

**AGREEMENT FOR EMPLOYMENT OF  
ANDREW MURRAY**

This Agreement is made and entered into by and between the City of Pinole ("the City"), a general law city, and Andrew Murray ("MURRAY" or "Employee"). This Agreement ("Agreement") will become effective as specified herein.

1. Appointment of MURRAY as City Manager

The City Council of the City of Pinole is authorized to negotiate the terms of an agreement with MURRAY for his services through its duly appointed labor negotiator. The City Council and MURRAY have engaged in such negotiations, and MURRAY and the City now desire to agree in writing to the terms and conditions of MURRAY'S employment as City Manager.

2. Term of Agreement

This Agreement will become effective on the date this Agreement is approved by the City Council and executed by the Mayor, or in the Mayor's absence, the Mayor Pro-Tem and MURRAY. This Agreement and MURRAY'S employment shall remain in effect for three (3) years from the date of such execution unless terminated in accordance with paragraph 5 herein. If no successor Agreement is entered into to extend MURRAY'S employment beyond the three (3) year term, his employment with the City shall end with no payment of severance. The City shall notify MURRAY at least three (3) months in advance of agreement expiration of intent to extend or not extend agreement.

3. At-Will Employment

MURRAY is an "at will" employee who shall serve at the pleasure of the City Council. Accordingly, the City Council may terminate MURRAY'S employment at any time, with or without cause. This provision may not be altered except by a written instrument executed by MURRAY and the City Council, which specifically references this Agreement and section.

4. Duties and Responsibilities

a. MURRAY shall commence his duties as City Manager on January 6, 2020, and will continue for a term of three (3) years through January 5, 2023.

b. MURRAY shall serve as the City Manager for the City subject to the terms and conditions set forth herein. MURRAY shall also perform the functions and duties specified under the laws of the State of California, the Municipal Code of the City; the Ordinances and Resolutions of the City, the job description for the City Manager position, and such other duties and functions as the City Council may from time-to-time assign.

c. MURRAY agrees to devote his productive time, ability and attention to the City's business. For the duration of this Agreement, MURRAY shall not hold secondary employment, and shall be employed exclusively by the City, subject to any



exceptions approved in writing by the City Council. As an exempt employee, MURRAY shall not receive overtime or extra compensation for work performed outside normal business hours.

5. Termination of Employment and Severance

a. MURRAY may terminate this Agreement with or without cause, by giving the City Council sixty (60) days written notice in advance of termination. During the notice period, all the rights and obligations of the parties under this Agreement shall remain in full force and effect.

b. The City Council may terminate this Agreement with or without cause, giving MURRAY thirty (30) days written notice in advance of termination.

c. In the event the City Council terminates MURRAY'S employment without cause, the City shall pay MURRAY severance in a lump sum equal to six (6) months base salary, auto allowance, cell phone allowance, as well as the City's share of all health/benefit premium contributions, minus all applicable deductions. Any severance payment pursuant to this Agreement is contingent upon MURRAY signing and delivering a general release of all claims against the City (including without limitation its former and current elected officials, employees, officers and agents) in a form acceptable to the City Attorney. Any severance amount paid pursuant to this Agreement shall be subject to the restrictions set forth in California Government Code § 53260. MURRAY shall not receive any severance if he resigns, is terminated for cause, if the term of this Agreement lapses, or if a waiver and release agreement is not executed by the parties. If the City elects to terminate this Agreement and MURRAY's employment without good cause as defined in this Agreement, a Notice of Termination Without Cause shall be provided in writing.

d. If MURRAY is terminated for "cause," the City shall not owe any severance under this Agreement. This provision does not confer any property rights on MURRAY, as he remains an at-will employee. The phrase "termination for cause" only pertains to MURRAY's eligibility for severance as described in this Section. A "termination for cause" for purposes of severance may include, but shall not be limited to, the following:

- i. Dishonesty;
- ii. Embezzlement;
- iii. Conviction of a felony or misdemeanor relating to MURRAY's fitness to perform assigned duties;
- iv. Any act involving moral turpitude;
- v. Taking a position adverse to the interests of the City without the City's prior written consent;
- vi. Violation of any fiduciary duty owed to the City;
- vii. Failure to abide by the terms of this Agreement; or
- viii. Failure to observe or perform any of his duties and obligations under this Agreement, if that failure continues for a period of thirty (30) days after MURRAY receives written notice from City Council or its designee specifying the acts or omissions that constitute the failure.



