

## STAFF REPORT

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**Date:** July 27, 2022

**To:** Mayor and City Council

**Thru:** Doug Thornley, City Manager

**Subject:** Staff Report (For Possible Action): Approval of Second Amended and Restated Employment Agreement (Reno City Manager) with Douglas Thornley that includes a provision for the City to purchase six (6) months of Nevada Public Employees' Retirement System credit for each full year of service completed by Mr. Thornley after July 1, 2021.

**From:** Jonathan Shipman

**Department:** City Attorney's Office

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**Summary:** Attached for City Council consideration and approval is a proposed Second Amended and Restated Employment Agreement (Reno City Manager) (the “Amendment”) that includes a provision for the City to purchase six (6) months of Nevada Public Employees' Retirement System credit for each full year of service completed by Mr. Thornley after July 1, 2021. The Amendment also acknowledges that the City Manager is the sole, designated chief executive officer of the City of Reno, and City Council will not employ any other person in a similar position or capacity. All other terms remain unchanged.

**Alignment with Strategic Plan:**

Fiscal Sustainability

**Previous Council Action:** On August 26, 2020, the City Council approved the Employment Agreement (Reno City Manager), employing and appointing Douglas R. Thornley to the office of city manager under the Reno City Charter (the “Agreement”). On June 8, 2022, City Council conducted the City Manager’s annual performance evaluation, and directed staff to return with an amended Employment Agreement that includes a provision for the City to purchase six (6) months of Nevada Public Employees' Retirement System credit for each full year of service completed by Mr. Thornley after July 1, 2021.

**Background:** In 2021, the Nevada Legislature enacted AB 385 which becomes effective on December 1, 2022. AB 385 prohibits a public body from entering into an employment contract that entitles an officer or employee of the public body to receive any fringe benefit, unless the

public body has adopted a policy authorizing all persons employed in a similar position to receive the benefit. The amendatory provisions of AB 385 do not apply to a contract entered into before December 1, 2022, but do apply to any renewal or extension of such a contract.

**Discussion:** Section 1.c of the Amendment acknowledges that the Agreement was automatically extended to June 30, 2024.

Section 2.a of the Amendment clarifies for AB 385 purposes that the City Manager serves as the sole, designated chief executive officer of the City of Reno, and City Council does not and will not employ any other person in a similar position or capacity.

Consistent with Council direction, Sec. 4.d adds a longevity benefit; specifically, commencing on July 1, 2021, for each full year of service in the City's employ thereafter, the City agrees to pay on Mr. Thornley's behalf the cost to purchase six (6) months of Nevada PERS credit for service pursuant to NRS 286.3005.

**Financial Implications:** The estimated total FY 2023 impact will not exceed \$50,000.

**Legal Implications:** Legal review completed for compliance with City procedures and Nevada Law. Under NRS 354.626(1), no governing body [...] may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function [...] Under NRS 354.626(2)(e), however, the prohibition contained in section (1) does not apply to contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract. Here, the Amendment is a contract between the City and Mr. Thornley covering professional services that will be performed within the next 24 months.

**Recommendation:** Consistent with City Council's prior direction, staff recommends Council approve the attached Second Amended and Restated Employment Agreement (Reno City Manager).

**Proposed Motion:** I move to approve staff recommendation.

**Attachments:**

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