

RESOLUTION NO. 4248/347

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD/SOLEDAD REDEVELOPMENT AGENCY APPROVING AN "EMPLOYMENT AGREEMENT- CITY MANAGER/EXECUTIVE DIRECTOR"

WHEREAS, Adela Gonzalez ("Gonzalez") was appointed to the position of Assistant City Manager in the City of Soledad in 2007; and

WHEREAS, on May 7, 2008, the City and Redevelopment Agency entered into an "Employment Agreement-Interim City Manager/Executive Director," attached hereto as Exhibit "B," with Gonzalez; and

WHEREAS, the City Council desires to enter into an Employment Agreement with Gonzalez for City Manager/Executive Director services.

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Soledad and the Board of the Soledad Redevelopment Agency that the "Employment Agreement- City Manager/Executive Director" between the City of Soledad/Soledad Redevelopment Agency and Adela Gonzalez, a copy of which is attached hereto as Exhibit "A" and by this reference incorporated herein, is hereby approved. The Mayor/Chairman is hereby authorized to execute said Agreement on behalf of the City of Soledad/Soledad Redevelopment Agency.

BE IT FURTHER RESOLVED, that the Human Resources Technician is directed to attach a copy of this Resolution, signed by Gonzalez so as to confirm consent, and an executed copy of the Agreement, with the Manager/Executive Director's Personnel File.

BE IT FURTHER RESOLVED, that City/Agency and Gonzalez agree that upon execution of the Employment Agreement set forth in Exhibit A, the "Agreement for Employment As Interim City Manager/Executive Director," as set forth in Exhibit B, will be superseded and of no further force and effect without resort to the resignation or termination provisions thereof.

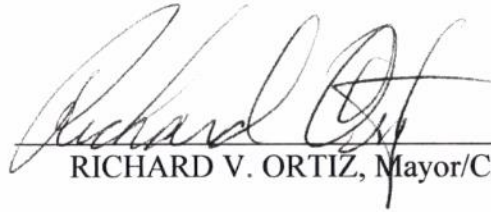
PASSED AND ADOPTED by the City Council/Redevelopment Agency of the City of Soledad at a regular meeting duly held on the 2nd day of July, 2008, by the following vote:

AYES, and in favor thereof, Councilmembers/Agencymembers: Martha Camacho, Juan Saavedra, Patricia Stephens, Mayor/Chairman Richard Ortiz

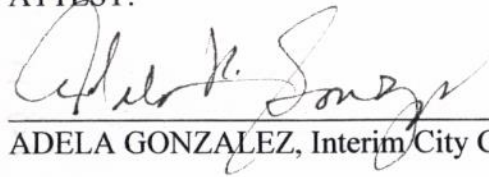
NOES, Councilmembers/Agencymembers: None

ABSENT, Councilmembers/Agencymembers: Mayor Pro Tem/Vice Chairman Christopher Bourke

ABSTAIN, Councilmembers/Agencymembers: None


RICHARD V. ORTIZ, Mayor/Chairman

ATTEST:


ADELA GONZALEZ, Interim City Clerk/Secretary

1116639.1

EMPLOYMENT AGREEMENT - CITY MANAGER/EXECUTIVE DIRECTOR

THIS AGREEMENT (the "Agreement") is made by and between the CITY OF SOLEDAD, a municipal corporation, hereinafter called "CITY," The Soledad Redevelopment Agency, a public body corporate and politic, hereinafter called "AGENCY," hereinafter collectively called "EMPLOYER," and ADELA P. GONZALEZ, hereinafter called "GONZALEZ." This Agreement shall have an effective date of July 2, 2008. In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Employment. EMPLOYER hereby appoints GONZALEZ as City Manager/Redevelopment Agency Executive Director, and GONZALEZ hereby accepts said appointment upon the terms and conditions hereinafter set forth.
2. Term. The term of this Agreement shall commence on July 2, 2008 and shall continue for a term of four (4) years, until July 2, 2012, or until terminated as set forth in Paragraph 13. Notwithstanding said "term," the parties agree that GONZALEZ is an at-will employee who shall serve at the pleasure of the City Council/Agency Board.
3. Duties. GONZALEZ' duties under this Agreement shall be those assigned to the office of City Manager/Agency Executive Director by the general laws of the State of California, by City Ordinance (Municipal Code Chapter 2.08), as from time-to-time amended, by the Community Redevelopment Law (Part 1 of Division 24-commencing with Section 33000 of the Health and Safety Code of the State of California), and by City Council/Agency Board direction. GONZALEZ shall devote as much time to said duties as shall be required for their proper performance, regardless of the number of hours involved.

