

CITY OF SAN PABLO
CITY ATTORNEY AGREEMENT – SCHEDULE OF BENEFITS
EFFECTIVE JULY 1, 2020

Pursuant to Resolution No. 2020-###

SECTION 1. PURPOSE AND APPLICATION

The purpose of this Schedule is to set forth the benefits and additional compensation for the City Attorney of the City of San Pablo ("City"). This Schedule is not intended to amend or alter the current benefits provided to the City Attorney except as provided below. This Schedule supersedes the Schedule approved pursuant to Resolution 2019-085. The City Council retains all rights and authority to amend, reduce, or eliminate benefits and additional compensation in its sole and absolute discretion.

SECTION 2. 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 each active employee and each qualifying annuitant enrolled in CalPERS health insurance through the City shall be the minimum employer contribution as determined by CalPERS.

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 and other qualified expenses on a pre-tax basis.

Effective July 1, 2019, the City will contribute, on behalf of each eligible employee enrolled in City-provided health insurance, solely for the purchase of medical insurance coverage that is affordable and provides minimum essential coverage as defined by the Affordable Care Act, an amount up to:

- ninety percent (90%) of the premium for the employee's selected, City-provided group health insurance plan at the selected level of coverage up to the amount equal to ninety percent (90%) of the selected level of coverage for the Kaiser plan;
- minus the City's minimum, monthly employer contribution required for participation in PEMCHA paid separately by the City to CalPERS.

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:

\$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 primary coverage, he or she shall be covered by the City health plan as soon as possible, in accordance with CalPERS regulations and this schedule of benefits.

The City's obligation to pay the in lieu amount may be conditioned upon the employee providing reasonable evidence and attestation that the employee and all individuals in the employee's expected tax family have alternate minimum essential coverage for every plan year in which the employee receives the in lieu amount, in accordance with IRS requirements for an eligible opt out program.

The City shall not pay the in lieu amount if the City knows or has reason to know that the employee or individual in the employee's tax family does not have qualifying alternate coverage.

D. Dental Plan

If the employee enrolls in the City-provided dental insurance plan, the 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 three thousand dollars (\$3,000) maximum) for employee and eligible dependent family members.

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:

\$450.00 for 1/1/19 through 12/31/19

\$450.00 for 1/1/20 through 12/31/20

\$225.00 for 1/1/21 through 06/30/21

E. Proration

If the employee is authorized to work at a reduced schedule (at least thirty (30) hours per week or eighty percent (80%) of the normal work schedule) the employee shall receive prorated benefits, including vacation, sick leave, other leave, medical, dental, and vision premiums, in-lieu payout and other reimbursable expense amounts.

In-lieu medical and vision care and other reimbursable expense amount, including this Flexible Spending Account contribution, will 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.

SECTION 3. EMPLOYEE ASSISTANCE PROGRAM

The City will provide an Employee Assistance Counseling Program.

SECTION 4. DISABILITY AND LIFE INSURANCE

The City shall continue to provide a long term disability benefit for employee covering two-thirds (2/3) of monthly salary up to a maximum amount specified by the plan, after a thirty (30) day qualification period.

The City shall pay premiums for 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 5. VACATION

A. Accrual

Employee shall accrue vacation at the rate of 150 hours per year.

B. Use of Vacation

The City Attorney, due to the needs of the service, may be unable to utilize said accrued vacation. Therefore, the City Attorney 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/her vacation, he/she 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.

A. Vacation Cash Out

Employees hired before July 1, 2017, with a minimum vacation accrual balance of one hundred fifty (150) hours may elect to convert between one (1) work day and one (1) work week (in accordance with the employee's assigned work schedule) of accrued, unused vacation leave to cash.

Employees hired on or after July 1, 2017 with a minimum of ten (10) years of service with the City of San Pablo, and with a minimum vacation accrual balance of one hundred fifty (150) hours, may elect to convert between one (1) work day and one (1) work week (in accordance with the employee's assigned work schedule) of accrued, unused vacation leave to cash.

