

RESOLUTION NO. 14596

**SECOND AMENDED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
ESTABLISHING THE COMPENSATION AND WORKING CONDITIONS FOR
UNREPRESENTED EXECUTIVE MANAGEMENT EMPLOYEES
(July 1, 2018 through June 30, 2020)**

WHEREAS, the Resolution No. 14196 establishing the compensation and working conditions for Unrepresented Executive Management Employees (“Executive Managers”) expired on June 30, 2018, after a two-year term; and

WHEREAS, on July 2, 2018 the City Council approved Resolution No. 14539 establishing the compensation and working conditions for Executive Managers for the period July 1, 2018 through June 30, 2020; and

WHEREAS, on August 20, 2018 the City Council amended Resolution No. 14539 by approving Resolution No. 14564 to include a one-time payment for Executive Managers, similar to non-safety groups. This one-time payment did not include the Fire and Police Chiefs; and

WHEREAS, the Police and Fire Chiefs were not included in the base wage increase and one-time payments offered to the other Executive Managers in the above resolutions because their subordinates’ Police and Fire Associations had not yet reached successor bargaining agreements with the City; and

WHEREAS, the San Rafael Police Association and San Rafael Fire Association have now finalized their Memorandums of Understanding with the City; and

WHEREAS, the City desires to give the same base wage increase and one-time payments to the Police and Fire Chief as received by the Executive Managers in Resolutions 14539 and 14564;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

1. EXECUTIVE MANAGEMENT EMPLOYEES

The Executive Management Employees of the City of San Rafael are the Executive Management Job Class Titles (“Executives”) enumerated in Exhibit A, attached hereto and incorporated herein. This Resolution shall constitute the compensation and conditions of employment for the Executives for the period from July 1, 2018 through June 30, 2020.

2. SALARY AND COMPENSATION GOALS

A. GOALS AND COMPENSATION DEFINITIONS

It is the goal of the City Council to try to achieve a total compensation package for all Executives that is competitive compared to similar cities in our labor market. The survey cities are Fairfield, Hayward, San Leandro, South San Francisco, Alameda, Napa, Novato, and Santa Rosa. The Council’s goal is to attract and retain the most qualified Executives in accordance with the City’s ability to pay.

Total Compensation for survey purposes shall be defined as: Top step salary (excluding longevity pay steps), educational incentive pay, holiday pay, uniform allowance, auto allowance, employer paid deferred compensation (except for such portion that may be part of employee cafeteria plan),

employer's contribution towards employees' share of retirement, employer's retirement contribution, employer paid contributions toward insurance premiums for health, life, long term disability, dental and vision plans, Executive Management allowance, and employer paid cafeteria/flexible spending accounts.

B. COMPENSATION SURVEYS

In order to measure progress towards the above-stated goal, the City shall survey all Executive Management positions in the final year of the Resolution in advance of discussions regarding a successor Resolution.

Identified survey positions from other agencies include positions that are filled as well as those that may be unfilled, so long as the position is identified by the survey agency as being on the salary schedule and having a job class description. The appropriate survey positions will be selected for Executive Management positions based upon similar work and similar job requirements.

The City shall review the survey data for accuracy and completeness. The City shall provide the survey data to all Executives.

C. SALARY INCREASES

Effective the pay period including July 1, 2018, the City will increase base wages for all employees, except the Police Chief and Fire Chief, by 2.0%.

Effective the first full pay period including September 1, 2018, the City will increase base wages for the Police Chief and Fire Chief by 2.0%.

Effective the pay period including July 1, 2019, the City will increase base wages for all employees by 2.0%.

D. One-time Payment

The following one-time payment is limited to the two years cited in this resolution and is not scheduled to recur in the future:

Executive Management Employees represented by this resolution, except the Police Chief and Fire Chief, will receive a one-time, non-pensionable payment of \$4,000 to revise section 3.A.1. to tie the 3% health inflator to the Kaiser Bay Area Premium rate increase, up to a maximum of 3%.

