administrator’s Office. There is no change to the salary and fringe benefits provided to Mr. Calonne.

- ATTACHMENT:**
1. Draft Employment Agreement with Paul Casey
 2. Draft Amended and Restated Employment Agreement with Ariel Pierre Calonne

PREPARED BY: Kristine Schmidt, Administrative Services Director

APPROVED BY: Helene Schneider, Mayor

EMPLOYMENT AGREEMENT
Agreement No.

The City of Santa Barbara, a municipal corporation, hereinafter referred to as "Employer" and Paul Casey, an individual, hereinafter referred to as "Employee" enter into this Agreement ("Agreement") on this 3rd day of February 2015 for Employee's services as City Administrator 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 Administrator as required by the City Charter; and

WHEREAS, on January 27, 2015, the City Council appointed Employee to the office of City Administrator, with an effective date of February 3, 2015; and

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

SECTION 1. TERM AND STATUS.

- A. In accordance with Section 600 of the City Charter and subject to Section 606 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, removal and severance provisions of Section 5 of this Agreement and 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.

SECTION 2. POWERS AND DUTIES.

- A. Employee shall perform the duties of City Administrator as set forth in Article VI 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 Administrator, 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 Administrator. 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.

As compensation for Employee's services, Employer agrees to pay Employee, on a bi-weekly basis, an annual base salary of \$240,625.06.

B. Changes to Compensation

Employee's compensation as provided herein 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. Such increases will be established by ordinance. Any increases so approved shall inure to Employee without amendment of this Agreement

C. 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 on the date of this Agreement. Any future changes in the value of such benefits, excluding normal insurance premium increases for the existing levels of benefits, will be subject to Section 3.B. of this Agreement and will not be based on future adjustments to the City's Group 1 Managers.

D. 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") on the date of this Agreement. Any future changes to this formula will be subject to Section 3.B. of this Agreement and will not be based on future adjustments to the City's Group 1 Managers.

E. Automobile Allowance.

Employee shall receive an automobile allowance of \$621 per month which shall be indexed on a percentage basis with changes in the Internal Revenue Service mileage reimbursement rate for business travel, as provided under Resolution 90-012, and increased or decreased as appropriate without amendment of this Agreement.

F. Leave.

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 on the date of this Agreement. Any future changes in such benefits will be subject to Section 3.B. of this Agreement and will not be based on future adjustments to the City's Group 1 Managers.

G. Relocation Expenses.

In view of Charter Section 601, Employer shall reimburse Employee for documented moving expenses incurred as a result of Employee relocating his residence to a location within the boundaries of the City, provided that such reimbursement shall be capped at \$5,000.00 and shall be paid only if such documented moving expenses are incurred within one year of the effective date of this Agreement.

SECTION 4: PERFORMANCE EVALUATION.

- A. Employer shall evaluate the performance of Employee as City Administrator 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 Administrator 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.

- 1. Employer may unilaterally terminate Employee's employment, with or without cause in accordance with Sections 600 and 606 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, Employee is exempt from any pre- or post-termination due process rights (such as *Skelly* rights).

2. 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.
3. 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.

Paul Casey, an individual

CITY OF SANTA BARBARA

BY: _____
Helene Schneider, Mayor

Attest:

City Clerk Services Manager

APPROVED AS TO FORM:

Ariel Pierre Calonne, City Attorney

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

Agreement No. 24,713

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 Amended and Restated Employment Agreement ("Agreement") on this ~~3rd~~^{4th} day of February 201~~5~~⁴ 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 ~~to be announced later, but~~ not later than March 17, 2014; and

WHEREAS, on February 11th, 2014 City and Employee entered into an initial employment agreement No 24,713, which provides the terms and conditions of employment; and

WHEREAS, the parties agree that is appropriate to amend certain sections of the Agreement in order to prevent it from providing automatic adjustments to Employee's benefits based on benefit adjustments provided to other City managers;:-

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, removal, and severance provisions of Section 5 of this Agreement and 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 on a date ~~to be announced~~ but not 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 \$228,178.86^{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.~~

~~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. Changes to Compensation

Employee's compensation as provided herein 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. Such increases will be established by ordinance. Any increases so approved shall inure to Employee without amendment of this Agreement.

~~2.—~~

~~B.C.~~ 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 on the date of this Agreement. Any future changes in the value of such benefits, excluding normal insurance premium increases for the existing levels of benefits, will be subject to Section 3(A) of this Agreement and will not be based on future adjustments to the City's Group 1 Managers~~shall inure to Employee without amendment of this Agreement.~~

~~C.D.~~ Retirement.

Employee shall receive retirement benefits through the Public Employee's 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") on the date of this Agreement.~~Any future changes to this~~

formula will be subject to Section 3(A) of this Agreement and will not be based on future adjustments to the City's Group 1 Managers.

D.E. ___ Automobile Allowance.

Employee shall receive ~~the same as~~ automobile allowance ~~of provided to the City's Group 1 Managers ("Executives") of \$62105~~ per month which shall be indexed on a percentage basis with changes in the Internal Revenue Service mileage reimbursement rate for business travel, as provided under Resolution 90-012, and increased or decreased as appropriate without amendment to this Agreement. Any future changes in such benefits shall inure to Employee without amendment of this Agreement.

E.F. 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 on the date of this Agreement. Any future changes in such benefits will be subject to Section 3(A) of this Agreement and will not be based on future adjustments to the City's Group 1 Managers.~~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 accrue 224 hours of vacation time. ~~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.

1. 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).
2. 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.

3. 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 Calonne, an individual

CITY OF SANTA BARBARA

BY: _____
Mayor

Attest:

City Clerk

APPROVED AS TO FORM:

City Attorney