

CITY MANAGER EMPLOYMENT AGREEMENT

[AS AMENDED NOVEMBER 17, 2014]

THIS amended AGREEMENT is entered into this 18th day of November, 2014, by and between Raymond M. Rodríguez (hereinafter referred to as "EMPLOYEE") and the City of San Pablo (hereinafter referred to as "CITY").

CITY and EMPLOYEE entered into an employment agreement in 2010, under which EMPLOYEE serves as CITY'S city manager;

NOW, THEREFORE, in consideration of the faithful performance of the terms and conditions set forth herein, the parties hereto mutually agree as follows:

1. Employment.
 - a. Effective May 3, 2010, EMPLOYEE shall be employed as City Manager for a term of twelve (12) months, unless mutually agreed to end earlier. This twelve (12) month term shall automatically recommence on the first day of each succeeding month, unless notice of termination is given by the City Council as specified herein. This section is intended to comply with Section 53260, *et seq.* of the Government Code of the State of California.
 - b. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the service of EMPLOYEE at any time, subject only to the provisions set forth in Section 6 of this Agreement. EMPLOYEE'S service with the City is an at-will position which may be terminated for any or no cause by the City Council.
 - c. EMPLOYEE agrees to remain in the exclusive employ of the CITY during the terms of this Agreement. However, EMPLOYEE shall not be precluded from occasional teaching or writing, performed during EMPLOYEE'S time off, or during administrative leave or vacation, with the concurrence and knowledge of City Council.

2. Compensation. EMPLOYEE shall receive the following compensation:
 - a. Salary. As of July 1, 2014, following a 2% cost of living increase, EMPLOYEE's annual salary shall be \$227,310.75. No further salary is allowed for EMPLOYEE'S service as Executive Director of the City's Economic Development Corporation, or for service for any other board, commission or agency.
 - b. Benefits. EMPLOYEE's benefits are as set forth in the 2014 City Manager Employment Agreement Schedule of Benefits, attached hereto as Exhibit A, except as set forth specifically in this Agreement, in which case the terms of this Agreement supersede those set forth in the attached Schedule of Benefits.
 - c. Performance and Retention Bonuses. Commencing on his anniversary date of May 3, 2015, and every three years thereafter, EMPLOYEE shall receive a bonus payment of \$5,000 in addition to base salary, payable 30-days after his annual anniversary date of May 3rd, less legally required employment and applicable tax withholdings, contingent upon a satisfactory or greater annual performance evaluation rating by the City Council. For the purposes of this provision, the Council shall prepare a written summary rating sheet for presentation to payroll.
 - d. Deferred Compensation. Effective January 1, 2015, City shall annually match EMPLOYEE's contribution to his ICMA 457 deferred compensation account. The total maximum annual contribution to such account, as of January 1, 2015, as established by IRS regulations, is \$17,500 per calendar year. As of the date this agreement, the maximum City contribution therefore, is \$8,750 per calendar year.

e. Information Technology Allowance. City shall pay EMPLOYEE an information technology allowance of \$750.00 annually, for the period ending June 30th of each odd-ending fiscal year period.

3. Business Expenses. 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 ICMA and CCMF, within approved budget and per diem parameters. City shall also pay a maximum one-time expense of \$10,000 to be expended by June 30, 2016 to cover all associated costs (e.g. travel, lodging, tuition, except meals) of attending a professional development and training program for executive management, subject to funding availability.

4. Code of Ethics. The parties acknowledge that the City Manager is a member of the International City Management Association (“ICMA”). The Parties mutually desire that the City Manager be subject to and comply with the ICMA Code of Ethics, as it may be amended from time to time (Exhibit B). The City and the City Council agree that the City Council will not give the City Manager any order or direction that would require the City Manager to violate the ICMA Code of Ethics

5. Performance Evaluation. Annual performance evaluations are an important way for the City Council and the City Manager to ensure effective communications about expectations and performance. The City Council recognizes that for the City Manager to respond to its needs and to grow in the performance of the City Manager’s job, the City Manager needs to know how the City Council Members evaluate the City Manager’s performance.

