



## REPORT TO CITY COUNCIL

Approved by: Hilda Cantú Montoy

Hilda Cantú Montoy, City Attorney

Council Meeting of: August 5, 2020

Agenda Number: D-4

### SUBJECT:

Second Amendment to the City Manager At-Will Employment Agreement Extending the Term of the Agreement.

### RECOMMENDATION:

This report has been prepared at the direction of the City Council (Council); therefore, there is no staff recommendation provided. Council is asked to consider and determine whether to adopt the Resolution approving a Second Amendment to the City Manager At-Will Employment Agreement.

Pursuant to Government Code § 54953 (c) (3), prior to taking action on this item, the Council must publicly announce a summary of the action being considered.

**Announcement** - *If approved, the proposed amendment to the City Manager's Employment Agreement will modify the existing agreement as follows:*

- *The Agreement will be extended by three years to December 3, 2024;*
- *For years 3-6 of the agreement, employee will be entitled to 6 months' salary & health benefits severance if separated without cause;*
- *The City Manager's salary will be increased one merit step due to satisfactory performance to Step E of Salary Schedule M, Range 587, which is \$193,953.74 per year effective on his merit anniversary date of December 3, 2019; and*
- *The health insurance language will be amended to provide the same City contribution and plan offerings as for City's mid-management personnel.*

### SUMMARY:

The Council conducted the City Manager's performance evaluation. The results of the evaluation were very positive. The parties wish to amend the Employment Agreement to reflect a merit increase, extend the At-Will Employment Agreement by three years, and provide health insurance with same City contribution and plan offerings as for City's mid-management personnel. Said extension requires addressing severance in years three through six as the original agreement provided specific terms for each of the first three years of the agreement.

**DISCUSSION:**

On November 7, 2018, the City and City Manager entered a three-year employment agreement that was effective December 3, 2018. That agreement was amended on April 3, 2019 to remove the City Manager's automobile allowance from the fringe benefit package. The Council conducted a performance evaluation of the City Manager with very positive results. The Council and Employee desire to amend the Employment Agreement. The proposed Second Amendment to the City Manager's At-Will Employment Agreement will:

- Extend the term by an additional three years to December 3, 2024;
- Provide that should the City Manager be released from employment without cause during years three through six of the agreement, he will be entitled to a lump sum payment equal to six months' salary and health benefits, or salary and health benefits equal to the remaining term of the agreement should he be released with less than six months remaining in his employment agreement;
- Award a merit increase due to satisfactory job performance to Step E of the Salary Schedule for City Manager effective on his merit anniversary date of December 3, 2019; and
- Modify the health insurance benefits to provide the same City contribution and plan offerings as that which is offered to the Mid Management Bargaining Group, consistent with employment agreement terms of other management personnel.

**FINANCIAL IMPACT:**

The proposed Second Amendment will award one merit step increase, equal to 5 percent, or \$9,229.83 per year. The City's adopted operating budget includes funds for anticipated merit increases. The modification to health contributions will not change the City's contribution based on current enrollment selections by the employee. Severance payment will only be due should Council release the City Manager from employment without cause during the term of the agreement and the specific amount will be determined based on salary and health benefits at that point in time should this clause be affected.

**ALTERNATIVES:**

If the Council does not take action on the resolution, the existing agreement terms will continue. Council may also determine to conduct further negotiations on the Employment Agreement.

**ATTACHMENTS:**

1. Resolution approving Second Amendment to the City Manager At-Will Employment Agreement.
  - a. Exhibit A: Second Amendment to City Manager At-Will Employment Agreement.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING A  
SECOND AMENDMENT TO THE CITY MANAGER AT-WILL EMPLOYMENT  
AGREEMENT

WHEREAS, on November 7, 2018, the City and City Manager entered a three year At -Will Employment Agreement (“Agreement”) effective December 3, 2019; and

WHEREAS, a First Amendment to the Agreement was entered into on April 3, 2019; and

WHEREAS, the City Council has conducted a performance evaluation of the City Manager and is very pleased with his performance; and

WHEREAS, the City Council and City Manager desire to amend the Agreement.

NOW, THEREFORE, the Council of the City of Madera hereby resolves, finds, and orders as follows:

1. The above recitals are true and correct.
2. The City Council approves the Second Amendment to City Manager At-Will Employment Agreement attached hereto as Exhibit A and incorporated by reference.
3. This resolution is effective immediately upon adoption.

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