

**SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT FOR
AT-WILL EMPLOYMENT OF CITY ATTORNEY**

Background

The Petaluma City Council appointed Eric Danly as City Attorney of the City of Petaluma by Resolution No. 2005-205 N.C.S., adopted December 5, 2005. By the same resolution, the City Council approved the fourth amendment to an agreement for legal services originally executed August 29, 1994, with Meyers, Nave, Riback, Silver and Wilson. Eric Danly served as the Petaluma City Attorney as an employee of Meyers, Nave, Riback, Silver and Wilson pursuant to the contract between the City of Petaluma and Meyers, Nave, Riback, Silver and Wilson beginning December 5, 2005.

To reduce overall legal service costs of the City the Petaluma, the City Council decided to provide for the City's legal service needs primarily through attorneys employed by the City rather than through legal service contracts. The City Council invited Eric Danly to continue serving as the Petaluma City Attorney pursuant to an employment contract with the City and to establish an in-house legal services department for the City. The City approved an At-Will Agreement for Employment of City Attorney with Eric Danly by Resolution No. 2013-060 N.C.S., adopted June 3, 2013, and entered into the agreement effective July 1, 2013.

Eric Danly desires to continue serving as the Petaluma City Attorney and to continue to develop the City's in-house legal services department in accordance with the City Council's direction. A subcommittee of the City Council has recommended a new Agreement for At-Will Employment of City Attorney to provide for the continuation of Eric Danly's service as Petaluma City Attorney.

In accordance with the Council subcommittee recommendation and direction of the City Council, a First Restated Agreement for At-Will Employment of City Attorney effective March 27, 2017, superseded and replaced the At-Will Agreement for Employment of City Attorney entered July 1, 2013, and established an expiration date of June 30, 2027. This Second Amended and Restated Employment Agreement for At-Will Employment of City Attorney, effective December 20, 2021 supersede and replace the First Restated Agreement for At-Will Employment of City Attorney entered March 27, 2017.

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In November 2021, in according with Section 5(b) of the Agreement the City Council completed a performance evaluation for Mr. Danly and agrees to provide several changes to compensation including: an updated salary, aligning the number of holiday hours to the regular work shift for City Attorney, and allowing an annual, optional vacation "sell-back." This Second Amended and Restated Employment Agreement for At-Will Employment of City Attorney adopts those compensation changes, and updates various benefit provisions that are contained in Attachment 1 to this agreement.

Agreement

This Second Amended and Restated Employment Agreement for At-Will Employment of City Attorney (the "Agreement") is made by the City of Petaluma, ("the CITY"), a California charter city, and Eric W. Danly ("ERIC DANLY"). The CITY and ERIC DANLY are referred to collectively in this Agreement as "the Parties." This Agreement is effective December 20, 2021 (the "Effective Date"). The Parties agree as follows:

1. Appointment of City Attorney:

The CITY acknowledges the continuing appointment of ERIC DANLY as City Attorney of the CITY. Commencing on the Effective Date, ERIC DANLY's appointment as City Attorney will be pursuant to this Agreement.

2. Term:

The term of this Agreement ("Term") shall commence on the Effective Date and continue for a three-year period expiring on December 19, 2024 (the "Expiration Date"). Notwithstanding the Expiration Date, the Term will automatically extend by an additional year without further notice or action of the Parties commencing on December 20 of each year, thereby establishing a new three-year Term and new Expiration date, unless either Party gives the other written notice of termination of this provision by or before September 20. If either Party provides notice of termination in accordance with this provision, the Term will expire at the conclusion of the three-year Term then in effect without further notice or action of the Party, unless the Party giving notice of termination rescinds the notice in writing before the commencement of the final year of the Term then in effect. Notwithstanding this provision, this Agreement may be terminated before the expiration of the Term in accordance with Section 22. If the CITY terminates this Agreement by giving notice in accordance with this Section, the CITY will have no obligation to pay severance pursuant Section 23 regarding such termination.

3. At-Will Employment:

ERIC DANLY will be an at-will employee of the CITY in accordance with California Labor Code Section 2922 and will serve at the pleasure of the City Council. The CITY's Personnel Rules, Policies, Procedures, Ordinances and Resolutions will not apply to ERIC DANLY, and nothing in this Agreement confers upon ERIC DANLY any right to or expectation of any right or property interest in continued employment by the CITY. If the CITY terminates ERIC DANLY's employment, whether with or without cause, ERIC DANLY will be entitled to only that due process that is provided by CITY Charter or ordinance, or this Agreement. Nothing in this Agreement will limit the right of ERIC DANLY to resign at any time from his position with the CITY subject to requirements in Section 22 of this Agreement.

4. City Attorney Duties and Responsibilities:

- a.** ERIC DANLY will continue performing the duties of City Attorney of the CITY pursuant to this Agreement commencing on the Effective Date.
- b.** ERIC DANLY will serve as the City Attorney of the City of Petaluma, and will be vested

with the powers, duties and responsibilities and perform the functions and duties specified under the laws of the State of California, the Petaluma City Charter and the Petaluma Municipal Code, and the ordinances and resolutions of the CITY and other applicable law, and such other duties and functions as the City Council may from time to time assign.

