

RESOLUTION NO. 2024-185

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A SECOND AMENDMENT TO EMPLOYMENT AGREEMENT WITH THE CITY ATTORNEY

WHEREAS, the Escondido City Attorney, serves the City of Escondido pursuant to an Employment Agreement with the City; and

WHEREAS, the City Council has surveyed the median salaries for full time, appointed city attorneys in the comparable labor market and desires to (1) increase the City Attorney's salary to be more comparable with such other City Attorneys; (2) place a cap on life insurance at \$500,000; (3) revise the performance evaluation process; (4) update language in the employment agreement regarding Government Code § 53243 *et. seq.*; and (5) reduce management leave hours from 20 days annually to 16 days annually; and

WHEREAS, the City Council desires and deems it in the best public interest to provide for the ongoing employment of Michael R. McGuinness to serve as the City Attorney pursuant to an Agreement governing the terms and conditions by which he shall serve as City Attorney; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California, as follows:

1. That the above recitations are true.
2. That the Mayor is hereby authorized to execute, on behalf of the City, a Second Amendment to the Employment Agreement with Michael R. McGuinness to serve as the City Attorney (attached and incorporated by this reference as Exhibit "A").

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof the 4th day of DECEMBER, 2024 by the following vote to wit:

AYE : Councilmembers: GARCIA, GARCIA, MARTINEZ, MORASCO, WHITE

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:
Dane White
19FFE5DB8C3B409...

DANE WHITE, Mayor of the
City of Escondido, California

ATTEST:

DocuSigned by:
Zack Beck
A58535D0BDC1430...

ZACK BECK, City Clerk of the
City of Escondido, California

RESOLUTION NO. 2024-185



CITY OF ESCONDIDO
AT WILL EMPLOYMENT AGREEMENT
SECOND AMENDMENT

Between: CITY OF ESCONDIDO
201 N. Broadway
Escondido, California 92025
("Employer")

And: Michael R. McGuinness, Esq.
201 N. Broadway
Escondido, CA 92025
("Employee")

RECITALS

- A. On May 10, 2017, Employer and Employee entered into an At Will Employment Agreement, including an Attachment "A" ("Agreement" and "Agreement Attachment A"), for Employee to serve as City Attorney for Employer as provided by the California Government Code and Chapter 2, Article 4 of the Escondido Municipal Code. Thereafter, on June 20, 2018, Employer and Employee entered into a First Amendment to the Agreement ("2018 Agreement"); and
- B. It is the desire of the Employer to provide certain benefits and establish certain conditions of employment of the Employee for the purpose of securing and retaining the services of the Employee; and
- C. Employee desires to continue to be employed as the City Attorney for the City of Escondido; and
- D. It is the mutual intent of the parties to enter into a Second Amendment to the Agreement and 2018 Agreement effective December 4, 2024.

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NOW, THEREFORE, in consideration of the mutual covenants set forth below, the parties agree as follows:

1. Section 3(a) of the Agreement (“Salary and Benefits”) shall be amended to read as follows:

Employer will pay Employee a base salary of \$290,000 per year (“Salary”). Such Salary shall be payable at the time as other employees of Employer are paid.

2. Section 6 of the Agreement (“Management Leave”) shall be amended to read as follows:

In addition to Employee’s entitlement to holiday and vacation leave on the same basis as is available to other management employees generally in accordance with Section 3(c) of this Agreement, Employee shall be entitled to sixteen (16) days of management leave annually. Management leave granted pursuant to this provision shall be in lieu of any other management leave available to members of the City management team generally.

3. Section 8 of the Agreement (“Evaluation”) shall be amended to read as follows:

The City Council recognizes that for the City Attorney to respond to the City’s needs and to grow in the performance of the City Attorney’s job, the City Attorney needs to know how the City Council members evaluate the City Attorney’s performance. To assure that the City Attorney gets this feedback, the City Council shall review and evaluate the performance of the City Manager and City Attorney commencing in July of each year. The City Council shall work with the Human Resources Director to retain an outside facilitator, with at least five years’ experience in executive evaluations, to conduct the evaluation process. The facilitator will also assist in developing mutually agreed-upon goals and performance objectives for the upcoming year.

At the time of the annual evaluation, the City Council shall in good faith consider performance-based salary adjustments, based upon comparable compensation packages made available to these executive positions from the other cities in San Diego County and other agencies used for city labor negotiations.

4. Section 10. General Provisions shall be amended to add as follows:

(g) Provisions of Government Code Section 53243, et. seq.

- a. In the event that the City provides paid leave to City Attorney pending an investigation of a crime involving abuse of his office or position covered by Government Code section 53243, and should that investigation lead to either a criminal conviction or a civil or administrative penalty by the FPPC or any similarly authorized agency, City Attorney shall fully reimburse the City for any salary provided for that purpose.
- b. In the event that the City provides funds for the legal criminal defense of City Attorney pending an investigation of a crime involving abuse of his office or position covered by Government Code section 53243, and should that investigation lead to either a criminal conviction or a civil or administrative penalty by the FPPC or any similarly authorized agency, City Attorney shall fully reimburse the City for any funds provided for that purpose.
- c. In the event that the City provides City Attorney with severance, or any other type of cash settlement related to the termination of City Attorney, and City Attorney subsequently is convicted of a crime, or subjected to civil or administrative penalties, resulting from abuse of his office or position covered by Government Code section 53243, City Attorney shall fully reimburse the City for any such severance or cash settlement.
- d. This provision shall not be interpreted or construed as creating a contractual obligation on the City to provide paid leave, a legal criminal defense or cash settlement related to an investigation or termination of the City Attorney.

5. Agreement Attachment A shall be amended to modify only the amount of Life Insurance as follows: "Two times annual salary, capped at \$500,000." All other terms of Agreement Attachment A shall remain the same.

- 6. Except as expressly identified above, all other terms and conditions of the Agreement as amended by the 2018 Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Escondido has caused this Agreement to be signed and executed on its behalf by its Mayor as authorized by Resolution No. 2024-185, and Employee has signed and executed this Agreement set forth below.

On Behalf of Employer

Date: _____

 Dane White
 Mayor

On Behalf of Employee

Date: _____

 Michael R. McGuinness
 City Attorney

APPROVED AS TO FORM:
 OFFICE OF THE CITY ATTORNEY
 Michael R. McGuinness, City Attorney

By: _____