If the City elects to terminate this Agreement and MURRAY's employment for cause as defined in this Agreement, a Notice of Termination For Cause shall be provided in writing outlining the reason(s) for termination.

e. Pursuant to Government Code section 53243.2, any cash settlement related to the termination of this Agreement received by MURRAY from the City shall be fully reimbursed to City if MURRAY is convicted of a crime involving an abuse of his office or position as defined in California Government Code section 53243.4.

6. Compensation:

a. Effective January 6, 2020, MURRAY shall be paid an annual base salary of TWO HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$225,000.00), less all applicable federal, state and local withholding.

b. MURRAY shall receive cost of living salary increases equal to that provided to the AFSCME bargaining unit during the term of this Agreement. A three percent (3%) COLA will be provided to MURRAY in July 2020, in the same manner as provided to the AFSCME unit.

c. MURRAY shall receive the benefits identified in Exhibit A to this Agreement.

7. Hours of Work

MURRAY shall work a minimum of forty (40) hours per week on City and Successor Agency business. MURRAY may work a 9/80 or other flexible work schedule, following consultation with the City Council.

8. Indemnification

The City shall provide for the defense of MURRAY in any action or proceeding alleging an act or omission within the scope of MURRAY's employment in accordance with California Government Code sections 825, 995 et seq., and other applicable law. Notwithstanding anything to the contrary in this Agreement, in accordance with California Government Code section 825, subdivision (a), the City reserves the right to not pay any judgment, compromise or settlement subject to that section until it is established that the injury arose out of an act or omission occurring within the scope of MURRAY's employment pursuant to this Agreement. Further, notwithstanding anything to the contrary in this Agreement, the City reserves the right to refuse to provide for the defense of MURRAY for the reasons set forth in California Government Code section 995.2 or other applicable provisions of law. Any City funds provided for the legal criminal defense of MURRAY shall be fully reimbursed in accordance with California Government Code section 53243.1 if MURRAY is convicted of a crime involving an abuse of his office or position as defined in California Government Code section 53243.4.

9. Notices

Notices pursuant to this Agreement shall be in writing given by deposit in the custody of the United States Postal Service, first class postage prepaid, addressed as follows:

a. The City:

Mayor of the City of Pinole  
2131 Pear Street  
Pinole, CA 94564

With a Copy to the

City Attorney  
2131 Pear Street  
Pinole, CA 94564

b. Andrew Murray:

To the address shown as current in the payroll system

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice, postage prepaid, with the United States Postal Service.

10. Abuse of Office

Government Code sections 53243, 53243.1, 53243.2, and 53243.3 are incorporated by this reference as if fully set forth herein.

11. Performance Evaluations

The City Council shall review and evaluate the performance of MURRAY at least once every twelve (12) months. At the time of each evaluation, performance goals shall be discussed that will be used to assist in the evaluation of MURRAY'S performance in the future. The City Council may, at its option, adjust MURRAY'S compensation as a result of the performance evaluation. The City agrees to evaluate MURRAY's performance after the initial six (6) months of employment, at which time a merit increase shall also be considered.

12. Dues and Subscriptions

The City shall pay for the professional dues and subscriptions of MURRAY necessary for his continuation and full participation in appropriate professional organizations.



13. Professional Development

At the time of the execution of this Agreement, the parties acknowledge that MURRAY is, or will be, a member of various professional and service organizations. In addition, other organizations sponsor and offer short courses, institutes, seminars, and the like, which would be beneficial to MURRAY'S professional development.

MURRAY is permitted, encouraged, and in some instances, required by the City, to attend such meetings, activities, seminars, courses, institutes, and the like, as deemed appropriate by the City Council. MURRAY'S registration, travel, subsistence, and other related expenses shall be paid in advance directly to the vendor or reimbursed to MURRAY consistent with applicable City policy.

14. Miscellaneous

a. The text herein shall constitute the entire agreement between the parties. This Agreement may not be modified, except by written agreement executed by both parties.


b. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

c. This Agreement shall be governed by the laws of the State of California.

d. This Agreement may be executed in counterparts containing original signatures.

  
\_\_\_\_\_  
Andrew Murray

12/9/19  
\_\_\_\_\_  
DATE


  
\_\_\_\_\_  
Roy Swearingen  
Mayor

12/4/2019  
\_\_\_\_\_  
DATE

ATTEST:

  
\_\_\_\_\_  
Heather Iopu, CMC  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eric Casher  
City Attorney

## **EXHIBIT A**

- **Health, Vision, Dental, Life Insurance, STD/LTD Benefits**

MURRAY shall receive health, vision, dental, life insurance and long/short-term disability benefits under the same terms those benefits are provided to the City's unrepresented managers.

- **Retiree Medical**

MURRAY and his spouse at the time of retirement shall be eligible to enroll on the City's retiree medical plan, in accordance with the provisions of the CalPERS Health Plans and the CalPERS Health Vesting Schedule.

The City shall make contributions toward MURRAY's retiree health insurance premium in accordance with the CalPERS Health Vesting Schedule (Government Code 22893).

Upon MURRAY's death, his spouse shall continue to be eligible for enrollment on the City's plan and premium contribution, or reimbursement of his health insurance premium for alternate coverage, in accordance with the provisions of the CalPERS Health Plans and the CalPERS Health Vesting Schedule.

- **Retirement Plan**

The City currently participates in a retirement system through a contract with the California Public Employees Retirement System (CALPERS). For the Miscellaneous Employees, including MURRAY, the CALPERS contract offers the following options:

- 2.5% @ 55 Retirement Plan
- Military Buy Back
- Third Level Survivors Benefit
- Single Highest Year Compensation Formula
- Service for Unused Sick Leave

The City and MURRAY shall make the Employer and Employee contributions to CalPERS benefits under the same terms provided to unrepresented managers.

- **Auto and Cell Phone Allowances**

MURRAY shall receive the amount of \$450 monthly as a car allowance and \$65 monthly as a cell phone allowance, less all applicable federal, state and local withholdings.



- **Deferred Compensation - 457 Plan**

The City makes a 457 plan available for MURRAY to contribute to through payroll deduction. The City shall make no contributions to this plan on behalf of MURRAY.

- **Vacation**

MURRAY shall accrue vacation leave at a rate of 120 hours per year, accrued incrementally each pay period. Upon separation from the City, MURRAY shall be paid for all unused accrued vacation leave based upon his base salary on the date of separation. At the beginning of MURRAY'S fifth (5th) year of employment as City Manager, his accrual rate will increase to 144 hours per year.

MURRAY may cash out accrued vacation in a manner consistent with unrepresented managers. MURRAY cannot take any paid vacation during the first six (6) months of this Agreement. Any vacation time off during those six (6) month will be unpaid.

- **Administrative Leave**

The City shall grant MURRAY ninety-six (96) hours of administrative leave at the beginning of each calendar year. MURRAY may cash out administrative leave in a manner consistent with unrepresented managers.

- **Sick Leave**

MURRAY shall accrue eight (8) hours per month, ninety-six (96) hours of sick leave per year, accrued incrementally each pay period.

- **Other Leaves**

MURRAY shall receive all other leaves (Bereavement, Family and Medical, Jury Duty, Military, etc.) that are provided to unrepresented managers.

- **Holidays**

MURRAY shall receive the same holidays and floating holidays as the City's unrepresented managers.

2537052.5