- c. ERIC DANLY agrees to remain in the exclusive employ of the CITY, and to devote his full productive time and attention to the CITY's business during the term of this Agreement. However, ERIC DANLY may seek, and the City Council may give, its written permission for ERIC DANLY to occasionally teach or write during ERIC DANLY's time off.
- d. The CITY recognizes that ERIC DANLY is expected to devote necessary time outside normal office hours to business of the CITY. ERIC DANLY will be allowed to take reasonable time off for such work, as ERIC DANLY deems appropriate, during normal office hours. As an exempt employee, ERIC DANLY will not receive overtime or extra compensation for work performed outside normal business hours. However, ERIC DANLY will receive administrative leave in accordance with Section 9, subdivision (c).

5. Compensation:

- a. Effective the first full pay period following the Effective Date, ERIC DANLY's annual base salary shall increase to \$230,000, payable in installments at the same time that the other management employees of the CITY are paid.
- b. The CITY may increase ERIC DANLY's compensation in such amounts and to such extent as the City Council may determine is desirable on the basis of any annual salary review of ERIC DANLY.

6. Benefits:

ERIC DANLY will be entitled to the benefits specified in Attachment 1 which is attached to and made a part of this Agreement.

7. Disability:

If ERIC DANLY is permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of ninety (90) successive days beyond any accrued sick leave, the CITY will have the option to terminate this Agreement. Upon termination pursuant to this section, the CITY will have no obligation to pay severance pursuant to Section 23.

8. Use of Vehicle:

ERIC DANLY may use his privately-owned vehicle to conduct CITY business, in which case CITY will reimburse ERIC DANLY for actual business travel at the maximum amount per mile then allowed by the Internal Revenue Service. ERIC DANLY may also use a CITY-owned vehicle to conduct CITY business, if one is available.

9. Vacation, Sick, Administrative and Holiday Leave:

- a. Upon the Effective Date, ERIC DANLY will continue to accrue vacation at the rate specified in Attachment 1 that would apply to an employee employed by the City since December 5, 2005.
- b. Sick leave shall accrue and be credited to ERIC DANLY's personal account in accordance with Attachment 1.
- c. Administrative leave shall be credited to ERIC DANLY's account at the rate of 96 hours per year. Each year during the term of this Agreement ERIC DANLY may elect to receive a payment equal to ERIC DANLY's unused administrative leave balance in that year of up to twenty (20) hours. ERIC DANLY may carry forward up to forty (40) hours of unused administrative leave into the next fiscal year. ERIC DANLY may not maintain a balance of more than 136 hours of administrative leave. Carry-forward administrative leave may only be taken as paid time off, has no cash value, and shall not be included in the totals subject to payment under Section 22, subdivision (a), paragraph (3).
- d. Holidays will be credited to ERIC DANLY's account in accordance with Attachment 1.

10. Disability, Health, and Life Insurance:

- a. The CITY agrees to purchase and to pay during the term of this Agreement, premiums on term life insurance policies equal in amount to one and one-half (1- 1/2) times the amount of the annual base salary of ERIC DANLY in accordance with Section 5.
- b. The CITY agrees to provide and to pay the CITY's share of premiums for medical, dental, and vision insurance for ERIC DANLY and his dependents in accordance with Attachment 1. ERIC DANLY will have the right to select medical, dental and vision coverage from the plan options specified in Attachment 1.
- c. The CITY agrees to have in force and make required premium payments for ERIC DANLY's participation in the CITY's current group long-term disability plan.

11. Retirement:

CITY agrees to enroll ERIC DANLY in the California Public Retirement System, (PERS). CITY agrees to make all the appropriate contributions on ERIC DANLY's behalf, for the PERS employer share required, and to contribute on behalf of ERIC DANLY seven percent (7%) of ERIC DANLY's base salary in accordance with Section 5 of this Agreement, as amended from time to time, into the City of Petaluma 401(A) Government Money Purchase Plan and Trust.

12. Dues and Subscriptions:

Subject to budgetary approval by the CITY, the CITY agrees to pay for professional dues and subscriptions of ERIC DANLY necessary for ERIC DANLY's continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for ERIC DANLY's continued professional participation, growth and advancement and for the good of the CITY.

13. Professional Development:

- a. Subject to budgetary approval by CITY, the CITY agrees to pay for, to the extent allowed by law, travel and subsistence expenses of ERIC DANLY for official travel, meetings and events as necessary and appropriate to continue the professional development of ERIC DANLY and to adequately represent CITY at gatherings such as the IMLA annual conference, California League of Cities meetings and conferences, and such other national, regional, state and local governmental groups and committees in which ERIC DANLY may participate as a representative of the CITY.
- b. Subject to budgetary approval by the CITY, the CITY agrees to pay for, to the extent allowed by law, travel and subsistence expenses of ERIC DANLY for short courses, institutes and seminars that are necessary for ERIC DANLY's professional development and for the good of the CITY.

14. General Expenses:

The CITY recognizes that certain expenses of a non-personal nature may be incurred by ERIC DANLY for the benefit of the CITY in the course of performance of ERIC DANLY's duties and hereby agrees to reimburse or to pay such general expenses, and CITY's Finance Director is hereby authorized to disburse such monies upon receipt of duly executed expenses of petty cash vouchers, receipts, statements or personal affidavits to the extent allowed by law, subject to budgetary approval.

