

RESOLUTION 2022-048

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING AEMNDMENTS TO THE CITY MANAGER EMPLOYMENT AGREEMENT INCLUDING DEFFERED COMPENSATION AND BUSINESS EXPENSES

WHEREAS, the City of San Pablo and Matt Rodriguez entered into a City Manager Employment Agreement dated March 30, 2010 and effective May 3, 2010 for Mr. Rodriguez to serve as the City Manager for the City of San Pablo (“Agreement”);

WHEREAS, the City Council amended the Agreement on November 17, 2014 to increase the City Manager’s salary to \$227,311 and to provide for a performance/retention bonus, matching deferred compensation up to the IRS maximum for a 457 Plan, and an information technology allowance; in addition to health, disability and life insurance; vacation, sick, administrative and other leaves; and retirement and other benefits provided under the 2010 Agreement;

WHEREAS, the City Council subsequently approved cost-of-living adjustments (“COLA”) that increased the City Manager’s salary annually, as well as COLA adjustments for other represented and non-represented City employees;

WHEREAS, pursuant to Resolution 2017-160 dated August 7, 2017, the City Council agreed to amend the Agreement to increase the City Manager’s salary by 3% to \$243,589, but health insurance benefits were capped consistent with the arrangements for other employees;

WHEREAS, pursuant to Resolution 2018-088 dated June 18, 2018, the City Council agreed to amend the Agreement by increasing the City Manager’s salary by 3% to \$250,897, providing a vehicle allowance of \$500 per month or \$6,000 per year; providing up to \$15,000 for professional development to be expended by June 30, 2021; extending the performance evaluations to every two years; allowing the City Manager to cash out (or convert to deferred compensation) 50% of sick leave upon resignation or termination; and including termination provisions required by the State law;

WHEREAS, benefits for the contract employees group (City Manager and City Attorney), including a 3% salary increase, were memorialized in City Council Resolution 2019-085 dated June 3, 2019;

WHEREAS, given the COVID-19 pandemic and economic impacts, the City Council adopted Resolution 2020-089 dated July 6, 2020 to impose temporary cost-savings measures – freezing COLA (cost-of-living) increases and increased CalPERS/pension benefits in light of the COVID-19 pandemic and economic impacts;

WHEREAS, pursuant to Resolution 2021-084 dated June 21, 2021, the Schedule of Benefits was extended to June 30, 2022 and a 3% salary increase was provided to the contract employees group;

WHEREAS, pursuant to Resolution No. 2021-142 dated November 1, 2022, the City Council approved the Juneteenth holiday for all employees including the contract employees group and continued the \$450 annual flexible benefits payment (“FSA”), which allows employees to pay for qualified dependent care and medical expenses with pre-tax dollars;

WHEREAS, on February 22, 2022, the City Council established the Temporary Ad-Hoc Subcommittee on the City Manager Employment Agreement composed of the Mayor and Vice-Mayor (“Subcommittee”) to serve as the City Council’s negotiating team;

WHEREAS, the Subcommittee met with the City Manager on March 1, 2022 and presented its report to the City Council in closed session on March 7, 2022;

WHEREAS, at a closed session on March 7, 2022, the City Council directed the Subcommittee to finalize the proposed amendments to the Agreement, with the assistance of the City Attorney, and to place the matter on the open session agenda at a regular City Council meeting for consideration after the City Council provides an oral summary of the amendments as required by California Government Code section 54953;

WHEREAS, this proposed action is not associated with any particular Council priority and is not a project pursuant to the California Environmental Quality Act; and

WHEREAS, pursuant to Government Code section 54953 and to ensure transparency in the consideration of the salary and benefits for the City’s executives, before taking final action at the City Council meeting on March 21, 2022, the City Council did orally report a summary of the proposed amendments to the Agreement regarding salary and benefits as follows:

1. Deferred compensation – Effective April 1, 2022, City shall pay annually a contribution of \$12,500 to City Manager’s ICMA/Mission Square 457 deferred compensation account, with an additional 0.5% of City Manager’s annual salary added to the City’s annual contribution beginning January 1, 2024, and each January 1st thereafter up to the total maximum annual contribution established by IRS regulations, which is currently \$20,500. Such total maximum annual contribution from City is not a matching contribution, and does not include any additional “catch-up” payments, including the additional Age 50 Catch-up amount, authorized by IRS regulations. City shall not be responsible for any “catch-up” payments, which City Manager can choose to make.

2. Business expenses –City shall pay an additional \$5,000 for a professional development and training program for executive management for the City Manager for a total cost allocation not to exceed \$20,000 to be expended by August 31, 2023.
3. Information Technology Allowance of \$750 to be paid annually to the City Manager (rather than every other year).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Pablo authorizes the Mayor to execute the amended City Manager Employment Agreement with the following amendments and as shown as Attachment 1, which is attached and incorporated as the 2022 City Manager Employment Agreement including Exhibits A and B to the Agreement, and shall be effective April 1, 2022:

1. Deferred compensation – Amend Section 2.d of the Agreement to read as follows:

Effective April 1, 2022, CITY shall pay annually a contribution of \$12,500 to EMPLOYEE’s ICMA/Mission Square 457 deferred compensation account, with an additional 0.5% of EMPLOYEE’s annual salary added to the CITY’s annual contribution beginning January 1, 2024, and each January 1st thereafter up to the total maximum annual contribution established by IRS regulations, which is currently \$20,500. Such total maximum annual contribution from CITY is not a matching contribution, and does not include any additional “catch-up” payments, including the additional Age 50 Catch-up amount, authorized by IRS regulations. CITY shall not be responsible for any “catch-up” payments, which EMPLOYEE can choose to make.

2. Business expenses – Amend Section 3 of the Agreement to read as follows:

CITY agrees to pay for City related business expenses. Such expenses shall include all direct costs associated with memberships in professional associations and attendance at conferences, including annual memberships with International City Management Association (“ICMA”) and California City Management Foundation (“CCMF”), within approved Department budget and per diem parameters in the City’s Travel Expense Policy. CITY shall also budget and pay for an additional professional development and training program for executive management, including accommodation and travel expenses as a one-time authorized expense not to exceed \$20,000 to be expended by August 31, 2023.

3. Updates/clarifications

- a. Update the recitals to include prior amendments to the Agreement
- b. Section 1 - Reference the job description
- c. Section 2.a - Memorialize the City Manager's current salary of \$274,164 to reflect prior City Council actions (Resolution No. 2021-084 effective July 1, 2021)
- d. Section 2.b - Memorialize the benefits provided to reflect prior City Council actions
- e. Section 2.e – Revise Information Technology Allowance of \$750 to be paid annually
- f. Section 6 - Clarify severance obligations consistent with State law
- g. Section 8 – Updated City Hall address
- h. Section 9 - Indemnification provision consistent with Government Code section 825, which does not apply if the employee is acting outside the scope of employment
- i. Section 10 - Miscellaneous provisions regarding governing law, no assignment of contract, only amendments in writing, etc.

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ADOPTED this 21st day of March, 2022, by the following votes:

AYES:	COUNCILMEMBERS:	Pabon-Alvarado, Cruz, Pineda and Xavier
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	Ponce
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

/s/ Dorothy Gantt
Dorothy Gantt, City Clerk

/s/ Rita Xavier
Rita Xavier, Mayor