



DATE: September 10, 2014

TO: Honorable Mayor and City Councilmembers

FROM: Human Resources Department

SUBJECT: **ADOPTION OF A RESOLUTION ADJUSTING THE COMPENSATION PAID FOR CITY ATTORNEY SERVICES EFFECTIVE SEPTEMBER 14, 2014; APPROVAL OF AMENDMENT NO. 1 TO EMPLOYMENT AGREEMENT WITH CITY ATTORNEY**

SYNOPSIS

Staff recommends that the City Council adopt a resolution adjusting the compensation paid for City Attorney services effective September 14, 2014 and approve Amendment No. 1 to the employment agreement with the City Attorney.

BACKGROUND

The Employment Agreement between the City of Oceanside and John P. Mullen dated March 23, 2006 (the "Employment Agreement") provides that adjustments to compensation paid for City Attorney services shall be made by resolution of the City Council. Section B.2.a of the Employment Agreement provides that the amount of annual salary to be paid by the City to Mr. Mullen should be adjusted to ensure compensation parity between the City Manager and the City Attorney.

The City Attorney's salary was last modified in 2010 and is currently \$221,358.52. The City Manager was hired in November, 2013 and a compensation adjustment for City Attorney services is consistent with his current contract.

Section B.2.c of the Employment Agreement provides for eighty (80) hours of vacation leave to be converted annually to compensation at the discretion of the City Attorney. Through the proposed Council action, this portion of Section B.2.c will be eliminated and an equivalent amount of compensation will be converted to salary. At the City Attorney's current hourly rate, the total of eighty (80) hours of vacation accrual equals \$8,513.60; this added to the City Attorney's current salary results in a total salary of \$229,872.12.

Prior Council action in 2007 (Resolution No. 07-R0247-1) adjusted the City Attorney's salary to include an amount representing the City's contribution to the City Attorney's deferred compensation under the original Employment Agreement. Proposed Amendment No. 1 to the Employment Agreement incorporates this modification, along with the elimination of the vacation leave conversion provision at Section B.2.c. Amendment No. 1 also adds to the Employment Agreement a provision required by state legislation (AB 1344) effective January 1, 2012.

ANALYSIS

The conversion of eighty (80) hours of vacation leave accrual is neutral on its face; however, there is an increase in PERS and associated City costs since the conversion will result in an incremental PERSable salary increase.

FISCAL IMPACT

The fiscal impact associated with the adjustment to the Employment Agreement is:

Fiscal Year 14-15:

• Conversion of leave cash out to salary	\$ 0
• PERS/Other Costs	<u>\$ 2,264</u>
Total Cost	<u>\$2,264</u>

As provided by the Finance Director, the total projected increase to the City to implement the amendment from all funds for FY 2014/2015 is approximately \$2,264. The funding for the increase is coming from the General Fund reserve for employee wages included in the FY 2014-15 adopted budget. The current available balance in the reserve is \$829,018. Therefore, sufficient funds are available.

The budget increase in the amount of \$2,264 in Fiscal Year 2014/2015 is applied to the following accounts:

City Attorney-Admin	160000101.5207	\$2,264
Total Increase		<u>\$2,264</u>

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the Assistant City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution adjusting the compensation paid for City Attorney services effective September 14, 2014 and approve Amendment No. 1 to the employment agreement with the City Attorney.

PREPARED BY:


Patricia Nunez
Human Resources Director

SUBMITTED BY:


Steven R. Jepsen
City Manager

Attachments:

Resolution
Amendment No. 1 to Employment Agreement

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
James Riley, Financial Services Director


JMM ER JR

1 RESOLUTION NO. _____

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE ADJUSTING THE COMPENSATION OF THE
4 CITY ATTORNEY

5 WHEREAS, Section B.2.a of the Employment Agreement between the City of
6 Oceanside and John P. Mullen dated March 23, 2006, (the "Employment Agreement") provides
7 that adjustments to compensation paid for City Attorney services shall be made by resolution of
8 the City Council.

9 WHEREAS, Section B.2.a of the Employment Agreement provides that the amount of
10 annual compensation to be paid by the City to John P. Mullen should be adjusted to ensure
11 compensation parity with the City Manager.

12 WHEREAS, the City Attorney's salary was last modified in 2010 and is currently
13 \$221,358.52. The City Manager was hired in November, 2013, and an adjustment to the City
14 Attorney's compensation is needed to achieve approximate salary parity between the positions.

15 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

16 SECTION 1. A provision in Section B.2.c of the Employment Agreement provides for
17 80 hours of vacation leave to be converted annually to compensation at the discretion of the
18 City Attorney. This provision shall be eliminated and the equivalent amount shall be converted
19 to salary. The total of 80 hours of vacation equals \$8,513.60, this added to the City Attorney's
20 current salary results in a total salary of \$229,872.12.

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**AMENDMENT NO. 1 TO
EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF OCEANSIDE AND JOHN P. MULLEN**

THIS AMENDMENT NO. 1 TO EMPLOYMENT AGREEMENT (hereinafter "Amendment"), dated September 10, 2014 for identification purposes, is made and entered into by and between the City of Oceanside, a municipal corporation, hereinafter designated as "City," and John P. Mullen, an individual, hereinafter designated as "Mullen."

RECITALS

WHEREAS, City and Mullen are the parties to that certain Employment Agreement dated March 23, 2006, hereinafter referred to as the "Agreement," with respect to the employment of Mullen as the City Attorney of the City according to the terms and conditions set forth therein;

WHEREAS, the Agreement provides that the amount of annual compensation will be adjusted in the same timeframe as any adjustments to the City Manager's compensation to ensure compensation parity between the positions;

WHEREAS, the City desires to adjust Mullen's salary to achieve approximate parity with the City Manager's current salary;

WHEREAS, the parties desire to amend the Agreement to provide for changes and/or modifications to Mullen's salary, to memorialize modifications to the Agreement previously approved by City Council Resolution Nos. 07-R0247-1 and 10-R0478-1, and to incorporate new provisions required by state legislation (AB 1344) effective January 1, 2012.

AMENDMENT

NOW, THEREFORE, as set forth herein, the parties hereto do mutually agree that the Agreement shall be amended as follows:

1. Subsection B.1.a of the Agreement is hereby amended to specify that the amount of the annual salary is \$229,872.12.
2. The last sentence in Subsection B.2.c of the Agreement is hereby deleted.
3. Subsection B.2.d of the Agreement is hereby deleted.

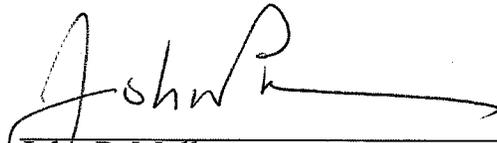
4. A new Subsection B.3.d is hereby added to the Agreement, to read as follows:

“Pursuant to Government Code §53243, if Mullen is convicted of a crime involving an abuse of his office, as defined in Government Code §53243.4, Mullen shall fully reimburse the City for salary paid to Mullen while on paid leave as well as any funds, if any, paid in the sole discretion of the City Council for criminal defense costs. Moreover, Mullen shall fully reimburse the City for any severance paid if convicted of a crime involving an abuse of his office.”

5. Except as expressly set forth in this Amendment, the Agreement shall remain in full force and effect and is hereby ratified and reaffirmed.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by setting hereunto their signatures on the dates set forth below.

DATED: _____

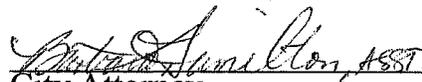


John P. Mullen

DATED: _____

MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:



City Attorney