15. Bonding:

The CITY will bear the full cost of any fidelity or other bonds required of ERIC DANLY as City Attorney of the CITY under any law or ordinance.

16. Continuity:

In the event of a change of the elected representation of the City Council, there will be a ninety (90) day period commencing upon the seating of new City Council members when the City Council may take no action regarding the provisions of this Agreement, unless both Parties agree or the action is for cause in accordance with Section 22, subdivision (e), paragraph (1).

17. Attorney Fees:

In the event of any suit or action by either Party under this Agreement, the prevailing party in the suit or action will be entitled to reasonable attorney fees and costs to be fixed by the court.

18. Other Terms and Conditions of Employment:

The CITY, in consultation with ERIC DANLY, may fix any other terms and conditions of employment, as it may determine from time to time, relating to the performance of ERIC DANLY's duties as City Attorney, provided such terms and conditions are not inconsistent with or in conflict with the terms of this Agreement, the Petaluma City Charter, the Petaluma

Municipal Code or any other applicable state or federal law.

19. Indemnification:

- a. The CITY will defend, hold harmless and indemnify ERIC DANLY against any tort, civil rights, personnel, discrimination, or professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of ERIC DANLY's duties as City Attorney in accordance with the provisions of California Government Code Section 825 and following, as amended from time to time, and provide a defense in accordance with California Government Code Section 99 and following. Notwithstanding anything to the contrary in this Agreement, the CITY reserves the right to refuse to provide a defense of ERIC DANLY for the reasons set forth in California Government Code Section 995.2 or other applicable provisions of law.
- b. Following termination of this Agreement for any reason, the CITY agrees to pay ERIC DANLY reasonable consulting fees and travel expenses when ERIC DANLY serves as a witness, advisor and/or consultant to the CITY regarding pending litigation.

20. Notices:

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

a. CITY:

Mayor and City Council
11 English Street
Petaluma CA 94952

b. ERIC DANLY:

Eric W. Danly
City Attorney
11 English Street
Petaluma CA 94952

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial process. Notice will 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.

21. Performance Evaluations:

- a. The City Council will review and evaluate ERIC DANLY's performance as City Attorney at least once annually in advance of the adoption of the annual operating budget. The review and evaluation will be in accordance with criteria developed jointly by CITY and ERIC DANLY. The criteria may be amended as the City Council may from time to time determine and in consultation with ERIC DANLY. The City Council will conduct its evaluation of

ERIC DANLY in closed session. The City Council will provide ERIC DANLY with the written evaluation and provide an adequate opportunity for ERIC DANLY to discuss the evaluation with the City Council.

- b. In recognition of ERIC DANLY's accomplishments and objectives, and satisfactory performance, a potential annual merit increase may be negotiated following completion of the annual performance review and evaluation.
- c. Annually, the City Council and ERIC DANLY will define and reduce to writing such goals and performance objectives as they determine necessary for the proper operation of the CITY and the attainment of the City Council's policy objectives and will further establish: a relative priority among the various goals and objectives. The annual goals and objectives will generally be attainable within the time limitations as specified in the annual operating and capital budgets and appropriations provided.
- d. In effecting this Section, the City Council and ERIC DANLY mutually agree to abide by the provisions of applicable law.
- e. ERIC DANLY will coordinate with the City Manager to timely cause to be placed on the City Council agenda each year a closed session for purpose of ERIC DANLY's performance evaluation.

22. Termination of Employment:

a. Termination by Either Party:

- 1. The Parties may terminate this Agreement with or without cause by giving notice in accordance with this Section and Section 20 of this Agreement.
- 2. During the period following notice of termination by either Party and until the termination becomes effective, all the rights and obligations of the Parties under this Agreement will remain in effect.
- 3. Upon separation from CITY employment for any reason, ERIC DANLY will be paid for all earned, accrued, and unused vacation, administrative leave, and floating holidays, without limit.

b. Termination by ERIC DANLY without Cause:

- 1. For purposes of this Agreement, termination by Eric Danly without cause will be deemed to occur when ERIC DANLY gives the City Council written notice of termination of this Agreement without cause as defined in this subdivision.
- 2. ERIC DANLY will give the CITY a minimum of sixty (60) days written notice in advance of termination without cause, unless the Parties agree otherwise.
- 3. For purposes of this Agreement, termination by ERIC DANLY without cause means

termination in the absence of an uncured material breach by CITY of this Agreement as defined in subdivision (c) of this section.

c. Termination by ERIC DANLY with Cause:

1. For purposes of this Agreement, termination by ERIC DANLY with cause will be deemed to occur when ERIC DANLY gives the City Council written notice of termination of this Agreement with cause as defined in this subdivision.
2. ERIC DANLY must declare material breach of this Agreement in writing to the CITY specifying the basis for the declaration, and the CITY will have thirty (30) days from receipt of notice to cure the declared material breach.

d. Termination by CITY without Cause.

