

RESOLUTION 2018-088

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING AEMNDMENTS TO THE CITY MANAGER EMPLOYMENT AGREEMENT AS TO SALARY AND BENEFITS

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 ("2010 Agreement");

WHEREAS, the City Council amended the 2010 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 ("2014 Agreement");

WHEREAS, cost-of-living salary increases were subsequently applied to the City Manager's salary;

WHEREAS, at closed sessions on March 5 and March 27, 2018, the City Council conducted a performance evaluation of the City Manager in closed session;

WHEREAS, on May 7, 2018, the City Council established a Temporary, Ad-hoc Subcommittee of Mayor Calloway and Councilmember Cruz to negotiate amendments to the 2014 Agreement on behalf of the City Council ("Subcommittee");

WHEREAS, at a closed session on June 4, 2018, the City Council directed the Subcommittee to finalize the proposed amendments to the 2014 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, the City Council retains all rights and authority to amend, reduce, or eliminate benefits and additional compensation in its sole and absolute discretion;

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 June 4, 2018, the City Council did orally report a summary of the proposed amendments to the 2014 Agreement regarding salary and benefits as follows:

1. Salary – Increase the City Manager’s salary by 3% for an annual total of \$250,897. This salary increase has already been budgeted for Fiscal Year 2018/19;
2. Information Technology Allowance – Clarify that the information technology allowance of \$750 is provided every odd-numbered year and not yearly. This allowance has already been budgeted for Fiscal Year 2018/19;
3. Vehicle Allowance –Provide the City Manager with a vehicle allowance of \$500 per month or \$6,000 per year. This amount was not budgeted for FY 2018/19 and would be paid from the City Manager’s Contingency Account for FY 2018/19;
4. Business Expenses – In addition to the Department’s budget for travel and training, provide an additional \$5,000 for a total of up to \$15,000 for the City Manager’s additional professional development to be expended by June 30, 2021. The additional amount has not been budgeted for FY 2018/19, but would be paid from the City Manager’s Contingency Account for FY 2018/19;
5. Performance Evaluation – Amend the requirement for the City Council to conduct annual evaluations of the City Manager to evaluations every two years;
6. Accrued Leave – Allow the City Manager to cash out or convert to deferred compensation 50% of sick leave upon resignation or termination; and continue to allow conversion of 100% of all sick leave upon retirement to service credit pursuant to CalPERS rules. These amounts have not been budgeted and would be paid from the Department’s budget as needed; and
7. Termination provision. As required by State law, include the following provision in the City Manager Employment Agreement:

“If EMPLOYEE is convicted of a crime involving an abuse of his or her office or position as defined in California Government Code section 53243.4, then EMPLOYEE shall reimburse CITY for any paid leave, criminal defense, or cash settlement as set forth in Article 2.6 of Title 5 of the California Government Code. In addition, CITY shall have no obligation to pay the severance, or allow any other benefits set forth in subsections 2c, 2d, 2e, 2g, 6a or 6b.”

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Pablo authorizes the following:

1. The Mayor to execute the amended City Manager Employment Agreement with the following amendments and as shown on Attachment 1, which is attached and incorporated as the 2018 City Manager Employment Agreement including Exhibits A and B to the Agreement, and shall be effective July 1, 2018:
 - a. Salary – Increase the City Manager’s salary by 3% for an annual total of \$250,897.
 - b. Information Technology Allowance – Clarify that the information technology allowance of \$750 is provided every other year and not yearly;
 - c. Vehicle Allowance –Provide the City Manager with a vehicle allowance of \$500 per month (\$6,000 per year);
 - d. Business Expenses –Provide an additional \$5,000 for a total of up to \$15,000 for the City Manager’s additional professional development to be expended by June 30, 2021;
 - e. Performance Evaluation – Amend the requirement for the City Council to conduct annual evaluations of the City Manager to evaluations every two years;
 - f. Accrued Leave – Allow the City Manager to cash out or convert to deferred compensation 50% of sick leave upon resignation or termination; and continue to allow conversion of 100% of all sick leave upon retirement to service credit pursuant to CalPERS rules; and
 - g. Termination provision. Include the following provision:

“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 2c, 2d, 2e, 2g, 6a or 6b.

If EMPLOYEE is convicted of a crime involving an abuse of his or her office or position as defined in California Government Code section 53243.4, then EMPLOYEE shall reimburse CITY for any paid leave, criminal defense, or cash settlement as set forth in Article 2.6 of Title 5 of the California Government Code. In addition, CITY shall have no obligation to pay the severance, or allow any other benefits set forth in subsections 2c, 2d, 2e, 2g, 6a or 6b.”

2. Implementation of the amendments above in a City Council Resolution approving the Schedule of Benefits for the Contract Employees Group, as to the City Manager, as currently memorialized in Resolution 2017-160 and to be attached as Exhibit B to the City Manager Employment Agreement.

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ADOPTED this 18th day of June, 2018, by the following vote:

AYES:	COUNCILMEMBERS:	Valdez, Cruz, Kinney, Morris and Calloway
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

/s/ Elizabeth Pabon-Alvarado
Elizabeth Pabon-Alvarado, City Clerk

/s/ Genoveva Garcia Calloway
Genoveva Calloway Garcia, Mayor