a. To assure that the City Manager gets this professional feedback, the City Council shall conduct an evaluation of the City Manager's performance at least once a year. The City Council and the City Manager agree that performance evaluations, for the purpose of mid-course corrections, may occur quarterly or several times during each calendar year.

b. In January of each year, the City Manager shall notify the Mayor and City Council in writing of the requirement for an annual evaluation of his position. The Mayor shall then agendize before the City Council the timing of such evaluation. The City Manager and City Council will create goals or other outcome measures that will provide the basis for determining the next year's performance. The City Council and the City Manager shall define such goals and performance objectives as they mutually determine are necessary for the proper operation of the City for the attainment of the City Council's policy objectives, and the City Council and the City Manager shall further establish a relative priority among those goals and performance objectives.

6. Termination. The following provisions apply to any termination of employment by CITY:

a. EMPLOYEE is an at-will employee who may be terminated for any or no reason. In the event EMPLOYEE is terminated for any reason prior to the expiration of the employment term, except as set forth in subsection 6c, CITY shall pay EMPLOYEE a cash payment equivalent to his annual salary as referenced in Section 2, subpart a of this Agreement; provided, however, that such severance payment shall be contingent on EMPLOYEE first executing a release and waiver of all rights to sue the City or any city employee or official, which release and waiver shall be drafted by the city attorney.

b. CITY shall pay the premiums for EMPLOYEE'S medical and dental benefits pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) coverage for the same number of months for which EMPLOYEE is entitled to a lump sum cash payment under subsection 6a, or until EMPLOYEE either secures full-time employment or obtains other health insurance coverage, whichever of these events occurs first. EMPLOYEE shall notify CITY within five (5) days of securing new full-time employment or acquiring health insurance coverage.

c. In the event EMPLOYEE is terminated for cause or malfeasance, CITY shall have no obligation to pay the severance, or allow any other benefits set forth in subsections 6a or 6b.

d. EMPLOYEE may be removed only by a vote of at least three members of the City Council, and may not be removed from office within 90 days next succeeding the date of any general municipal election held in the city at which election a member of the Council is elected. EMPLOYEE waives the protections of Sections 2.04.310 through 2.04.360 of the San Pablo Municipal Code except as specifically set forth in this Agreement.

e. In the event that the City Council formally asks the City Manager to resign, then EMPLOYEE shall be entitled to resign, and still receive the severance benefits, provided he agrees to the release and waiver requirements of all rights to sue the City or any city employee or official, as provided in subsection 6a above.

7. Resignation. If EMPLOYEE voluntarily resigns from the position of City Manager, he will provide CITY with a minimum of thirty (30) days written notice. During the period subsequent to the Notice of Resignation of EMPLOYEE, he shall continue to discharge his duties as City Manager.

8. Notices. Any notices required by this Agreement shall be either given in person or by first class mail with the postage prepaid and addressed as follows:

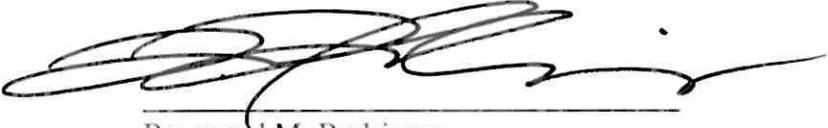
CITY: Mayor
City of San Pablo
13831 San Pablo Avenue
San Pablo, CA 94806

EMPLOYEE: Raymond M. Rodriguez
At his then-current address on file with CITY.

9. Entire Agreement. This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty, or covenant not included in the agreement has been or is relied on by any party hereto. If any sections, subsections, sentences, clauses, phrases or portions of this Agreement are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares it would have passed this and each section, subsection, phrase or clause of this Agreement whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

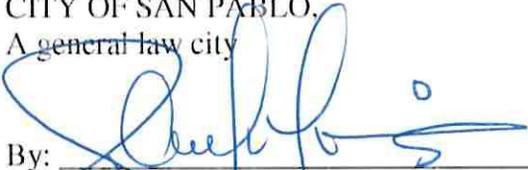
DATED: 11-18, 2014


Raymond M. Rodriguez

City Manager Employment Agreement
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DATED: 11-20, 2014