For the purposes of this Agreement, termination by CITY without cause will be deemed to occur when:

1. A majority of the City Council votes to terminate ERIC DANLY at a duly authorized public meeting without cause, as defined in subdivision (e), paragraph (1) of this Section.
2. The City Council, the citizens of the CITY, or the California Legislature acts to amend any provisions of the City Charter, CITY codes, or other legislation pertaining to the role, powers, duties, authority, or responsibilities of the City Attorney in a way that substantially changes the form of CITY government or the role, powers, duties, authority or responsibilities of the City Attorney. ERIC DANLY will have the right to declare that such amendments in the absence of cause as defined in subdivision (e), paragraph (1) of this Section constitute termination without cause.
3. The City Council reduces the base salary, compensation or any other financial benefit of ERIC DANLY. ERIC DANLY will have the right to declare that such reduction in the absence of cause as defined in subdivision (e), paragraph (1) of this Section constitutes termination without cause.

The CITY will give ERIC DANLY a minimum of sixty (60) days written notice in advance of termination without cause in accordance with this subdivision unless the Parties agree otherwise.

e. Termination by CITY for Cause:

1. For purposes of this Agreement, cause for termination by CITY means:
 - A. Willful and repeated failure to perform the duties of City Attorney or other material breach of this Agreement declared in writing by CITY by notice in accordance with

Section 20 and not cured within thirty (30) days of receipt of notice of the declared material breach;

- B.** Conviction of ERIC DANLY for an employment related criminal act;
 - C.** Conviction of ERIC DANLY for a felony; or
 - D.** A finding by a court, jury, State or Federal Attorney General, the Fair Political Practices Commission, or any successor agency, that ERIC DANLY engaged in intentional or negligent misconduct in relation to the performance of ERIC DANLY's duties as City Attorney.
- 2.** Prior to terminating this Agreement for cause, the CITY will give ERIC DANLY at least ten (10) days prior written notice of the charges or other alleged cause for termination. Within the ten-day notice period, but not earlier than five days after the notice has been given, the City Council will meet with ERIC DANLY in closed session and give ERIC DANLY an opportunity to address the City Council regarding the alleged cause for termination. ERIC DANLY may also choose to have complaints or charges brought against him heard in open session in accordance with California Government Code Section 54957, subdivision (b), paragraph 2. After hearing ERIC DANLY's response to the alleged cause for termination, the City Council will decide whether to terminate this Agreement and inform ERIC DANLY in writing of its decision.
 - 3.** ERIC DANLY will not be entitled to severance pursuant to Section 23 of this Agreement upon termination by CITY for cause in accordance with this subdivision.

23. Severance Pay:

- a.** If CITY terminates this Agreement during its term without cause as defined in Section 22, subdivision (e), then ERIC DANLY will be entitled to a severance payment equal to seven (7) months of base salary in accordance with Section 5 at the rate in effect at the time of termination, plus CITY's share of the cost of continuing health, dental, and vision insurance for ERIC DANLY and all dependents as provided in Section 10, subdivision (b) for seven (7) months. At ERIC DANLY's election, and pursuant to ERIC DANLY's written instructions at the time of termination, severance pay shall be paid either in a lump sum cash payment within thirty (30) days of the date of termination, or in equal monthly payments. Should ERIC DANLY elect to receive severance pay in equal payments, the number of such monthly payments will not exceed seven (7).
- b.** All payments required under subdivision (a) of this Section are subject to and shall be interpreted to comply with the limitations set forth in California Government Code Sections 53260 and 53261. The CITY's share of the cost of Health, Dental and Vision benefits shall continue for the same duration of time as covered in the settlement or until ERIC DANLY finds other employment, whichever occurs first.
- c.** If CITY terminates ERIC DANLY for cause in accordance with Section 22, subdivision (e), paragraph (1), he will not be entitled to a severance payment.

24. Reimbursement Required for Conviction for Crime Involving Abuse of Office:

- a. In accordance with California Government Code Sections 53243, 53243.1, and 53243.2, if ERIC DANLY is convicted of a crime involving an abuse of his office or position, all of the following will apply:
 - 1. If ERIC DANLY is provided with paid leave salary pending an investigation, ERIC DANLY must fully reimburse the CITY any salary provided for that purpose.
 - 2. If the CITY pays for the legal criminal defense of ERIC DANLY, ERIC DANLY must fully reimburse CITY any funds provided for that purpose.
 - 3. If this Agreement is terminated, any cash settlement related to the termination that ERIC DANLY may receive from the CITY must be fully reimbursed to CITY, or, if a cash settlement related termination of this Agreement has not yet been paid, the CITY is excused from paying the cash settlement.

- b. For the purposes of this section, abuse of office or position means either:
 - 1. an abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority; or
 - 2. a crime against public justice, including, but not limited to, a crime described in Title 7 (commencing with Section 92) of Part 1 of the California Penal Code.

25. Miscellaneous:

- a. This Agreement reflects the entire agreement between the Parties. This Agreement may not be modified, except by written agreement executed by both Parties.

- b. Upon the Effective Date, this Agreement shall replace in its entirety the At-Will Agreement for Employment of City Attorney entered between the CITY and ERIC DANLY effective July 13, 2013.

- c. 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, will be deemed severable, will not be affected and will remain in effect.

- d. This Agreement will be governed by the laws of the State of California.

- e. The Parties agree that any ambiguity in this Agreement will not be construed or interpreted against, or in favor of, either Party.

- f. This Agreement will bind and inure to the benefit of the successors, heirs and assigns of the Parties.

ERIC DANLY:

CITY:

By: 
Eric W. Danly, City Attorney

By: 
Teresa Barrett, Mayor

DATED: 12/30/2021

DATED: 12/30/2021

ATTEST:

By: 
Samantha Pascoe
Deputy City Clerk

Attachment 1

1. Vacation

- A. Vacation Leave Accrual Rate
Vacation leave hours shall accrue at the rate specified in the below table.

Completed Years of Service	Hours Earned on an Annual Basis after Completed Years of Service	Maximum Accrual Limit
1	128	384
2	136	408
3	144	432
4	152	456
5	160	480
6	168	504
7	176	528
8	184	552
9	192	576
10 years or more	200	600

The total amount of accrued but unused vacation may not exceed three (3) times the rate of annual accrual as specified in the schedule above. Upon separation from employment ERIC DANLY shall be paid for all accrued unused vacation leave.

- B. Vacation – Payout (effective the effective date)
During the month of December of each year, ERIC DANLY may make an irrevocable election to cash out up to forty (40) hours of vacation in the following calendar year if he has at least one hundred and twenty (120) hours of accrued but unused vacation. Vacation payouts under this section will be made in October of the tax year following the election. ERIC DANLY must have a minimum balance of forty (40) hours remaining after the cash out of vacation. If ERIC DANLY's requested amount does not leave a minimum forty (40) hours of vacation remaining at the time of cash out, his requested vacation cash out will be reduced to allow the remaining minimum balance to be maintained.

2. Sick Leave

- A. Sick Leave – Eligibility
Sick leave is not a right, which may used at discretion, but rather, sick leave shall be used only in case of personal illness, disability or the serious illness or injury of a family member, which requires the attention of ERIC DANLY. The term family

members shall include: spouse, children, parents, spouse's parents, brothers, sisters or other individuals whose relationship to ERIC DANLY is that of a dependent or near dependent or otherwise identified in California Labor Code Section 233.

B. Sick Leave – Accrual

Sick leave shall accrue at the rate of eight (8) hours for each month of continuous service.

C. Sick Leave – Transfer

If ERIC DANLY wishes to donate hours of sick leave to another employee he may do so by sending a written request to the Human Resources office naming the individual to receive the sick leave and the amount donated, with the following restrictions:

- a. ERIC DANLY must retain a minimum of one-hundred and sixty (160) hours of sick leave to be eligible to transfer sick leave.
- b. Transfer amounts shall be limited to the number of actual hours needed and used by the receiving employee.
- c. Any donated sick leave hours unused by recipient shall be returned to the donor. The employee receiving the sick leave transfer must have zero (0) hours of accrued sick leave, vacation, and CTA leave on the books.
- d. Employees may not buy or sell sick leave. Only the time may be transferred.
- e. Employees may not transfer sick leave upon separation of service.
- f. Transfer of sick leave shall be allowed.
- g. No more than ninety (90) workdays of sick leave may be received by an employee for any one illness or injury.

D. Sick Leave – Retirement Payout

In the event of the death or retirement and the completion of ten (10) or more years of continuous employment with the City, ERIC DANLY shall be paid or shall receive a benefit of fifty percent (50%) of his accumulated but unused sick leave not to exceed four-hundred-eighty (480) hours. He may elect not to receive this benefit and instead place all sick leave hours into the CalPERS sick leave conversion benefit.

3. Holidays and Holiday Leave

The City observes twelve (12) fixed-date holidays. These holidays are established for the City's fiscal year as determined by City Council resolution.

The holidays for fiscal year 21/22 are as follows:

Independence Day

Labor Day
Veterans' Day
Thanksgiving Day
Day after Thanksgiving
Christmas Eve
Christmas Day
New Year's Day
Martin Luther King Day
Presidents' Day
Cesar Chavez Day
Memorial Day

Observance: The actual date of the observed holidays is determined by City Council resolution each fiscal year. If participating in a 5/8 schedule, when a holiday falls on a Saturday, that holiday will be observed on the prior Friday. When a holiday falls on a Sunday, that holiday will be observed on the following Monday. Should this conflict with a Friday or Monday designated holiday, the Friday or Monday holiday will occur on the preceding Thursday or following Tuesday. If participating in a 4/10 schedule, when a holiday falls on a Friday or Saturday, that holiday will be observed on Thursday. When a holiday falls on a Sunday, that holiday will be observed on the following Monday. Should this conflict with a Friday or Monday designated holiday, the Friday or Monday holiday will occur on the preceding Wednesday or following Tuesday.

Observance by an employee of a designated religious event may be granted, if practical, with at least seven (7) days prior approval required for such leave, under the following methods:

- (A) Time charged to accrued vacation allowance; or
- (B) Time off without pay.

Fixed holidays will be based on the employee's regular work shift. For example, if an employee works a 4/10 schedule, s/he shall receive ten (10) hours of pay for the holiday. If an employee works a 9/80 schedule, s/he shall receive nine (9) hours of pay for the holiday, or eight (8) hours pay if the holiday falls on their regularly scheduled eight (8) hour workday as part of their 9/80 schedule. If an employee works a 5/8 schedule (five days/week, eight hours/day), s/he shall receive eight (8) hours of pay for the holiday. The same shall be true for any employee whose regular work week is fewer than forty (40) hours per week, except that no such employee shall receive more than eight (8) hours of pay for the holiday.

4. Floating Holiday

Each fiscal year ERIC DANLY shall be provided one floating holiday which may be taken by him at a time he selects, subject to operational requirements of the City.

5. Health Benefits

A. PEMHCA Contribution

The City currently provides health benefits through the California Public Employees' Retirement System (CalPERS) Health Benefits Program under the Public Employees' Medical and Hospital Care Act (PEMHCA). The City's employer contribution for each employee shall be the minimum required by PEMHCA. The City pays this contribution directly to CalPERS.

B. Additional Benefit Amount Paid by the City

The City shall pay the additional contribution amount specified in the schedule below entitled "Total 2021 City's Contribution Rate" for ERIC DANLY and his covered family members.

Coverage	2021 Health Rates (Based on 2021 Kaiser Permanente Rates)	City's Benefit Contribution	PEMHCA Contribution (Added to the City's Benefit Contribution)	Total 2021 City's Contribution Rate
Employee Only	\$813.64	\$637.11	\$143.00	\$780.11
Employee + 1	\$1,627.28	\$1,410.07	\$143.00	\$1,553.07
Employee + 2 or more	\$2,115.46	\$1,873.84	\$143.00	\$2,016.84

The 2022 monthly premium at the Kaiser rate for single health benefit coverage is \$857.06 and the PEMHCA rate is \$149.00. The additional benefit is calculated at \$857.06 less \$149.00 multiplied by 95% = \$672.66. The employee contribution is \$35.40.

The 2023 CalPERS Premium for Kaiser and required 2023 PEMHCA Contribution is unknown. Effective January 1, 2023 the City shall pay an additional benefit that depends upon the actual percentage increase in the Kaiser premium. The City's additional benefit contribution for 2023 shall be up to a 9% increase of the 2022 Health Plan Rate, less the City's PEMHCA contribution, times 95% or an amount equal to the actual 2023 CalPERS Health Premium for Kaiser, less the City's PEMHCA contribution, times ninety-five percent (95%) for ERIC DANLY and his covered family members, whichever is less.

C. Additional Contribution Capped at 2023 Rate

The amount of the City's additional contribution shall be capped at the contribution levels established effective January 1, 2023, and shall not increase regardless of whether or not premiums increase in the future, unless approved by the City Council.

D. ERIC DANLY'S Contribution

ERIC DANLY shall contribute to his CalPERS Health Premium in the amounts less the City's PEMHCA contribution and less the additional benefit paid by the City.

6. Health Benefits – Retired

A. Retired – CalPERS and PEMHCA

The City currently provides health benefits through the California Public Employees' Retirement System (CalPERS) Health Benefits Program under the Public Employees' Medical and Hospital Care Act (PEMHCA). In order for a retired employee to be eligible to receive health benefits through CalPERS upon retirement, a retired employee must meet the following definition of "annuitant" under CalPERS law:

- i. Employee must be a member of CalPERS; and
- ii. Employee must retire within one-hundred-twenty (120) days of separation from employment with the City of Petaluma and receive a monthly retirement allowance from CalPERS.

B. PEMHCA Minimum

The monthly employer contribution for annuitants is the required minimum PEMHCA contribution.

The City pays this contribution directly to CalPERS. The retiree is required to contribute to the cost of the health benefit coverage. The retiree's monthly contribution shall be the cost of the monthly health benefit premium less the amount of the City's contribution.

C. CalPERS Annuitant – PEMHCA Health Benefits

In accordance with the PEMHCA provisions if an employee is a CalPERS annuitant as defined by CalPERS and receives health benefits under the PEMHCA, the employee is eligible to receive the City's PEMHCA contribution amount specified below, regardless of the number of years of service with the City of Petaluma.

D. Less Than 20 Years of Service – Not Receiving PEMHCA Health Benefits

A retired employee with less than twenty (20) years of service with the City of Petaluma who is not enrolled in the CalPERS health benefit program does not receive any retiree benefit from the City.

E. Less Than 20 Years of Service – Receiving PEMHCA Health Benefits

A retired employee with less than twenty (20) years of service with the City of Petaluma who is a CalPERS annuitant as defined by CalPERS and enrolled in the CalPERS health benefit program is eligible to receive the minimum PEMHCA contribution as set by CalPERS.

F. 20 Years or More of Service – Not Receiving PEMHCA Health Benefits

A retired employee with twenty (20) or more years of service with the City of Petaluma who is not enrolled in the CalPERS health benefits program shall receive direct payments in the amount of one-hundred-forty dollars (\$140.00) each month, effective the first month following the expiration of health benefit coverage.

G. 20 Years or More of Service – Receiving PEMHCA Health Benefits

A retired employee with twenty (20) years or more of service with the City of Petaluma who is a CalPERS annuitant as defined by CalPERS and enrolled in the CalPERS health benefit program is eligible to receive the minimum PEMHCA contribution as set by CalPERS.

The City's PEMHCA contribution amount is deducted from the retiree's monthly health premium and paid to CalPERS directly by the City.

It is the responsibility of the retiree to notify the City in writing if he or she is no longer participating in the CalPERS health benefit program. Following receipt of the written notice, the City will commence direct payment of the one-hundred-forty dollars (\$140.00) at the beginning of the following month.

7. California Public Employees' Retirement System

Effective January 1, 2013, the City of Petaluma became subject to the Public Employees' Pension Reform Act of 2013 (PEPRA) and benefits offered to newly hired employees will be in accordance with PEPRA.

Prior to January 1, 2013, the City established a different level of benefits (two-tiered retirement) for Miscellaneous employees. The amended contract provides that Miscellaneous employees hired on or after December 28, 2012 shall receive the 2% at 60 formula retirement plan and the three-year final average compensation. Miscellaneous employees hired on or after January 1, 2013, shall receive the 2% at 62 formula retirement plan and the three-year final average compensation.

The City's contract with CalPERS includes the following optional benefits:

- Third Level - 1959 Survivor's Benefit as provided in Section 21573 (April 5, 1999).
- Military Service Credit as provided in Section 21024 (January 1, 1992).
- Credit for Unused Sick Leave as provided in Section 20965 (November 1, 1980).
- Cost of Living Allowance two percent (2%) as provided by Section 21329 (April 1, 1971).
- Retired Death Benefit of five-hundred dollars (\$500.00) as provided in Section 21620 (December 1, 1969).
- Death Benefit Continues as provided in Section 21551 (January 1, 2000).

- Prior Service Credit as provided in Section 20055 (January 1, 1950).

Effective February 26, 2018, employees shall pay an additional three percent (3%) towards PERS retirement. For Classic Miscellaneous employees, this three percent (3%) is added to the seven percent (7%) employee contribution, for a total contribution of ten percent (10%). Employees subject to the PEPRA formula shall also pay an additional three percent (3%) on top of their required employee contribution, as established annually by PERS.

The City shall defer that portion of ERIC DANLY'S contribution paid to CalPERS through section 414(h)(2) of the Internal Revenue Code pursuant to City of Petaluma Resolution 90-363 N.C.S.

8. Cash In-Lieu of Health and Dental Benefits

If ERIC DANLY has health benefit insurance coverage from a source other than the City, or health benefit insurance coverage from a City employee, he may request cash in lieu of health and dental benefits. To be eligible for the cash in-lieu benefit program he must waive his coverage under the City's health and/or dental benefits, agree to the terms and conditions of the cash in-lieu benefit program and have written verification of health and/or dental benefits insurance.

The cash in-lieu amount for health coverage shall be in the amount of fifty percent (50%) of the health insurance premium amount of the CalPERS Kaiser-Bay-Area/Sacramento that the City would otherwise pay for the employee and his or her family members. The cash in-lieu amount for dental insurance benefits shall be in the amount of fifty percent (50%) of the established dental program composite rate.

Upon declining medical insurance, he will be required to meet the terms and conditions regarding the City's medical and/or dental plan. If he decides to stop receiving the medical/dental cash back and wishes to re-enroll into the City's medical and/or dental plan, then he must meet the current terms and conditions of the City's medical and/or dental plan. The City cannot guarantee that once the employee leaves a particular medical and/or dental plan, he may be able to re-enroll in his prior plan and under the same terms and conditions of his/her prior plan.

9. Section 125 Plan

The City of Petaluma shall make available to ERIC DANLY an Internal Revenue Code (IRC) Section 125 plan. The Section 125 plan is subject to federal law and plan provisions.

The Section 125 Plan offered by the City provides a tax savings through the following programs:

Pre-Tax Health Insurance Premiums

This program allows employees to pay his or her share of health insurance premiums with pre-tax dollars.

Flex Spending Accounts (FSAs)

i. Medical Reimbursement

This program permits employees to pay for common out-of-pocket medical expenses (not covered by insurance) such as deductibles, co-pays, and vision and dental care with pre-tax dollars.

ii. Dependent Care Reimbursement

This program permits employees to pay for most child and or dependent care expenses with pre-tax dollars.

10. Dental Insurance

The City shall provide a dental plan and pay the total premium costs for ERIC DANLY and his eligible dependents. The maximum benefit amount is two-thousand dollars (\$2,000.00) per person per calendar year. Orthodontic coverage shall be provided for dependent children under the age of twenty-six (26) years and is 50% of the dentist's allowed fee (subject to a \$2,000.00 lifetime maximum per person).

11. Vision Insurance

The City shall provide a vision plan and pay the total premium costs for ERIC DANLY and his eligible dependents. Employees are eligible for eye exams once a calendar year with a twenty-five (\$25.00) deductible. Frames are available once a calendar year with a maximum benefit of one-hundred-eighty dollars (\$180.00) and/or contact lenses are available once a calendar year with a maximum benefit of one-hundred-eighty dollars (\$180.00).

12. Employee Assistance Program

The City will provide an Employee Assistance Program to ERIC DANLY and his immediate family. This licensed counseling service will provide assistance and referrals for marriage and family problems, alcohol and drug dependency, emotional, personal, and stress-related concerns and other issues. All counseling services are confidential.

13. Long Term Disability Insurance

The City shall provide ERIC DANLY with the same long-term disability benefit plan as provided to City employees as outlined in Attachment 1 – Long Term Disability Insurance for Employees of City of Petaluma.

14. Deferred Compensation

The City of Petaluma shall make available to ERIC DANLY a Deferred Compensation Plan.

15. Industrial Injury Leave

Benefits shall be payable in situations where ERIC DANLY'S absence is due to industrial illness or injury as provided in California State Workers' Compensation Law. During the first three (3) workdays when his absence has been occasioned by illness or injury suffered during his employment and he receives workers' compensation benefits, he shall receive full pay. Following this period, sick leave may be a supplement to the workers' compensation benefits provided. Compensation is at his regular rate for a period not to exceed six (6) months, or until such sick leave is exhausted, or the disability is abrogated, or that he is certified "permanent and stationary" or "maximum medical improvement" by a competent medical authority. The City shall pay him the regular salary, based on the combination of the workers' compensation benefits plus sick leave.

Sick leave for industrial injury shall not be allowed for a disability resulting from non-industrial sickness, self-inflicted injury, or willful misconduct.

The City may retire ERIC DANLY prior to the exhaustion of accumulated sick leave, at which time all accrued but unused sick leave shall be abrogated, subject only to the limitations provided under his Agreement.

16. Bereavement Leave

ERIC DANLY shall be granted up to thirty-two (32) hours of bereavement leave in the event of death in his immediate family. For the purpose of bereavement leave, immediate family shall mean spouse, qualified domestic partner, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, child (including stepchildren), step-parents, grandparents and grandchildren or person with whom the employee has a relationship in loco parentis. Up to an additional eight (8) hours of accrued sick leave may be granted to supplement bereavement leave.

In the event ERIC DANLY must travel more than three-hundred (300) miles to attend a funeral or memorial service, an additional eight (8) hours of bereavement leave shall be granted instead of the use of eight (8) hours of sick leave.

17. Victims of Domestic Violence and Sexual Assault Leave

The City of Petaluma provides appropriate leave, in accordance with California Labor

Code Section 230.

18. Military Leave

The City of Petaluma shall grant military leave benefits to eligible employees in accordance with California's Military Leave Laws found in Military & Veteran's Code 389 *et seq.*, the Federal Uniformed Services Employment and Re-employment Rights Act (USERRA), found at 389 U.S.C. 4301 *et seq.*, and the City of Petaluma Resolution No. 2004-200 N.C.S. Employees in the Ready Reserves of the Armed Forces who are ordered to active military duty or training under Executive Order 13223, shall have continued benefits in effect throughout his/her active duty training for a period of three-hundred sixty-five (365) calendar days or until the date of discharge from military service, whichever occurs first, unless this policy is changed by action of the City Council.

19. Election Officer and Voting Leave

If ERIC DANLY'S actual work schedule otherwise would prevent him from voting in any State, County, or General election, he may be granted up to two (2) hours of paid time to vote, in accordance with Election Code 14000. He must provide the City with at least two (2) working days' notice that he will be taking time off to vote.

20. School Visitation Leave

The City of Petaluma provides up to forty (40) hours of unpaid leave in a year to participate in the child's school activities, in accordance with Labor Code section 230.8.

21. Leave of Absence without Pay

The City Council may grant ERIC DANLY with a leave of absence without pay pursuant to State and Federal Law. Good cause being shown by a written request, the City Council may extend such leave of absence without pay or benefits for an additional period not to exceed six (6) months. No such leave shall be granted except upon written request of ERIC DANLY setting forth the reason for the request, and the approval will be in writing.

22. Jury Duty Leave

Should ERIC DANLY be summoned for jury duty, he shall be entitled to a leave of absence with full pay for such period of time as may be required to attend the court in response to such summons. He may retain payment for travel but shall make payable to the City any and all fees which he may receive in payment for service as a juror. For Grand Juries this compensation shall not extend beyond twenty (20) working days.

23. Family Care and Medical Leave (FMLA & CFRA)

FMLA and/or CFRA Leave

The City shall provide family and medical care leave for ERIC DANLY as required by City policy, state and federal law and as specifically provided in the Federal Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993 (CFRA). If possible, employees must provide thirty (30) days advance notice of leave.

FMLA and/or CFRA – Second Opinion

ERIC DANLY shall provide the City with a health care provider certification as required by City policy, state and federal law. The City, at City expense, may require a second opinion on the validity of the certification. Should a conflict arise between health providers, a third and binding opinion, at City expense shall be sought.

24. Paid Parental Leave

On October 18, 2021, the City Council approved a Paid Parental Leave (PPL) Policy for City of Petaluma employees. The PPL Policy provides eligible City of Petaluma employees up to 320 hours of PPL. As a City of Petaluma employee, ERIC DANLY is an eligible employee for PPL subject to the terms of the PPL Policy. The PPL Policy may be subject to change in the future.