Conversion shall be subject to an employee's irrevocable election, in December of the year prior to the cash-out, of hours to be accrued in the following year. In compliance with IRS code, employees must choose by the last business day of each year to elect or opt out of pay in lieu of vacation time off for the following year by using the Request for Pay in Lieu of Vacation Leave form. Payment of converted hours shall occur in the first pay period of the following fiscal year. Employees who did not elect pay in lieu of vacation time off by the last business day of the prior year will not be able to cash out any vacation in the following calendar year. All vacation cash outs will be taxed at the supplemental tax rate in accordance with IRS code.

If insufficient vacation hours exist to meet the annual pay in lieu election, only the remaining available elected vacation hours will be paid out.

SECTION 6. 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 for the purposes listed below.

Unused sick leave shall be accumulated at the rate of 96 hours per year, without a cap on accrual.

Employees who are authorized to work on a reduced work schedule shall accrue sick leave in the amount proportionate to the ratio of scheduled work hours of the standard workweek.

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. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling;
3. For an employee who is a victim of domestic violence, sexual assault, or stalking to: a) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or b) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety; and
4. Absence due to pregnancy disability, childbirth, or a medical condition related to pregnancy.

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, and shall have no cash value at separation.

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. If the employee is required to be absent on sick leave for more than one (1) day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave.

Employees must provide a physician's certification for any sick leave absence that occurs after the employee has used twenty-four (24) hours, or three (3) work days' worth of sick leave, whichever is greater, that involves the illness of the employee or family member.

Employees who use paid leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter. In the event an employee is on sick leave for three days or longer, or in the event of family medical leave, excessive use of sick leave, or sick leave abuse, a supervisor 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. The City may require that an employee undergo a medical examination by a physician chosen by the City after an absence of twenty-four (24) hours, or three (3) work days, whichever is greater, to determine an employee's fitness for work after an absence from work due to a non-job related injury or illness. In the case of absence due to a contagious disease, the employee will be required to present a medical release before s/he may return 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, no later than every thirty (30) days. If further leave is not requested, employee may be subject to dismissal.

Time off for employee 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 7. BEREAVEMENT LEAVE

Upon death of an immediate family member (spouse or registered domestic partner and children/stepchildren (including foster children, legal wards, or children to whom the employee stands in loco parentis, regardless of age or dependency status), parents/stepparents (including a foster parent or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), brothers, sisters, grandparents, mother/father 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 8. 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), the California Family Rights Act of 1993 (CFRA), and California Pregnancy Disability Leave (PDL) provided under the Fair Employment and Housing Act.

SECTION 9. 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, one hundred twelve and one-half (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 30th, shall be forfeited. Accrued, unused administrative leave shall have no cash value and shall not be subject to cash out during or upon separation from employment.

SECTION 10. HOLIDAYS

The following guaranteed Holidays shall be observed by the City:

- 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
- December 31 - New Year's Eve

The value of each holiday shall be 9.375 hours.

In honor of Cesar Chavez, one floating holiday of 9.375 hours shall be credited to accumulated vacation time on each July 1st.

Should an observed holiday fall on a Friday, City offices will be closed on a Thursday.

The City reserves the right to close City department offices approximately between the Christmas and New Year holidays, with exact dates of the closure to be determined by the City Manager. Employees in departments affected by the closure may use vacation, Compensatory Time Off, Administrative Leave, or unpaid leave on the non-holiday closure days on which they are scheduled to work.

The holiday closure schedule will be provided to employees by October 1st for the following calendar year.

SECTION 11. 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.

In addition to the statutory member contribution and the 2.3% employee cost sharing for non-safety employees in Tier One Pension, between July 1, 2020 and June 30, 2021, Contract Employees (Non-Safety Tier One Pension employees) will pay an additional four percent (4%) toward the City's pension contribution in accordance with Government Code section 20516(f).

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 Savings Account

1. Employees, who retire under service retirement as regulated by the Public Employees' Retirement System, will receive medical coverage as specified by this section. The City shall pay the minimum monthly employer contribution as determined by CalPERS and required under Public Employees Medical and Hospital Care Act (PEMHCA) on behalf of each qualifying annuitant enrolled in CalPERS health insurance through the City.