The \$4,000 payment will be split as follows: \$2,000 will be paid as a separate check on September 14 or with the pay period upon approval by the City Council, whichever occurs later, and \$2,000 will be paid with the first pay period in July 2019. This payment will not contribute to Classic or PEPRA employees' pensions and is subject to normal payroll taxation.

The Police Chief and Fire Chief, will receive a one-time, non-pensionable payment of \$4,000 to revise section 3.A.1. to tie the 3% health inflator to the Kaiser Bay Area Premium rate increase, up to a maximum of 3%.

The \$4,000 payment will be split as follows: \$2,000 will be paid as a separate check on November 15 or with the pay period upon approval by the City Council, whichever occurs later, and \$2,000 will be paid with the first pay period in July 2019. This payment will not contribute to Classic or PEPRA employees' pensions and is subject to normal payroll taxation.

NOTE: The one-time payments for part-time employees will be prorated based on the full-time equivalent (FTE) of the position. For example, an employee filling a half-time or 0.5 FTE position will receive a \$1,000 payment minus applicable taxes on the same schedule as described above for full-time employees. This payment will not contribute to employees' pensions.

E. CAR ALLOWANCE

The monthly car allowance paid to the Executives shall be \$350. Executives identified in Exhibit A may be eligible to have use of a city car in lieu of the monthly car allowance at the discretion of the City Manager.

F. SAFETY EQUITY ADJUSTMENT

A 2% equity adjustment will take effect July 1, 2018 for both the Fire Chief and Police Chief (reflected in the updated Salary Schedule). This adjustment is being made to achieve parity with the four public safety bargaining units who received a 1% equity adjustment for each of the last 2 years of their collective bargaining agreements (2016-2018).

3. INSURANCE

Health & Dental Insurance benefits are prorated for part-time employees in accordance with the percentage of full-time work schedule. Domestic partners who are registered with the Secretary of State and same-sex spouses are considered dependents under these benefits. Pertinent taxes will be applied to coverage provided to registered domestic partners and same sex spouses as required by federal and state laws.

A. HEALTH INSURANCE

- 1. Health Insurance for Active Employees.** Effective January 1, 2009, the City implemented a full flex cafeteria plan for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan.

The monthly flex dollar allowance effective the paycheck of December 15, 2017 shall be:

For employee only:	\$ 653.61
For employee and one dependent:	\$1,307.20
For employee and two or more dependents:	\$1,699.38

Flex dollar allowances for Executive Management Employees represented by this resolution shall increase on the December 15th paycheck of each subsequent year by up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health benefits or may be converted to taxable income.

Conditional Opt-Out Payment: An employee may elect to waive the City's health insurance coverage and receive the value of the Employee Only contribution as a monthly Opt-Out payment in accordance with the terms of the cafeteria plan, and the Affordable Care Act, if the employee complies with the following conditions:

- 1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived, have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.
- 2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the employee's tax family lose coverage under the alternative Minimum Essential Coverage Plan.
- 3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if the City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations, other legislation or Federal and/or California agency guidance.

Miscellaneous Allowance for Employees hired on or before January 1, 2009:

The City shall pay to employees hired on or before January 1, 2009 a miscellaneous allowance in an amount equivalent to the difference between the employee's benefit election for coverage under PEMHCA and their flex dollar allowance, if their benefit election under PEMHCA exceeds their flex dollar allowance. The miscellaneous allowance shall be treated as income. An employee may use the miscellaneous allowance to pay for health coverage on a pre-tax basis as defined under the City's Cafeteria plan.

2. Health Insurance for Retirees

a. Executives Hired prior to April 1, 2007 and who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael Executive Management position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.a) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

On a monthly basis, the City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage, for the retiree and the retiree's spouse/registered domestic partner or surviving spouse/registered domestic partner and/or qualified dependent children's coverage under PEMHCA up to the maximum contribution the City makes towards the cost of coverage of an active employee hired prior to April 1, 2007. The City's longevity contribution shall remain in effect for the retired manager's

life and that of the retired manager's spouse/registered domestic partner or surviving spouse/registered domestic partner.