In order to facilitate these duties, GONZALEZ shall have the authority to enter into contracts on behalf of the CITY or the AGENCY on an administrative basis in an amount up to but not to exceed Fifteen Thousand Dollars (\$15,000.00). GONZALEZ shall report all contracts entered into in the amount of Ten Thousand (\$10,000.00) or greater in the CITY'S bi-weekly administrative report. In the event City Staff ceases preparation of administration reports, GONZALEZ shall report such contracts via written communication to each Council Member.

4. Salary and Benefits.

A. For all services to be rendered by GONZALEZ under this Agreement, EMPLOYER shall pay GONZALEZ One Hundred and Sixty Eight Thousand (\$168,000.00) per year. Salary shall be payable in equal bi-weekly installments.

GONZALEZ' salary shall be automatically adjusted by the Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items, San Francisco - Oakland (1982-84 equals 100) for the preceding twelve months on an annual basis.

EMPLOYER agrees to consider a salary increase to GONZALEZ' salary on an annual basis, based in part on achievement of agreed upon goals and objectives, upon completion of a performance evaluation. EMPLOYER shall establish goals and objectives in writing within sixty (60) days of the commencement date of this Agreement and each annual anniversary date hereafter.

Exhibit "A"

Additionally, in order to avoid compaction issues, EMPLOYER agrees that GONZALEZ' salary shall at all times be kept at least ten percent (10%) above the salary of the CITY'S highest paid employee. Upon EMPLOYER'S verification that a salary adjustment is warranted per this provision, adjustments to GONZALEZ' salary may be made at any time during the term of this Agreement.

This Section shall provide the exclusive means by which GONZALEZ' compensation shall be set and/or adjusted during the term of this Agreement.

B. A portion of GONZALEZ' total compensation will be paid from the Soledad Redevelopment AGENCY Budget. Said sum will be based on the actual proportion of GONZALEZ' time spent on AGENCY duties, and will be paid from AGENCY funds on a pro-rata basis. Payment from AGENCY funds will not cause GONZALEZ' compensation to exceed that established in Subsection 4.A.

C. GONZALEZ shall be entitled to participate in the CITY'S retirement plan and added to the roll of CITY'S health, accident, eye care and dental plan in accordance with the provisions of Section 5 of the "City of Soledad Compensation and Benefit Plan for Fiscal Year 2008-2009," and be entitled to participate in the CITY'S Life, AD&D and LTD insurance programs in accordance with the provisions of Section 6.D of said Plan, and all existing amendments thereto.

EMPLOYER agrees to match GONZALEZ' contribution to the CITY'S 457 Deferred Compensation Plan in an amount not to exceed Five Hundred Dollars (\$500.00) per month.

5. Extent of Services. GONZALEZ shall devote her full time, attention and energies to her duties hereunder, and while so employed shall not be engaged in any other business activity whatsoever, directly or indirectly, either alone or as a partner, employee or agent of another person, firm or corporation; provided, that nothing in this paragraph shall be construed to prevent GONZALEZ from making business investments which will not require any service on her part.

6. Vacation-Sick Leave-Administrative Compensatory Time Off. GONZALEZ shall be allowed fifteen (15) working days vacation time each year, with pay, computed from the date of hiring at the rate of ten (10) hours per month. EMPLOYER will be willing to consider additional vacation accrual on an annual basis at the time of GONZALEZ' performance review. GONZALEZ shall be entitled to all benefits not in conflict with the language set forth herein, as provided to all Management Employees in the "City of Soledad Compensation and Benefit Plan for Fiscal Year 2008-2009," a copy of which is attached hereto as Exhibit A. Such benefits shall include, but not be limited to, bereavement leave, emergency family leave, and sick leave buy back. However, GONZALEZ shall not be entitled to any amendments to such benefits as may be made from time-to-time by Council action after execution of this Agreement. Any change to such benefits must be made through negotiation with EMPLOYER.

