



CITY COUNCIL REPORT

**REVISED
8G**

DATE: FEBRUARY 1, 2022

TO: MAYOR AND COUNCIL MEMBERS

FROM: STACY SHELL, HUMAN RESOURCES DIRECTOR

**SUBJECT: APPROVE AN AMENDMENT TO EXTEND THE TERM OF THE
EMPLOYMENT AGREEMENT FOR THE CITY MANAGER**

RECOMMENDATION

It is recommended that the Pinole City Council approve an amendment to extend the term of the employment agreement for Andrew Murray as City Manager.

BACKGROUND

In December 2019, the City Council appointed Mr. Murray to the position of City Manager. On December 9, 2019, Mr. Murray and Mayor Swearingen signed a three-year term employment agreement through January 5, 2023. Mr. Murray commenced his duties as City Manager on January 6, 2020.

On January 18, 2022, the City Council met with Mr. Murray in closed session and provided direction to the City Attorney to prepare an amendment to the employment agreement to extend the term of Mr. Murray's agreement to December 31, 2024.

REVIEW & ANALYSIS

The City of Pinole Municipal Code (PMC), Title II, Administration and Personnel, Chapter 2.04, City Manager, Section 2.04.010, Office Created, provides the City Council with the authority to establish the office of the City Manager and appoint a City Manager on the basis of their administrative and executive ability and qualifications and hold office for and during the pleasure of the City Council (City of Pinole Ordinance No. Ord. 01-100, Section 1, 2001).

In accordance with PMC, Title II, Chapter 2.04, Section 2.04.260, Additional Conditions Set by Council, the City Council shall have the power and authority to enter into any supplemental employment agreement with the City Manager delineating

additional terms and conditions of employment not inconsistent with any provisions of Chapter 2.04, City Manager.

The City Manager's employment agreement was made and entered into by and between the City Council and Mr. Murray on December 9, 2019. The City Council and Mr. Murray had previously entered into first and second employment agreement amendments to provide cost of living adjustments and a merit increase. At this time, the City Council desires to extend the term of Mr. Murray's employment agreement for two (2) years and correct inconsistencies regarding the final date of the employment agreement's term as codified in Exhibit A of the Resolution attached to this City Council Report.

FISCAL IMPACT

There will be no fiscal impact upon the adoption of the Resolution.

ATTACHMENT(S):

ATTACHMENT A: Resolution to Authorize a Term Extension of the Employment Agreement for the City Manager
EXHIBIT A: Third Amendment to the Agreement for Employment of Andrew Murray

RESOLUTION NO. 2022-____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING AN AMENDMENT TO EXTEND THE TERM OF THE EMPLOYMENT AGREEMENT FOR THE CITY MANAGER

WHEREAS, the City Council and Andrew Murray entered into an Employment Agreement (“Agreement”) for the position of City Manager on December 9, 2019; and

WHEREAS, Mr. Murray commenced his duties as City Manager on January 6, 2020; and

WHEREAS, the term of the Agreement was for three (3) years; and

WHEREAS, on January 18, 2022, the City Council met with Mr. Murray in closed session; and

WHEREAS, the City Council provided direction to the City Attorney to prepare an amendment to the Agreement to extend the term of Mr. Murray’s Agreement for an additional two (2) years and correct inconsistencies regarding the final date of the Agreement’s term.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Pinole does hereby approve an amendment to extend the term of the Agreement hereunto attached as Exhibit A and authorize the Mayor to execute the said amendment.

PASSED AND ADOPTED at a regular meeting of the Pinole City Council held on the 1st day of February 2022 by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

I, hereby certify that the foregoing resolution was regularly introduced, passed, and adopted on this 1st day of February, 2022.

Heather Bell, CMC
City Clerk

**THIRD AMENDMENT TO THE AGREEMENT FOR EMPLOYMENT OF
ANDREW MURRAY**

This Third Amendment to the Agreement for the Employment of Andrew Murray (the “Third Amendment”) is made and entered into as of February 1, 2022 (the “Effective Date”) by and between the City of Pinole (the “City”), a California general law city, and Andrew Murray, an individual (“MURRAY” or “Employee”).

RECITALS

WHEREAS, the City and MURRAY previously entered into that certain Agreement for the Employment of Andrew Murray effective as of December 9, 2019 (the “Agreement”); and

WHEREAS, the City and MURRAY previously entered into that First Amendment to the Agreement and Second Amendment to the Agreement; and

WHEREAS, the City Council desires to extend the term of the Agreement for an additional two (2) years; and

WHEREAS, the City and MURRAY also desire to correct inconsistencies regarding the final date of the Agreement’s term; and

WHEREAS, the City and MURRAY now wish to amend the Agreement as specified herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the City and MURRAY agree as follows:

1. **Term of Agreement**. Section 2, Term of Agreement, is hereby amended in its entirety to read as follows:

“2. **Term of Agreement**

This Agreement will become effective on December 9, 2019 and shall terminate on December 31, 2024 (the “Term”), unless sooner terminated in accordance with paragraph 5 herein. If no successor Agreement is entered into to extend the Term, MURRAY's employment with the City shall end with no payment of severance. The City shall notify MURRAY at least ninety (90) days in advance of the end of the Term of its intent to extend or not extend the Agreement.”

2. **Duties and Responsibilities**. Subsection (a) of Section 4, Duties and Responsibilities, of the Agreement is hereby amended in its entirety to read as follows:

“4. **Duties and Responsibilities**

a. MURRAY shall commence his duties as City Manager on January 6, 2020, and will continue to execute such duties through December 31, 2024.”

3. **Effect.** Except as expressly provided for herein, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, The Parties have executed this Third Amendment on the date written above.

THE CITY OF PINOLE

MURRAY

By: _____
Vincent Salimi, Mayor

By: _____
Andrew Murray

Date: _____

Date: _____

Attest:

Heather Iopu, CMC, City Clerk

Approved as to Form:

Eric S. Casher, City Attorney