2. Monthly Supplemental Allowance for Qualifying Employees:

In addition to paying on behalf of employee the minimum monthly employer PEMHCA contribution as determined by CalPERS, the City shall provide a monthly supplemental allowance to a Retiree Health Savings Account (RHSA) to employee if he/she retires under service retirement as regulated by the Public Employees Retirement System, in the following amount:

- a. 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.
 - b. 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.
 - c. In the event that the qualified annuitant enrolls in a lower level of coverage within a City health insurance plan, the City's contribution shall be reduced to the cost of the lower level of coverage.
3. To be eligible for the monthly supplemental allowance, retiree must meet the following conditions:
- a. The City Attorney shall have served with the City for at least (10) consecutive years immediately prior to retirement, and must retire directly (within one hundred and twenty (120) days) following separation from City.
 - b. The employee shall have been enrolled in the City's medical and dental plans, for one (1) full year prior to retirement.
4. 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:

- a. retiree receives medical coverage from another source (e.g. other employment, spouse), or
- b. 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.

To receive the monthly supplemental allowance for the calendar year of retirement, the retiree must file an initial eligibility form with the City at the time and in the manner prescribed by the City. For each subsequent calendar year, the retiree must file an eligibility form with the City by November 30th of the preceding year or at a later date prescribed by the City. City will terminate the monthly supplemental allowance until such time the declaration is received. The supplemental allowance shall resume on a prorated basis upon receipt of the required declaration. No retroactive payments shall be made.

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 12. LONGEVITY

- A. The employee shall receive longevity pay based on years of service with the City, as follows:
 - 1. Upon completion of fifteen (15) years of continuous service with the City of San Pablo, the employee shall receive an additional three percent (3%) of base salary as a longevity incentive.
 - 2. Upon completion of twenty (20) years of continuous service with the City of San Pablo, the employee shall receive an additional two percent (2%) of base salary for a total of five percent (5%) base salary as a longevity incentive.
 - 3. Upon completion of twenty-five (25) years of continuous service with the City of San Pablo, the employee shall receive additional two percent (2%) of base salary for a total of seven percent (7%) base salary as a longevity incentive.

SECTION 13. CELL PHONE USE

Employee shall receive a monthly cell phone stipend in the amounts set forth in the City's cell phone stipend policy or be provided with a City-provided cell phone at the employee's choice. The employee shall only be authorized to receive one or the other, but not both benefits.

The following Section is added to the Schedule of Benefits:

SECTION 14. COST-OF-LIVING ADJUSTMENT AND POTENTIAL RESTORATION OF CONCESSIONS

Effective July 1, 2020, there will be a three percent (3%) cost of living increase. The three percent (3%) Cost of Living Adjustment scheduled for implementation on July 1, 2020 will be deferred to and implemented on July 1, 2021.

If, as determined by the final audited financial statements for FY 2019/20, the City does not use its entire Budget Stabilization Reserve in FY 2019/20, including as a result of receiving revenue from Casino San Pablo in excess of five hundred thousand dollars (\$500,000) for the operational period between June 15, 2020 and June 30, 2020, the City will apply Budget Stabilization Reserve funds to offset the FY 2020/21 deficit. Based on the Budget Stabilization Reserve funds applied to the FY 2020/21 deficit in excess of five hundred thousand dollars (\$500,000), the City will correspondingly reduce concessions by a proportionate amount for all represented and unrepresented employee groups that have participated in labor concessions including the Contract Employees group. The City Manager and City Attorney represent 2.7% of labor costs in the City; and therefore 2.7% of the Budget Stabilization Reserve funds available in FY 2020/21 will be used to reduce/eliminate concessions for employees in the Contract Employees Group.

As permitted based on Budget Stabilization Reserve fund amounts available in FY 2020/21 starting January 2021, on a prospective basis, concessions may be reduced/eliminated in the following order:

- 4% additional cost share towards employer cost of pension
- 3% COLA

If, in January 2021, the City determines that based on the FY 2019/20 final audited financial statements, there are Budget Stabilization Reserve Funds available in FY 2020/21 in excess of \$500,000, and the Contract Employees' Group proportionate amount (2.7%) is greater than the cost of prospectively restoring concessions for the Contract Employees Group between January and June 2021, the City will pay the balance, up to the amount of concessions already made between July and December 2020, in the form of one time payments to individual, current employees in the Contract Employees Group. The one-time payments will only be made to those individual employees whose balance due exceeds one hundred dollars (\$100).

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Effective July 1, 2020

APPROVED:

Arturo M. Cruz, Mayor

Lynn Tracy Nerland, City Attorney