CITY OF SAN PABLO,
A general law city

By: 
Paul Morris, Mayor

ATTEST:

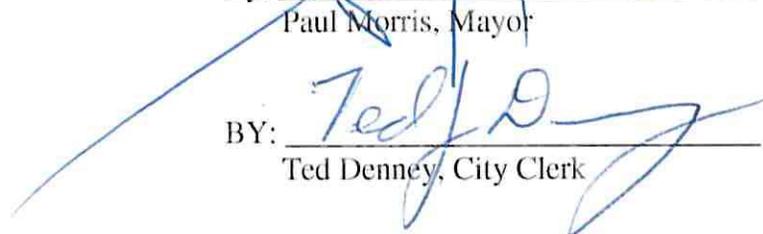
BY: 
Ted Denney, City Clerk

EXHIBIT A

**CITY MANAGER EMPLOYMENT AGREEMENT
SCHEDULE OF BENEFITS
As Amended November 17, 2014
Resolution 2014-181**

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SECTION I. HEALTH BENEFITS

Employee shall receive medical and dental benefits for himself and dependent family members, as follows:

(A) Medical Insurance

The City is a participating employer in the Public Employees' Medical and Hospital Care Act (PEMHCA), the medical insurance program sponsored by CalPERS. Upon the City's adoption of the amendment to the City's contract with CalPERS for PEMHCA participation, the maximum City contribution per month for medical insurance for active employees and qualifying annuitants shall be the minimum employer contribution as determined by CalPERS. For 2014, the minimum, monthly employer contribution is \$119.

(B) Flexible Benefit Plan

The City maintains a Flexible Benefit Plan that constitutes a cafeteria plan within the meaning of Section 125 of the Internal Revenue Code. The Flexible Benefit Plan allows active employees to pay for actual medical plan premiums, actual dental plan premiums, vision care contributions on a pre-tax basis.

The City will contribute, on behalf of employee enrolled in City-provided health insurance, up to:

- the premium for employee's selected, City-provided group health insurance plan at the selected level of coverage;
- minus the City's minimum, monthly employer contribution required for participation in PEMCHA paid separately by the City to CalPERS;
- minus one hundred and fifty dollar (\$150) to be paid by the employee if enrolled in a Kaiser plan, or minus twenty percent (20%) of the group health insurance premium to be paid by the employee if enrolled in a non-Kaiser plan.

(C) In Lieu or Dual Medical Coverage

In the event employee elects to waive participation in City-provided health insurance due to coverage in a group health plan from another source (e.g. spouse, parent, etc.), employee shall receive the appropriate in-lieu amount, which shall be prorated for employees scheduled to work 80% FTE:

\$500.00 – Family coverage or two-party coverage

\$350.00 – Single party coverage

The employee may receive the in-lieu amount in cash (taxable) or they may elect to contribute the in-lieu amount (not taxable) towards the 457 ICMA Deferred Compensation Plan as a supplemental retirement benefit.

To elect this option, employee shall demonstrate that he or she is adequately covered at the applicable level of coverage by another source of group health insurance. If an employee loses secondary coverage, he or she shall be covered by the City health plan as soon as possible, in accordance with CalPERS regulations and this MOU.

(D) Dental Plan

City will contribute through the Flexible Benefit Plan the full premium for dental insurance coverage (which includes a 50/50 orthodontia plan for children only with \$3,000 maximum) for employee and eligible dependent family members. The City's contribution shall be prorated for employees scheduled to work 80% FTE.

E) Reimbursable Expenses and Flexible Spending Account

The City provides a Flexible Spending Account (FSA), which allows employee to contribute a portion of regular earnings to pay for qualified dependent care and medical expenses before earnings are subject to payroll taxes, in accordance with IRS regulations.

The City will contribute to the Flexible Spending Account the amounts listed below based on the assumption that the following arrangement falls within the IRS guidelines:

\$225.00 for 7/1/14 through 12/31/14 (\$180.00 for .80 FTE)

\$450.00 for 1/1/15 through 12/31/15 (\$360.00 for .80 FTE)

\$450.00 for 1/1/16 through 12/31/16 (\$360.00 for .80 FTE)

\$225.00 for 1/1/17 through 06/30/17 (\$180.00 for .80 FTE)

Should employee work on a reduced work schedule in the future, he shall be required to pay the prorated portion of the medical premium. In-lieu medical and vision care and other reimbursable expense amount, including this Flexible Spending Account contribution, will also be prorated.

In accordance with IRS regulations, any unused amounts contributed to the FSA shall not be reimbursed to employee should employee fail to submit proof of eligible reimbursable expenses during a calendar year. However, up to five hundred dollars (\$500) of unused amounts remaining at the end of a plan year in a health FSA may be paid or reimbursed to plan participants for qualified medical expenses incurred during the following plan year. All other unused amounts in an employee's FSA cannot be rolled over to the next calendar year.

(F) Health Club. City shall pay 50% of the cost of employee's individual membership in the local YMCA or similar health club, with such payments ceasing on the last day of employment.

SECTION II. EMPLOYEE ASSISTANCE PROGRAM

The City agrees to provide an Employee Assistance Counseling Program.

SECTION III. DISABILITY AND LIFE INSURANCE

The City shall continue to provide a long term disability benefit for employee. The City shall pay premiums on a two hundred thousand dollars (\$200,000) life insurance policy for employee. An additional Life Insurance policy shall be made available to dependents of the employee, as mandated by the existing Life Insurance Program, at the total expense of the employee.

SECTION IV. VACATION

- A. Employee shall accrue vacation at the rate of 150 hours per year.
- B. Use of Vacation

The City Manager, due to the needs of the service, may be unable to utilize said accrued vacation. Therefore, the City Manager shall be permitted to carry over any unused vacation.

In the event one or more municipal holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave, and the vacation shall be extended accordingly.

Should employee terminate employment, Employee shall be paid in a lump sum for all accrued vacation leave earned prior to the effective date of termination.

Should employee become ill or injured during his vacation, he may request that the time be deducted from his earned sick leave and the vacation period be re-scheduled at a later date, or be extended.

SECTION V. SICK LEAVE

A. Accrual

Sick Leave with pay shall be accrued at the rate of 7.5 hours per each calendar month of service. Sick Leave shall not be considered as a privilege which employee may use at his/her discretion, but shall be allowed only in case of necessity and actual sickness or disability. Unused sick leave shall be accumulated at the rate of 96 hours per year, without limit. Employee shall be granted six days (45 hours) of sick leave upon commencement of service.

B. Usage

Employee shall be allowed sick leave pay on the following basis:

(1) Absence from duty due to exposure to a contagious disease where a doctor requires quarantine;

(2) Absence due to pregnancy disability, childbirth, or a medical condition related to pregnancy; or

(3) Absence from duty due to employee illness or other physical disability;

(4) Absence to care for a parent, spouse, child, or registered domestic partner with a serious health condition and would be permitted as sick leave under the City's sick leave policy;

(5) Up to six (6) days of accrued Sick Leave in a calendar year may be used to attend to the illness of the employee's immediate family, when the employee will personally assist and be a comfort to said family member. Immediate family shall be limited to the employee's spouse, registered domestic partner, child, stepchild, father, mother, sister, brother, father-in-law, mother-in-law, grandparent, and grandchild, except as provided by the Family Care Leave/Pregnancy Leave.

The right to benefits under the Sick Leave plan shall continue only during the period that the City employs the employee. This plan will not give any employee the right to be retained in the service of the City or any right of claim to sickness disability benefits after separation from the services of the City.

If employee is absent or expecting to be absent because of sickness or other physical disability, personal or family, the Employee shall notify the Assistant City Manager prior to the beginning of the workday or as soon thereafter as possible, but in any event during the first day of such absence.

The City may require a written physician's statement confirming that the employee's illness or disability prevents him or her from attending work, and the anticipated duration of absence. In cases of absence due to contagious disease, the employee will be required to submit a written medical release before he/she may return to work. In cases of other absences, the employee may be required to provide City with a Fitness for Duty statement from his/her attending physician, or a physician appointed by the City, prior to returning to work.

Upon depletion of accumulated sick leave, employee may request leave of absence without any pay for a period not to exceed sixty (60) calendar days, subject to the approval of the City Council. If employee is unable to return to work at the end of this period, he must request further unpaid leave, which will be subject to the approval of the City Council. If further leave is granted, employee must notify the City of his intent to return to work every thirty (30) days. If further leave is not requested, employee may be subject to dismissal.

Time off for illness shall be charged to sick leave and not to vacation or administrative leave, unless, and until all available sick leave has been exhausted.

SECTION VI. BEREAVEMENT LEAVE

Upon death of an immediate family member (spouse or registered domestic partner and children/stepchildren including parents, brothers, sisters, grandparents, mother/father in-law, brother/sister in-law, and grandchildren); bereavement leave with pay for a period not to exceed one (1) full workweek, shall be granted. Employee shall inform the City of the name and relationship of the person who died.

SECTION VII. FAMILY CARE LEAVE

City shall provide Family Care Leave and Pregnancy Leave in compliance with and in accordance with the Federal Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993 (CFRA).

SECTION VIII. ADMINISTRATIVE LEAVE

In recognition of the requirement that employee works in excess of a normal work week, including night meetings of the City Council, various Boards and Commissions and ad hoc committees, 112.50 hours of administrative leave shall be granted at the beginning of the next fiscal year, and each fiscal year thereafter.

Any unused balance of Administrative Leave available as of 12:00 midnight, June 30, shall be forfeited.

SECTION IX. HOLIDAYS

The following guaranteed Holidays shall be observed by the City:

- December 31 - New Year's Eve
- January 1 - New Year's Day
- 3rd Monday in January - Martin Luther King's Birthday
- 3rd Monday in February - Washington's Birthday
- Last Monday in May - known as Memorial Day
- July 4 - Independence Day
- 1st Monday in September - known as Labor Day
- Second Monday in October - Known as Columbus Day
- November 11 - Veterans' Day
- 4th Thursday in November - Known as Thanksgiving Day
- Day After Thanksgiving Day
- December 24 - Day before Christmas Day (Christmas Eve Day)
- December 25 - Christmas Day

One floating holiday of 9.375 hours shall be credited to accumulated vacation time on each July 1st.

SECTION X. RETIREMENT AND SURVIVOR BENEFITS

A. PERS Contributions:

Non-Safety Tier One Pension:

1. Formula: The City shall provide the full formula of two and one half percent (2.5%) at age 55 calculated on the single highest year for local miscellaneous members considered "classic" members of CalPERS.
2. Member Contribution: Employee, in Non-Safety Tier One Pension, shall pay the statutory member contribution required by CalPERS, in addition to the cost share requirement described below.
3. Employee Cost Sharing: Employee, in Non-Safety Tier One pension, is required to pay two and three-tenths percent (2.3%) of reportable compensation toward the employer contribution for pension in accordance with Government Code Section 20516(a)-Employees Sharing Cost of Additional Benefits) for the pension formula enhancement to 2.5% at 55.
4. Survivor Benefits. The City shall provide the Third Level of 1959 Survivor's Benefit for Non-Safety Tier One and Tier Two employees, a benefit for survivors of the employee who is actively employed at the time of death.

B. Retiree Health Reimbursement Account.

In addition to paying on behalf of employee the minimum monthly employer PEMHCA contribution as determined by CalPERS, established at \$119 per month as of 2014, the City shall provide a monthly supplemental allowance to a Health Reimbursement Account (HRA) to employee if he retires under service retirement as regulated by the Public Employees Retirement System, in the following amount:

i. The monthly supplemental allowance is limited to the cost of medical and dental plans for the level of coverage selected by the annuitant (1-party, 2-party, or family) which the employee is enrolled in at the time of retirement, less the City required minimum employer contribution paid directly to CalPERS on behalf of the qualifying annuitant.

ii. The allowance shall be increased if the cost of such plans increase. The annuitant shall receive only the amount for the plan and level of coverage selected at the time of retirement. Although nothing in this section shall prevent retiree from changing health plans, any such change in health plans shall not result in a higher monthly supplemental allowance.

To be eligible for the monthly supplemental allowance, retiree must meet the following conditions:

i. Employee shall have served with the City for at least five (5) consecutive years immediately prior to retirement, and must retire directly (within one hundred twenty (120) days) following separation from City.

ii. The employee shall have been enrolled in the City's medical and dental plans, for one (1) full year prior to retirement.

The City shall pay the monthly supplemental allowance for life of retiree, or if retiree has died, to the retiree's spouse or registered domestic partner. For these purposes, the retiree's spouse/registered domestic partner is defined as the individual that the retiree is married to or in a registered domestic partnership with at the time of application for retirement, unless subsequently divorced or partnership dissolved. It shall be the responsibility of the retiree to notify the City for any marital status change (e.g. death of a spouse, divorce, legal separation, etc.) at which point coverage for the spouse or registered domestic partner shall cease. The City reserves the right to collect the amount over and above the monthly supplemental allowance issued to the retiree, due to failure on the part of the retiree to notify the City regarding the change in marital status. The City shall collect said amounts under the normal collection process which may include utilization of a collection agency and/or Small Claims Court, or any legal administrative remedy. If the retiree remarries, the monthly supplemental allowance will not increase to include the cost of the new spouse, registered domestic partner, or family.

The City shall pay the Monthly Supplemental Allowance to the HRA for the annuitant until any of the following conditions occur:

- i. retiree receives medical coverage from another source (e.g. other employment, spouse), or
- ii. retiree dies.

The City's obligation to pay the monthly supplemental allowance is conditioned upon a signed declaration under penalty of perjury, by the retiree and/or spouse or registered domestic partner on a form provided by CalPERS once each year, that confirms the retiree's and/or spouse or registered domestic partner is not enrolled in medical or health insurance coverage or in-lieu payments from another source during that same time period.

Should retiree lose coverage from the other source (employment, spouse), the monthly supplemental allowance will resume upon receipt of the required declaration, and will continue only until any of the above listed events (a-b) occur.

The Monthly Supplemental Allowance is subject to applicable Federal and State Income Tax regulations.

SECTION XI. COST OF LIVING INCREASES AND LONGEVITY

- 1) Effective July 1, 2015, there will be a two percent (2%) cost of living increase.
Effective July 1, 2016, there will be a two percent (2%) cost of living increase.

- 2) The employee shall receive longevity pay based on years of service with the City:
3% - 15 years of service
2% - 20 years of service
2% - 25 years of service

SECTION XII. CELL PHONE STIPEND

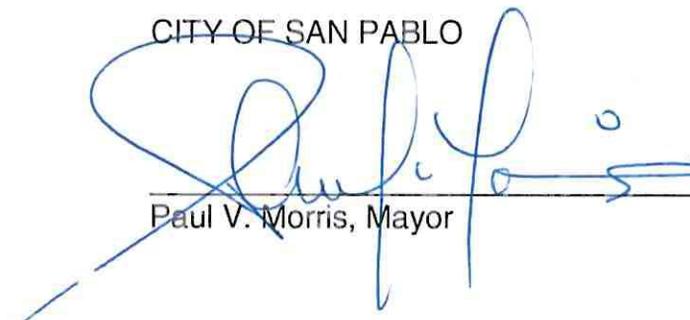
Employee shall receive a monthly cell phone stipend in the amounts set forth in the City's cell phone stipend policy.

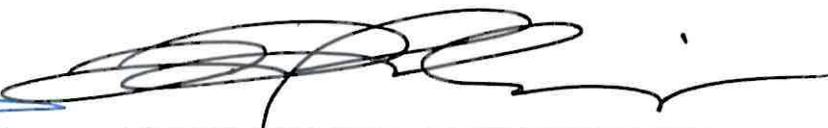
SECTION XIII. SIGNATURES

This schedule of benefits is effective July 1, 2014 and executed on November 18, 2014.

CITY OF SAN PABLO

CITY MANAGER



Paul V. Morris, Mayor

Raymond M. Rodriguez