



AGENDA REPORT

Meeting Date: November 19, 2013
Item Number: D-12
To: Honorable Mayor & City Council
From: Laurence S. Wiener, City Attorney
Subject: AMENDMENT NO. 7 TO AN AMENDED AND RESTATED EMPLOYMENT AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND BYRON POPE.
Attachments: 1. Amendment No. 7 to an Amended and Restated Employment Agreement

INTRODUCTION

Pursuant to the City Clerk's employment agreement, the City Council reviews the compensation and performance of the City Clerk annually. Following the reviews, the City Council may approve changes to compensation and other terms and conditions of employment.

DISCUSSION

The terms and conditions of Byron Pope's employment by the City as City Clerk are specified in an employment agreement between the City and Mr. Pope. The agreement provides that the City will review compensation and performance annually and may grant increases or make mutually agreeable changes to the agreement. The City Council recently conducted its annual review for 2013. As a result of that review, the proposed seventh amendment to the employment agreement provides for one and three tenths percent (1.3%) cost of living increase in base salary and performance pay in an amount equal to five percent (5%) of base salary.

FISCAL IMPACT

If approved, Amendment No. 7 to the Amended and Restated Employment Agreement will provide the City Clerk with a base salary increase of approximately \$1,858.79 annually and a one-time payment of \$7,149.20.



Laurence S. Wiener, City Attorney

Attachment 1

AMENDMENT NO. 7 TO AN AMENDED AND
RESTATED EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF BEVERLY HILLS AND BYRON POPE

This Amendment No. 7 (“Amendment”) is to that certain Amended and Restated Employment Agreement (“Agreement”), dated September 2, 2008, and identified as Agreement No. 378-08 between the City of Beverly Hills (“Employer” or “City”) and Byron Pope (“Employee”), as previously amended, a copy of which is on file in the office of the City Clerk, for services as City Clerk.

RECITALS

A City and Employee entered into an Amended and Restated Employment Agreement, executed September 2, 2008 and identified as Agreement Number 378-08; an Amendment No. 1 to the Agreement executed on December 16, 2008 and identified as Agreement No. 514-08; an Amendment No. 2 to the Agreement executed on June 16, 2009 and identified as Agreement No. 231-09; an Amendment No. 3 to the Agreement executed on February 15, 2011 and identified as Agreement No. 35-11; an Amendment No. 4 to the Agreement executed on April 21, 2011 and identified as Agreement No. 137-11; an Amendment No. 5 to the Agreement executed on November 15, 2011 and identified as Agreement No. 463-11; and an Amendment No. 6 to the Agreement executed on February 21, 2012 and identified as Agreement No. 54-12.

B. In the Agreement, City and Employee agreed to an annual review and performance evaluation by the City Council.

C. Following such review and evaluation and without limitation to the continuing nature of such communications between the City Council and Employee, the parties desire to amend certain terms and conditions of the Agreement, as provided in this Amendment, and to have all other terms and conditions remain in full force and effect.

NOW, THEREFORE, the parties do amend the Agreement as follows:

Section 1. Section 4, Paragraph A, Sub-paragraph (1), titled "Base Salary," of the Agreement, shall be amended to read in its entirety as follows:

"(1) Base Salary. Effective April 1, 2013, Employer shall pay Employee a base salary of One Hundred Forty-Four Thousand Eight Hundred Forty-Two and 79/100 Dollars (\$144,842.79) annually, subject to legally permissible or required withholding, prorated and paid on Employer's normal paydays. Employee's salary is compensation for all hours worked. Employee shall be exempt from the overtime pay provisions of California law (if any) and federal law."

Section 2. The City Council has evaluated Employee's performance on the basis of the goals and objectives identified by the City Council pursuant to the program established in Section 4, Paragraph A, Sub-paragraph (2), titled "Salary Review and Performance Pay," of the Agreement. Based on its 2013 annual review, Section 4, Paragraph A, Sub-paragraph (3), titled "2012 Annual Performance Review" is hereby revised to provide performance pay of five percent (5%) of Employee's annual base salary and to read as follows:

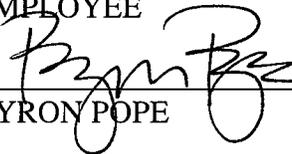
"(3) 2013 Annual Performance Review. Based on its 2013 annual performance review pursuant to Section 4, Paragraph A, Sub-paragraph (2) above, Employer agrees to pay Employee performance pay of Seven Thousand One Hundred Forty-Nine and 20/100 Dollars (\$7,149.20), in a single lump sum, subject to legally permissible or required withholding, payable on or before the next payday on which the City's Payroll Division can process the payment using normal processing procedures. The performance pay is intended as special compensation, in addition to the salary provided in Section 4, Paragraph A, Sub-paragraph (1) of the Agreement and is paid for superior performance of

normally required duties performed during normal hours of employment. However the payment will only be included for purposes of Public Employees' Retirement System contributions and benefits to the extent permitted by law."

Section 3. Except as expressly amended by this Amendment No. 7, all of the provisions of the Agreement, as amended by Amendment Nos. 1, 2, 3, 4, 5, and 6 to the Agreement between the City and Employee, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the ___ day of _____, 2014, at Beverly Hills, California.

EMPLOYEE



BYRON POPE

CITY OF BEVERLY HILLS
A Municipal Corporation

JOHN A. MIRISCH
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
LOURDES SY-RODRIGUEZ
Deputy City Clerk

APPROVED AS TO FORM:


LAURENCE S. WIENER
City Attorney