

RESOLUTION NO. RES-2023-035

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ROSA APPROVING HIRING OF JEFFREY BERK AS A TEMPORARY PART TIME EMPLOYEE INTO THE POSITION OF ACTING CHIEF ASSISTANT CITY ATTORNEY FOR A LIMITED DURATION FROM FEBRUARY 21, 2023 THROUGH FEBRUARY 20, 2024 OR UNTIL THE PERMANENT POSITION IS FILLED

WHEREAS, Jeffrey Berk retired from the City of Santa Rosa on January 4, 2023, from his position as Chief Assistant City Attorney; and

WHEREAS, the City has an active recruitment underway for his replacement; and

WHEREAS, the Chief Assistant City Attorney is a critically needed position requiring specialized skills, including but not limited to advanced management, labor and employment counsel, and negotiations; and

WHEREAS, due to pending workloads, existing staff resources are insufficient to provide those critical Chief Assistant City Attorney services during the recruitment and hiring period; and

WHEREAS, the City Attorney's Office and Human Resources Department therefore recommend hiring a person who has specialized skills to serve as Acting Chief Assistant City Attorney during the recruitment and hiring period; and

WHEREAS, Mr. Berk has the needed specialized skills and is willing to provide part-time Acting Chief Assistant City Attorney services; and

WHEREAS, Mr. Berk is a CalPERS retired annuitant; and

WHEREAS, the City desires to employ Mr. Berk as a Temporary Employee in the position of Acting Chief Assistant City Attorney of the City of Santa Rosa, on a temporary and at-will basis consistent with City and CalPERS regulations, including California Government Code sections 7522.56, 21222(h) and 21224; and

WHEREAS, Government Code section 7522.56 generally requires that post-retirement employment commence no earlier than 180 days after the retirement date, which would require the hire be delayed until after July 2, 2023; and

WHEREAS, Government Code section 7522.56 provides an exception to the 180 day period to allow a retired annuitant to fill a critically needed position if the public agency has certified the nature of the employment and the governing body of the public agency has approved the appointment in a public meeting; and

WHEREAS, it is recommended that Mr. Berk be hired as a Temporary Employee as part-time Acting Chief Assistant City Attorney for the limited duration of February 21, 2023 to

February 20, 2024 as needed, to ensure continuity of services during the recruitment for a permanent Chief Assistant City Attorney; and

WHEREAS, the maximum base salary for a Chief Assistant City Attorney position is currently equivalent to \$101.46 per hour; and

WHEREAS, the hourly rate of pay for Mr. Berk’s service is recommended to be \$101.46; and

WHEREAS, Mr. Berk has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate and did not receive any retirement-related incentive; and

WHEREAS, Mr. Berk’s employment will not exceed 960 hours per fiscal year for all CalPERS employers.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa certifies the nature of and approves the appointment of retired annuitant Jeffrey Berk as a Temporary Part-Time Acting Chief Assistant City Attorney which is necessary to fill the critically needed position of Chief Assistant City Attorney for the limited period of February 21, 2023 to February 20, 2024, or until the permanent full-time position is filled, whichever is sooner, to ensure continuity of services as described above.

IN COUNCIL DULY PASSED this 14th day of February, 2023.

AYES: (6) Mayor N. Rogers, Vice Mayor MacDonald, Council Members Alvarez, Fleming, Okrepkie, C. Rogers

NOES: (0)

ABSENT: (1) Council Member Stapp

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
Deputy City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney