

## RESOLUTION 2026-###

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO (1) AUTHORIZING THE TEMPORARY APPOINTMENT OF JILL MERCURIO TO FILL THE VACANT POSITION OF PUBLIC WORKS DIRECTOR/CITY ENGINEER PURSUANT TO GOVERNMENT CODE SECTION 21221(H) EFFECTIVE AS OF MAY 1, 2026, AND DURING THE CITY'S RECRUITMENT FOR A FULL-TIME REPLACEMENT; (2) AUTHORIZING THE CITY MANAGER TO ENTER INTO A RETIRED ANNUITANT EMPLOYMENT AGREEMENT WITH JILL MERCURIO PURSUANT TO APPLICABLE CALPERS POST-RETIREMENT WORK RESTRICTIONS; AND (3) RATIFYING STAFF'S PRIOR INITIATION OF A FORMAL RECRUITMENT TO FILL THE POSITION OF PUBLIC WORKS DIRECTOR/CITY ENGINEER ON A PERMANENT BASIS AND DIRECTING STAFF TO CONTINUE SUCH RECRUITMENT EFFORTS**

WHEREAS, pursuant to California Government Code Section 21221(g), the City previously appointed Jill Mercurio to temporarily perform the duties of Public Works Director/City Engineer during an incumbent employee's leave of absence, effective October 21, 2025;

WHEREAS, in connection with the prior appointment of Ms. Mercurio pursuant to Government Code Section 21221(g), the City Council previously determined that the position of Public Works Director/City Engineer requires specialized skills;

WHEREAS, subsequent to Ms. Mercurio's appointment pursuant to Government Code Section 21221(g), 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);

WHEREAS, 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 recruitment to permanently fill the position of Public Works Director/City Engineer;

WHEREAS, 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 Ms. Mercurio's appointment pursuant to California Government Code Section 21221(g) into an appointment pursuant to 21221(h);

WHEREAS, the City and Ms. Mercurio 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);

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

WHEREAS, Ms. Mercurio 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;

WHEREAS, the duties of the Public Works Director/City Engineer are essential to the City's operations, including oversight of public infrastructure, capital improvement projects, engineering review, and regulatory compliance;

WHEREAS, the City Council reaffirms that the position of Public Works Director/City Engineer requires specialized skills and cannot remain vacant without risking disruption to critical services and projects;

WHEREAS, Ms. Mercurio is a retired CalPERS annuitant who previously served as the City of San Pablo's Public Works Director/City Engineer from March 2018 to May 2022, and possesses the technical qualifications and institutional knowledge necessary to assume the responsibilities of the position;

WHEREAS, Government Code Section 21221(h) allows a governing body to appoint a CalPERS retiree to fill a vacant position on an interim basis during the recruitment to permanently fill the position, provided the appointment is limited to one year and the position requires specialized skills;

WHEREAS, Government Code Section 7522.56 of the Public Employees' Pension Reform Act (PEPRA) imposes post-retirement employment restrictions on CalPERS retirees, including limits on hours worked, temporary appointment status, and compensation standards, all of which will be met in this appointment;

WHEREAS, this appointment will be reported to CalPERS and the resolution will be provided to CalPERS as required by law; and

WHEREAS, adoption of this resolution and the temporary appointment of a CalPERS retired annuitant is not a project as defined by the California Environmental Quality Act (CEQA).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Pablo as follows:

1. The City Council finds and declares that the temporary appointment of Jill Mercurio is necessary due to the retirement of the incumbent Public Works Director/City Engineer, and the need to maintain City operations during the recruitment of a full-time replacement for the vacancy.
2. The position of Public Works Director/City Engineer requires specialized skills that Ms. Mercurio possesses;

3. The City Council authorizes the temporary appointment of Jill Mercurio to fill the position of Public Works Director/City Engineer pursuant to Government Code Section 21221(h), effective as of May 1, 2026, and in connection with the City's and Ms. Mercurio's transition from a Government Code Section 21221(g) appointee (leave of absence appointment) to a Government Code Section 21221(h) appointee (appointment during recruitment of a permanent replacement to fill a vacant position) effective as of that same date. The City Council ratifies all prior work performed by Ms. Mercurio under Government Code Section 21221(h) as of May 1, 2026.
  
4. The City Manager is hereby authorized to enter into a Retired Annuitant Employment Agreement with Jill Mercurio to serve temporarily as the Public Works Director/City Engineer for a term not to exceed one year (cumulatively under both the prior Government Code Section 21221(g) appointment and this Government Code Section 21221(h) appointment), and subject to all applicable requirements and limitations set forth in Government Code Sections 21221(h) and 7522.56, including but not limited to:
  - o A maximum of 960 hours worked in a fiscal year;
  
  - o 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.
  
  - o No benefits, incentives, or compensation beyond the hourly wage set forth above, which has been determined to be an hourly wage not exceeding the maximum rate paid to active employees performing comparable duties in account 100-3310-41001;

The Agreement shall be in a form to be approved by the City Attorney that does not substantially alter the City of San Pablo's rights or responsibilities from that set forth in the attached Agreement;

5. The City Council ratifies staff's prior initiation of a formal recruitment to fill the position of Public Works Director/City Engineer on a permanent basis and directs staff to continue such recruitment; and
6. The City will report this appointment and transmit this resolution to CalPERS in compliance with applicable law.

BE IT FURTHER RESOLVED that the foregoing recitations are true and correct and are included herein by reference as findings.

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ADOPTED this 1st day of June, 2026, by the following votes:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

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Dorothy Gantt, City Clerk

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Elizabeth Pabon-Alvarado, Mayor