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DATE: December 19, 2022

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Patrick Carter, Assistant to the City Manager  
Brian Cochran, Assistant City Manager

SUBJECT: Resolution Approving a Third Amended and Restated Employment Agreement for At-Will Employment of City Attorney

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### **RECOMMENDATION**

It is recommended that the City Council adopt the attached Resolution approving a Third Amended and Restated Employment Agreement for At-Will Employment of City Attorney and authorizing the Mayor to sign same on behalf of the City, including annual salary and benefits to be effective the first full pay period following Council adoption.

### **BACKGROUND**

City Attorney Eric Danly was appointed by the City Council to his position effective July 1, 2013. As a Council-appointed position, his salary, benefits, and terms and conditions of employment are set forth in an Employment Contract (Agreement). The term of the Agreement runs through December 19, 2024 and includes an automatic “roll-over” provision that would annually extend the Agreement by one year unless one of the parties elected to end the rollover provision.

As with the City Manager and City Clerk, the City Attorney is not represented by a City bargaining unit, and any changes to his wages, benefits, or terms of employment must be made by amending his employment Agreement to reflect the updates.

City Attorney Danly’s Amended and Restated Employment Agreement for At-Will Employment was most recently Amended and Restated a second time by the City Council at the December 20, 2021 City Council meeting by a 7-0 vote.

### **DISCUSSION**

The City Council recently completed a performance evaluation process for Mr. Danly. Per Section 5 of the employment Agreement, the City Council may approve salary adjustments to the City Attorney’s salary from time to time. Approval of the attached Resolution would grant Mr.

Danly a 2% cost-of-living adjustment (COLA) to his salary and approve an annual voluntary sick leave conversion similar to Unit 8, which is comprised of unrepresented employees. The 2% COLA is consistent with the COLAs negotiated with other City bargaining units.

Government Code Section 54953(c)(3), part of the Brown Act, provides that prior to taking final action on an employment agreement, the legislative body shall orally report a summary of the salary, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive during the open meeting in which the final action is to be taken. Accordingly, key changes contained in the amended agreement are as follows:

**Salary:** The annual salary is \$234,600. The Council retains the option to grant merit increases and/or cost-of-living adjustments at specified points during the agreement.

**Sick Leave Conversion:** The amended agreement allows the City Attorney to participate in an annual voluntary sick leave conversion program identical to that allowed under Unit 8, which is comprised of unrepresented employees.

**Miscellaneous Benefit Language Clean-Up:** The amended agreement trues up various portions of the benefits document with current City policy and practice, such as modifications to the holiday schedule, updating the City's health insurance contribution, etc.

The City Attorney Agreement is consistent with statutory requirements and is attached to the resolution as Exhibit A. Verbiage that is being modified with this restated agreement is shown as "red-line" changes in the document.

## **PUBLIC OUTREACH**

This agenda item was placed on the December 19, 2022 City Council Meeting Agenda in compliance with the California Brown Act.

## **COUNCIL GOAL ALIGNMENT**

The authorization of this recommendation aligns with the City Council Goal of "A City That Works," specifically, with objective #1 to "ensure a fiscally and organizationally sustainable City." This objective includes recruiting, hiring, retaining, and advancing a workforce that is diverse, skilled, talented, and prepared to meet the demands of a full-service City.

## **ENVIRONMENTAL REVIEW**

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(4), in that, approving this action does not meet CEQA's definition of a "project," because the action does not have the potential for resulting either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, and because this is a personnel-related action that constitutes organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

### **FINANCIAL IMPACTS**

The compensation for the City Attorney position will be \$234,600, which is \$4,600 more than his current compensation. The cost for this increase has already been factored into the Fiscal Year 2022/23 budget.

### **ATTACHMENTS**

1. Resolution with Exhibit A (Third Amended and Restated Employment Agreement for At-Will Employment of City Attorney)