



Town of Moraga	Agenda Item
Resolutions, Ordinances and Requests for Action	10. D.

Meeting Date: May 11, 2022

**TOWN OF MORAGA**

**STAFF REPORT**

**To: Honorable Mayor and Councilmembers**

**From: Michelle Marchetta Kenyon, Town Attorney**  
**Via: Denise Bazzano, Assistant Town Attorney**  
**Ad Hoc Committee Members Mayor Sos and Vice Mayor Woehleke**

**Subject: Consider Resolution \_\_\_\_ - 2022 Approving and Authorizing the Mayor to Execute the Fourth Amendment to Employment Agreement between Town of Moraga and Cynthia Battenberg**

**Request**

Consider the attached Resolution approving and authorizing the Mayor to execute the Fourth Amendment to Employment Agreement between Town of Moraga and Cynthia Battenberg.

**Discussion**

On February 14, 2018, Council approved Resolution 10-2018, authorizing the execution of an Employment Agreement between the Town of Moraga and Cynthia Battenberg (“Town Manager”) dated March 12, 2018 (“Employment Agreement”), which provided, among other things, that the Town Manager was to receive an annual salary of \$197,000. The Employment Agreement also provides that an annual performance review shall take place every April.

On May 23, 2018, Council approved Resolution 40-2018, which authorized the execution of the First Amendment to the Employment Agreement, with an effective date of March 12, 2018, to eliminate the Town’s payment of a portion of Manager’s required PERS contributions, and to increase Manager’s salary by 4.58%.

At the May 22, 2019 Council meeting, the Town Council approved Resolution 43-2019, which authorized execution of a Second Amendment to the Employment Agreement, with an effective date of March 12, 2019. This Second Amendment increased the annual salary by 8.5%, to reflect median salary of city managers of comparable cities in the area, including those of Lafayette, Orinda and Pleasant Hill.

1 In April of 2020, the Town Council did conduct a performance review but did not make  
2 any adjustments to the Town Manager's salary at that time.

3  
4 On May 26, 2021, the Town Council approved a Third Amendment to amend section 6.a  
5 (Compensation and Benefits) of the Employment Agreement to increase the Town  
6 Manager's salary by 3%, effective as of March 12, 2021. The Third Amendment also  
7 clarified that the Town Manager continued to receive the same cost of living adjustment  
8 that is provided to Department Directors and all other benefits identified in the  
9 Employment Agreement, which is payable as of January 1 of each successive year that  
10 the adjustment is provided to Department Directors.

11  
12 On April 26, 2022, the Town Council conducted a formal performance review of the Town  
13 Manager during closed session meetings pursuant to Government Code section 54957.  
14 That evaluation was based on written input from each Councilmember, which, prior to the  
15 meeting, was collected, consolidated and agreed to by the entire Council. In addition, at  
16 the same closed session, the Council created an *Ad Hoc* Committee consisting of the  
17 Mayor and Vice Mayor to separately evaluate and negotiate compensation issues with  
18 the Town Manager.

19  
20 The *Ad Hoc* Committee engaged in discussions with the Town Manager and also  
21 reviewed salary and benefit information from other municipalities in the area. Based on  
22 those discussions, the Committee's independent evaluation of salary and benefit  
23 information, and the Town Council's collective assessment of the Town Manager's  
24 performance over the past year, the Committee is recommending a 4% salary increase  
25 for the Town Manager. This recommendation is being made for the following reasons,  
26 among others:

- 27
- 28 1. For the calendar year 2021, the Town Manager has met and generally  
29 exceeded performance expectations and metrics, particularly in the areas of  
30 fiscal management, long range planning, and execution of Council goals and  
31 priorities. The Council also recognizes and values the Town Manager's  
32 dedication, follow-through and positive impacts on Town operations, finances  
33 and staff. The Council shared with the Town Manager areas that were  
34 identified as opportunities for even greater effectiveness. In all events, the  
35 positive impacts of the Town Manager to Moraga warrant a merit increase.  
36
  - 37 2. The Town Manager received a 2.5% cost of living adjustment on January 1,  
38 2022 for the adjustment received by Department Directors in July of 2021, but  
39 is not scheduled to receive a cost of living adjustment for the 2022 year, but will  
40 receive such for 2023 and 2024 years. Relatively high inflation rates which are  
41 currently being experienced are expected to continue, at least short term. For  
42 comparison, other Moraga employee groups will receive a cost of living  
43 adjustment for 2022 (excluding Department Directors who will receive separate  
44 2022 salary adjustments, if the Department Director Compensation Resolution  
45 is approved separately by the Council). Accordingly, consideration of 2022  
46 inflation in the Town Manager's salary adjustment is appropriate and  
47 warranted.  
48

- 1           3. The Town Manager received a 3% salary increase effective in March, 2021.  
2           That increase was authorized by the Council for equity reasons – in other  
3           words, to achieve a salary more closely aligned with the salaries of other city  
4           managers in comparable jurisdictions. The salary adjustment proposed for this  
5           year by the Committee is not for the purpose of aligning the Town Manager  
6           salary with those of other municipalities, but rather a recognition of outstanding  
7           performance this past calendar year.  
8

9           For these reasons, the *Ad Hoc* Committee is recommending that the attached Fourth  
10          Amendment to Employment Agreement (“Fourth Amendment”) be approved by the  
11          Council. This Fourth Amendment would amend section 6.a (Compensation and Benefits)  
12          of the Employment Agreement to increase the Town Manager’s salary by 4%, effective  
13          as of March 12, 2022. The Town Manager would continue to receive the same cost of  
14          living adjustment that is provided to Department Directors and all other benefits identified  
15          in the Employment Agreement.  
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17          **Fiscal Impact**

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19          The FY 2021/2022 budget for the Town Manager salary is sufficient to cover the  
20          adjustment retroactive to March 12, 2022. The impact of the salary adjustment would be  
21          included in the proposed FY 2022/2023 budget.  
22

23          **Recommendation**

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25          Adopt the Resolution Approving and Authorizing the Mayor to Execute the Fourth  
26          Amendment to the Town Manager’s Employment Agreement.  
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28          **Report reviewed by:           Annie To, Administrative Services Director**

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30          **Attachments:**

- 31           **A.**     Resolution \_\_\_\_ - 2022 Approving and Authorizing the Mayor to Execute the  
32                    Fourth Amendment to Employment Agreement between Town of Moraga and  
33                    Cynthia Battenberg  
34           **B.**     Fourth Amendment to Employment Agreement  
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# **ATTACHMENT A**

Resolution \_\_\_\_ - 2022 Approving and Authorizing the Mayor to  
Execute the Fourth Amendment to Employment Agreement  
between Town of Moraga and Cynthia Battenberg

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

Approving and Authorizing the Mayor to )  
Execute the Fourth Amendment to )  
Employment Agreement between Town )  
of Moraga and Cynthia Battenberg )

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Resolution No. \_\_ - 2022

**WHEREAS**, the Town of Moraga and Cynthia Battenberg (“Town Manager”) entered into an Employment Agreement, effective as of March 12, 2018, which was approved by Town Council on February 14, 2018 by Resolution 10-2018 (“Employment Agreement”), to provide for the employment of Manager as Town Manager of Town; and

**WHEREAS**, on May 23, 2018 the Town Council approved Resolution 40-2018, which authorized the execution of the First Amendment to the Employment Agreement with an effective date of March 12, 2018 to eliminate Town’s payment of a portion of Town Manager’s required CalPERS contributions, and to increase Town Manager’s salary by 4.58%; and

**WHEREAS**, on May 22, 2019, the Town Council approved Resolution 43-2019, which authorized the execution of the Second Amendment to the Employment Agreement with an effective date of March 12, 2019 which increased Town Manager’s annual salary by 8.5%, to reflect an annual salary of \$229,176 and other minor amendments; and