As described in this subsection, the City shall reimburse retired Executives and their spouses or registered domestic partners the Medicare Part B standard premium amount, as determined by the Centers of Medicare and Medicaid Services (CMS) on an annual basis. To initiate reimbursement, retirees must submit proof of payment of the Medicare Part B premiums to the Human Resources Department. If the Medicare Part B is deducted from social security, the retiree/spouse/domestic partner may submit a copy of the social security check, the Medicare Part B bill, or other relevant documentation. Reimbursements will be processed on a quarterly basis. This reimbursement shall remain in effect for the retired Executive's life and that of the retired Executive's spouse/registered domestic partner or surviving spouse/registered domestic partner.

b. Executives hired on or after April 1, 2007 and who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.b) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

On a monthly basis, the City shall make a longevity payment equivalent to the difference between the PEMHCA minimum contribution and the premium cost of coverage, up to \$600, for the retiree. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner or retiree's dependents. The City's longevity contribution shall cease on the retired manager's death. The City shall not be responsible for reimbursing retired Executives and/or their spouses for any Medicare premiums paid by the retired manager and/or the retired manager's spouse or surviving spouse.

c. Executives hired on or after January 1, 2009 and who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's group health insurance program. The City's contribution towards the coverage of retirees under this subsection (3.A.2.c) shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis. The City shall not be responsible for reimbursing retired Executives and/or their spouses for any Medicare premiums paid by the retired manager and/or the retired manager's spouse or surviving spouse.

The City shall additionally make available a retiree health care trust to enable these employees to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by the mandatory annual conversion of 50 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of 75 hours of sick leave after the conversion.

B. LIFE INSURANCE

The City shall provide a basic group life insurance plan in the amount of \$250,000 at no cost to the employee

C. LONG-TERM DISABILITY INSURANCE

The City shall provide long term disability (LTD) insurance, at no cost to the employee, with a benefit of two-thirds (2/3) of the employee's monthly salary, up to a maximum benefit of \$7,500 (reduced by any deductible benefits).

D. DENTAL INSURANCE

The City shall make available to employees an additional flex dollar allowance equal to \$113 per month to purchase dental coverage under the City's dental plan. The City shall pay dental premiums on behalf of the employee and eligible dependents.

E. VISION PLAN

The City will contract for and pay for a vision plan for "employee plus dependent" vision benefits.

F. EMPLOYEE ASSISTANCE PLAN

The City provides an Employee Assistance Program (EAP) with confidential personal counseling on work and family related issues such as eldercare, substance abuse, etc. Supervisors may also utilize the EAP to refer employees to counselors for work related assistance.

4. RETIREMENT

A. EMPLOYER PAID MEMBER CONTRIBUTION (EPMC)

Each Manager is responsible for paying the full cost of their employee contribution rate as established by the Marin County Employee Retirement Association.

Effective September 1, 2013, in accordance with MCERA and City administrative requirements, all Executive employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by the Marin County Employees Retirement Association, in addition to the current employee contribution towards pension as determined by MCERA.

The only employees excluded from this payment are long-term City employees with thirty or more years of City service who no longer have to pay any employee contribution to the Marin County Retirement System.

B. COLA

Executives participating in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Miscellaneous and safety member contribution rates include both the basic and COLA portions (currently 50% of the COLA is charged to members as defined in the 1937 Act).

C. RETIREMENT PLAN

The City shall provide the Marin County Employee Retirement Association 2.7% @55 retirement program to all miscellaneous Executives subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws. This is based on an employee's single highest year of compensation.

Employees hired on or after July 1, 2011 will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. Minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as “new members” of MCERA in accordance with the Public Employees’ Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA, through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately preceding the effective date of his or her retirement or some other period designated by the retiring employee.

D. SERVICE CREDIT FOR SICK LEAVE

Executives who are eligible to accrue sick leave and who retire from the City of San Rafael, on or after 07/01/95 and within 120 days of leaving City employment (excludes deferred retirements), shall receive employment service credit (incorporated from Resolution #9414, dated July 17, 1995), for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and they elect to receive in compensation at the time of retirement, pursuant to Section 5-A of this Resolution).

This provision will no longer be available to Executives hired after June 30, 2009.

E. EXECUTIVE MANAGEMENT ALLOWANCE

As of September 16, 2015 the Executive Management Allowance of 4.59% was rolled into base pay for all Unrepresented Executive Management employees.

5. LEAVES OF ABSENCE

A. SICK LEAVE

Executives shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment. Accrued sick leave may be used during their probationary period.

Executives who leave City service in good standing shall receive compensation (cash in) of all accumulated, unused sick leave based upon the rate of three percent (3%) for each year of service up to a maximum of fifty percent (50%) of their sick leave balance. In the event of the death of an employee, payment for unused sick leave (based upon the previously stated formula) shall be paid to the employee’s designated beneficiary.

Executives may accrue unlimited sick leave for usage purposes. However, a maximum of one thousand, two hundred hours (1,200) accrual applies for cash-in purposes at the time of City separation.

Executives may use sick leave prior to completion of probation. In recognition of Executives’ exempt status under FLSA, time off for sick leave purposes shall not be deducted from a Manager’s sick leave accrual, unless the employee is absent for the full workday.

Use of sick leave for work-related injuries or illnesses shall not be required when it is determined by the treating physician that this status is permanent and stationary.

B. VACATION LEAVE

1. **Vacation Accrual** - Vacation is accrued when an employee is on pay status and is credited on a semi-monthly basis. Eligible employees accrue vacation at the following rate for continuous service performed in pay status:

<u>Years of service</u>	<u>Leave Accrual rate/yearly</u>
1-5 years	15 days
6 years	16 days
7 years	17 days
8 years	18 days
9 years	19 days
10 years	20 days
11 years	21 days
12 years	22 days
13 years	23 days
14 years	24 days
15 plus years	25 days

In recognition of Executives' exempt status under FLSA, time off for vacation leave purposes shall not be deducted from a Manager's vacation accrual unless the employee is absent for the full workday.

2. **Administration of Vacation Leave**

The City Manager may advance vacation leave to a Manager; prior approval is required. Executives may accrue a maximum of 250 hours of vacation. Vacation leave accrual shall resume once the employee's accumulated vacation leave balance falls below the accrual limit of 250 hours. Executives who terminate their employment shall be paid in a lump sum for all accrued vacation leave earned prior to the date of termination. Executives may not utilize accrued vacation, administrative leave time, or personal leave time to extend their retirement date and service credit at the end of their city service. The vacation accrual may be increased to a maximum of 300 hours at the discretion of the City Manager.

3. **Annual Option for Payment of Accrued Vacation Leave**

A Manager who has taken at least ten (10) days of vacation in the preceding twelve (12) months, may request that his/her accrued vacation, not to exceed fifty-two and 1/2 (52.5) hours, be paid to him/her in cash. The request may be granted at the discretion of the City Manager. Executives may not cash-in more than fifty-two and 1/2 (52.5) hours within any twelve (12) month period.

C. ADMINISTRATIVE LEAVE

Executives shall receive ten (10) Administrative Leave days (75 hours) each calendar year subject to the approval of the City Manager. An additional three (3) days may be granted at the discretion and with approval of the City Manager. Unused Administrative Leave shall not carry over from one calendar year to the next, nor shall unused Administrative Leave balances be paid to a Manager upon his/her resignation.

In recognition of exempt status under FLSA time off for Administrative leave purposes shall not be deducted from a Manager's administrative leave accrual, unless the employee is absent for the full workday.

D. HOLIDAYS

City shall provide eleven designated holidays and two floating holidays per calendar year to Executives. The hours for the floating holidays are automatically added to an employees' vacation accrual on a semi-annual basis.

E. BEREAVEMENT LEAVE

In the event of the death of a Manager's spouse, child, parent, brother, sister, in-law(s), relative who lives or has lived in the home of the employee, and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, the City shall provide bereavement leave up to a maximum of three (3) days within the state and five (5) days out-of-state.

F. CATASTROPHIC LEAVE

All Executives shall abide by the City's Catastrophic Leave Policy.

6. EMPLOYMENT TERMS

A. HOURS OF WORK

The WORK WEEK will reflect thirty-seven and one-half (37.5) hours for all represented job classes. Unless otherwise designated, the normal business hours for vacation, sick and administrative leave deduction and sick and administrative leave accrual purposes for Executives shall be 7.5 hours per day.

B. DRUG FREE WORK PLACE

All Executives shall abide by the City's Drug and Alcohol Policy.

C. FURLOUGH PLAN

Executives endorse the Furlough Program described in Exhibit B.

D. PAY FOR PERFORMANCE EVALUATION SYSTEM

Executives shall be evaluated annually based upon the evaluation program adopted by the City Council in October of 1996 and incorporated by reference herein.

E. OUTSIDE EMPLOYMENT

All Executives shall abide by the City's Outside Employment Policy.

F. GYM REIMBURSEMENT

Employees are eligible to receive up to \$16.50 per month reimbursement for paid gym memberships. Such reimbursement shall be reported as taxable income to the employee.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City held on the 15th day of October 2018 by the following vote, to wit:

AYES: Bushey, Colin, Gamblin, McCullough & Mayor Phillips
NOES: None
ABSENT: None

LINDSAY LARA, CITY CLERK

EXECUTIVE MANAGEMENT SALARY RESOLUTION
EXHIBIT "B"

FURLOUGH PROGRAM

Both the City of San Rafael and the Management Group employees recognize the current economic condition of the State of California and the City of San Rafael. Through this recognition and in a cooperative spirit the City of San Rafael and these employees have worked expeditiously on the development of a Furlough Program. This does not mean the City will necessarily implement furloughs; but in the event it is necessary to implement due to continued economic problems in the City of San Rafael the procedures for this Furlough Program shall provide for both Voluntary Time Off (herein described as VTO) and Mandatory Time Off (herein described as MTO).

Voluntary Time Off (VTO).

The needs of the City and the respective departments (as determined by the Department Director and City Manager) will need to be considered in the actual granting of VTO. Any VTO time granted and the resulting savings will have a corresponding impact on the time needed through MTO.

1. An employee's VTO time would count in determining how many hours of MTO an employee needed to take during the fiscal year.
2. Employees who take VTO at a time other than when MTO is taken by other employees will have to take vacation leave, compensatory time off or leave without pay if the MTO results in the closure of the department.

Mandatory Time Off (MTO).

The City will attempt to schedule MTO time in blocks of days (between Christmas and New Years) or individual days next to scheduled holidays and/or weekends.

1. Employees may not take paid vacation time in lieu of designated MTO time.
2. For retirement calculation purposes of the MTO, the City shall follow the policies and procedures of the Marin County Employees' Retirement Association (MCERA) at the time of the furlough.
3. Any employee who notifies the City no later than 07/30/11 of their retirement date and retires from the City during FY 11-12 shall be exempted from the MTO requirements. If said employee did not retire during FY 11-12 as stated, said employee would be docked in pay an amount equivalent to the number of MTO hours taken by other represented employees.
4. MTO time shall apply toward time in service for step increases, completion of probation, and related service credit subject to the policies and procedures of the Marin County Employees' Retirement Association (MCERA).

Other Terms and Conditions.

1. The MTO salary reduction shall be limited to a maximum five percent (5%) reduction in work hours/pay for the fiscal year. When the maximum MTO reduction (5%) is implemented, the involved employee shall be credited with three (3) days of float time.
2. Float Time accrued through the MTO Program must be taken in the fiscal year following the furlough, with supervisory approval, or the leave will be forfeited. The float days have no cash value upon termination of employment.
3. Should the City experience a financial windfall during the fiscal year that furloughs are implemented, the City agrees to re-open discussions on this Furlough Program.
4. The VTO/MTO salary reduction is intended to be permanent for the term of this contract.