

**RETIRED ANNUITANT EMPLOYEE
APPOINTMENT DURING RECRUITMENT TO FILL VACANT POSITION
(Transition from Government Code Section 21221(g) to Section 21221(h))**

THIS AGREEMENT (“Agreement”) is entered into on the 1st day of June 2026, by and between the City of San Pablo, California, a municipal corporation (“City”), and Jill Mercurio, Retired Annuitant Employee (“RAE”);

THIS AGREEMENT is entered into for the purpose of documenting and confirming the interim appointment of RAE pursuant to Government Code 21221(h), effective as of May 1, 2026, in connection with the City’s recruitment to permanently fill the vacant position of Public Works Director/City Engineer and the transition from RAE’s prior appointment pursuant to Government Code Section 21221(g) (leave of absence appointment) to RAE’s appointment pursuant to Government Code Section 21221(h) (appointment during recruitment of a permanent replacement to fill a vacant position).

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties understand and agree as follows:

DECLARATIONS

A. The City previously appointed RAE pursuant to California Government Code Section 21221(g) to provide service during the leave of absence of the incumbent Public Works Director/City Engineer.

B. In connection with the City Council’s prior appointment of RAE pursuant to Government Code Section 21221(g), the City Council previously determined that the position of Public Works Director/City Engineer requires specialized skills.

C. Subsequent to the appointment, pursuant to Government Code Section 21221(g), the incumbent employee unexpectedly retired from City service effective May 1, 2026, resulting in a vacancy in the position of Public Works Director/City Engineer and necessitating transition to an appointment pursuant to Government Code Section 21221(h).

D. The City did not receive immediate notice of the incumbent employee’s retirement, and upon learning of the retirement City staff promptly engaged a third-party firm and initiated a recruitment to permanently fill the position of Public Works Director/City Engineer.

E. Effective as of May 1, 2026, and to allow for continued service during the recruitment and hiring process for the vacant Public Works Director/City Engineer position, the City desires to memorialize the conversion of RAE’s appointment pursuant to California Government Code Section 21221(g) into an appointment pursuant to Government Code Section 21221(h). The City and RAE intend for this new Agreement entered into pursuant to Government Code Section 21221(h) to replace the

agreement that was previously entered into pursuant to Government Code Section 21221(g).

F. RAE understands that RAE is a Retired Annuitant subject to the Public Employees' Retirement Law ("PERL") and the Public Employees' Pension Reform Act ("PEPRA"). Specifically, RAE is subject to CalPERS post-retirement work restrictions, including California Government Code Sections 21221 and 7522.56.

G. RAE is not a regular, permanent employee of the City or any of its sub-units and may be released at-will at any time, with or without notice and without any right to appeal.

H. The City reaffirms its prior determination that the position of Public Works Director/City Engineer requires specialized skills, and RAE reaffirms that they possess the specialized skills needed to perform this work and reaffirms that RAE is eligible to serve as prescribed under PERL and PEPRA.

I. RAE understands that it is RAE's sole responsibility to adhere to all CalPERS post-retirement restrictions pertaining to limited service, including the 960-hour per fiscal year limitation.

J. The parties acknowledge and agree that the total duration of service under both the prior Government Code Section 21221(g) appointment and this Government Code Section 21221(h) appointment shall be cumulative for purposes of compliance with all CalPERS post-retirement employment limitations, including the 960-hour limitation and maximum appointment duration.

K. RAE is guaranteed neither a certain number nor a certain quality of assignments.

L. RAE understands that if conditions change and the criteria as set forth in PERL and PEPRA are no longer relevant or met, this Agreement will automatically terminate.

Section 1. Scope of Work

Essential Duties and Responsibilities

RAE will perform duties of the Public Works Director/City Engineer for limited duration not to exceed one year (cumulatively under both the prior Government Code Section 21221(g) appointment and this Government Code Section 21221(h) appointment) in the Public Works Department, as requested in the following areas:

- Report directly to City Manager/Assistant City Manager as directed;
- Provide overall direction in the development and implementation of goals, objectives, policies and procedures;
- Plan, direct, and review all public works administration, engineering and capital projects activities including design, contract engineering and inspection;
- Manage all the activities of the Department of Public Works including Engineering,

Environmental Programs, and Maintenance Division functions;

- Confer with City Manager and advise staff on problems related to the design and construction of public works systems, the interpretation and enforcement of construction specifications, and the design and operation of traffic systems;
- Review plans, engineering reports, budget estimates, and proposed ordinances which may include signing plans for public works improvement and capital projects;
- Supervise and participate in the development and implementation of the capital improvement program and budget;
- Act as the City's City Engineer per San Pablo Municipal Code requirements;
- Respond to and resolve difficult citizen inquiries and complaints;
- Represent the City at small and large group meetings to provide and discuss information regarding City engineering and public works policies, practices, and problems;
- Evaluate and recommend professional engineering consultants and contracts;
- Implement all local, State and Federal public works and traffic-related grant and other funding;
- Determine need for new equipment and facilities, major repair and rebuilding projects;
- Supervise and participate in budget preparation and administration;
- Assist other departments and outside agencies on public works and engineering activities;
- Select, supervise, train, and evaluate subordinates;
- Perform related duties as assigned by the City Manager; and
- At all times maintain a Professional-Engineer (P.E.) License, registered with the State of California/Department of Consumer Affairs, Board of Professional Engineers, Land Surveyors and Geologists during the entire term of executed RAE agreement.

Section 2. Payment

The rate of pay shall be \$134.40 per hour through June 30, 2026. Effective July 1, 2026, the hourly rate shall increase by two percent (2%) to \$137.08, consistent with the compensation adjustment authorized for the Public Works Director/City Engineer pursuant to the City's Schedule of Benefits for Executive Management Employees, previously adopted on July 5, 2022, pursuant to City Council Resolution 2022-110, and reflected in the City's publicly available salary schedules, as amended from time to time.

In no event shall the provided compensation exceed the maximum permitted under Government Code section 21221(h).

RAE shall not exceed 960 hours per fiscal year cumulatively under both the prior Government Code Section 21221(g) appointment and this Government Code Section 21221(h) appointment. RAE shall not receive any benefits in addition to the hourly rate.

RAE shall maintain a time sheet identifying hours worked and services performed, submitted biweekly to the City Manager or designee for approval.

Payment shall be made through the regular City semi-monthly payroll process, with applicable payroll taxes withheld and matched in accordance with Federal and State tax laws. No additional benefits, holidays, or leave accruals shall be provided to or on behalf of RAE. The City shall report all earnings and hours worked to CalPERS.

Section 3. Relationship of Parties

The parties intend that this is a temporary, limited duration employment of a retired annuitant in accordance with PERL and PEPRA. RAE will determine RAE’s own schedule in order to meet the demands of the position.

Section 4. Duration

This appointment under California Government Code Section 21221(h) shall be effective as of May 1, 2026, due to the retirement-created vacancy in the position of Public Works Director/City Engineer and the need for uninterrupted continuity of City operations during recruitment for a permanent replacement. RAE’s appointment and retired annuitant agreement previously entered into pursuant to Government Code Section 21221(g) is deemed terminated effective as of that same date.

RAE’s continued employment pursuant to this Agreement is subject to the City Council’s adoption of a resolution approving and ratifying the appointment in accordance with California Government Code Section 21221(h) and applicable CalPERS requirements. The parties acknowledge that RAE has continued to provide interim services following the incumbent employee’s retirement to ensure continuity of City operations.

Either party may terminate this Agreement at any time upon written notice to the other party. The term of this Agreement shall continue until the earliest occurrence of any of the following:

- (i) the cumulative total service under both the prior Government Code Section 21221(g) appointment and this Government Code Section 21221(h) appointment reaches 960 hours worked during a fiscal year;
- (ii) one year from October 21, 2025, the effective date of the original Government Code Section 21221(g) appointment;
- (iii) the City permanently fills the position of Public Works Director/City Engineer;
- or (iv) either party terminates this Agreement.

APPROVED AND AUTHORIZED:

ACCEPTED AND AGREED TO:

Matt Rodriguez, City Manager

Jill Mercurio,
Retired Annuitant Employee

APPROVED AS TO FORM:

City Attorney