**WHEREAS**, on May 26, 2021, the Town Council approved Resolution 25-2021, which authorized the execution of the Third Amendment to the Employment Agreement with an effective date of March 12, 2021 to amend section 6.a (Compensation and Benefits) of the Employment Agreement to increase the Town Manager’s salary by 3%, effective as of March 12, 2021, for a total salary of \$247,983 and specifying that the Town Manager also continued to receive the same cost of living adjustment that is provided to department directors and all other benefits identified in the Employment Agreement; and

**WHEREAS**, the Town Council now desires to enter into a Fourth Amendment to the Employment Agreement to increase the Town Manager’s annual salary by 4%.

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Moraga hereby approves this Fourth Amendment to the Employment Agreement between the Town and Cynthia Battenberg in substantially the same form attached hereto as Exhibit A; and

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to execute the Fourth Amendment to the Employment Agreement, in the form attached hereto as Exhibit A, with minor revisions that may be approved by the Town Attorney, and to execute any other necessary documents to effectuate the purpose of this Resolution.

**PASSED AND ADOPTED** by the Town Council of the Town of Moraga at a regular meeting held on May 11, 2022 by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

\_\_\_\_\_  
Renata M. Sos, Mayor

Attest:

\_\_\_\_\_  
Marty C. McInturf, Town Clerk

DRAFT

# **ATTACHMENT B**

Fourth Amendment to Employment Agreement

**FOURTH AMENDMENT TO  
EMPLOYMENT AGREEMENT**

**between**

**TOWN OF MORAGA AND CYNTHIA BATTENBERG**

**(Effective March 12, 2022)**

**1. PARTIES AND EFFECTIVE DATE.**

The parties to this Fourth Amendment to Employment Agreement ("Fourth Amendment") are the Town of Moraga ("TOWN") and Cynthia Battenberg ("MANAGER"), and the effective date of this Fourth Amendment shall be March 12, 2022 ("Effective Date"). TOWN and MANAGER shall be collectively referred to as "parties."

**2. PURPOSE.**

The parties have previously entered into an Employment Agreement between TOWN and MANAGER ("Employment Agreement") effective beginning March 12, 2018. The parties subsequently entered into a First Amendment to the Employment Agreement on May 23, 2018, with an effective date of March 12, 2018 ("First Amendment"),

The parties entered into a Second Amendment to the Employment Agreement, effective on March 12, 2019. The parties entered into a Third Amendment to the Employment Agreement, effective March 12, 2021.

The parties now wish to further amend the Employment Agreement to modify MANAGER'S terms of employment as follows:

**3. AMENDMENTS.**

A. Section 6.a of the Employment Agreement is hereby modified to read in its entirety as follows:

**6. COMPENSATION AND BENEFITS.**

a. Salary. TOWN agrees to pay MANAGER for her services rendered pursuant hereto as Town Manager the annual sum of Two Hundred Sixty-Four Thousand Three Hundred Forty Eight Dollars (\$264,348) plus any cost of living adjustments that are provided to all existing department heads after the Effective Date, which shall be payable as of January 1<sup>st</sup> of each successive year that the adjustment is provided to department heads. This annual salary shall be payable in installments at the same time as other employees of the TOWN are paid.



B. Except as specifically modified herein, all remaining terms and obligations set forth in the Employment Agreement between the TOWN and MANAGER shall remain in full force and effect.

C. This Fourth Amendment shall be effective as of March 12, 2022, regardless of when executed by the Parties.

**TOWN OF MORAGA**

By: \_\_\_\_\_  
Renata Sos, Mayor

Dated: \_\_\_\_\_

**TOWN MANAGER:**

By: \_\_\_\_\_  
Cynthia Battenberg

Dated: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Michelle Marchetta Kenyon,  
Town Attorney