GONZALEZ shall be entitled to 6.6 hours of administrative compensatory leave per calendar month or eighty (80) hours per year, calculated from July 2, 2008, which shall be used to supplement regular compensation for hours spent fulfilling GONZALEZ' duties. All such leave must be used prior to, or within thirty (30) days, of June of each year in which it is accrued.

GONZALEZ does not have the right to cash out or have EMPLOYER buy back administrative leave.

7. Automobile. GONZALEZ shall have the exclusive and unrestricted use of a CITY owned automobile. CITY shall be responsible for the insurance, operation, maintenance and expense of said vehicle. Employee shall reimburse EMPLOYER, at the current rate authorized by the IRS, for any personal automobile travel exceeding a 450 mile round trip radius. This benefit shall only be provided as long as GONZALEZ maintains a valid California Driver's License and a driving record that does not adversely impact CITY'S ability to insure GONZALEZ' use of the involved vehicle at a reasonable cost.

8. Expenses - Dues and Subscriptions. EMPLOYER agrees to reimburse GONZALEZ for all travel expenses and conference fees for annual League of California Cities meetings and annual International City/County Management Association meetings.

All other expenses incurred by GONZALEZ in the performance of her official duties shall be reimbursed in accordance with current applicable CITY/AGENCY policies.

Upon City Council/Agency Board approval through the budget process, EMPLOYER shall pay a reasonable amount annually for GONZALEZ' dues and subscriptions to professional organizations related to municipal management.

9. Review of Job Performance. At the first City Council meeting in April of each year, EMPLOYER (acting through the City Council) shall commence a review of GONZALEZ' job performance. Said review is to be completed in no more than three (3) consecutive regular meetings of the City Council. The result of such review, including findings and conclusions and the facts upon which they are based, shall be furnished to GONZALEZ in oral or written form, and GONZALEZ shall be given full opportunity to comment upon them. All such information shall be kept confidential by the parties and shall be used by said parties only for the purpose of improving the employment relationship or for the purpose of exercising rights under the terms of this Agreement.

In the event the City Council is unable to complete the performance review in the time frame established above, an outside facilitator may be used to assist in the completion of the review, if desired by both EMPLOYER and GONZALEZ. The method to be used in selecting the facilitator, and payment for the costs associated with such services, shall be agreed upon by the parties prior to the facilitator's retention. In the event the Parties are unable to agree on the terms and conditions of the use of a facilitator, the review process will continue as stated above until completed.

10. Computer-Telecommunications. EMPLOYER agrees to provide a portable computer, software, and accompanying equipment (at a value not to exceed Three Thousand Five Hundred Dollars (\$3,500.00)), cell phone and pager for GONZALEZ' exclusive use at home or in the field. Said equipment shall remain the property of EMPLOYER, and upon GONZALEZ' departure prior to the expiration of the full term of this Agreement, for any cause whatsoever, shall be returned by GONZALEZ to EMPLOYER. In the event GONZALEZ completes the full term of this Agreement, ownership of the portable computer, software, and accompanying equipment shall be transferred to GONZALEZ.

11. Indemnification. EMPLOYER shall defend, save harmless, and indemnify GONZALEZ against any tort, professional liability claim or demand or other legal action arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager/Executive Director in accordance with the provisions of California Government Code Section 825 and provide a defense in accordance with Government Code Section 925. GONZALEZ' conviction for any felony or misdemeanor involving moral turpitude shall be a basis for exemption from this indemnification. EMPLOYER may compromise and settle any such claim or suit and pay the amount of any settlement or judgment therefore.

12. Bonding. EMPLOYER shall bear the full cost of any fidelity or other bond required under any law or ordinance.

13. Termination. This Agreement may be terminated prior to the expiration of the term specified in Paragraph 2 above in any one of the following ways:

A. By mutual agreement of the parties hereto, expressed in writing; or

B. By GONZALEZ, upon giving EMPLOYER not less than sixty (60) day's prior written notice of her election to terminate; or

C. By EMPLOYER (by affirmative vote of at least three (3) City Council/Agency Board members), for cause, arising from a willful breach of duty or habitual neglect of duty by GONZALEZ, by GONZALEZ' conviction of a crime involving moral turpitude, or for any conduct by GONZALEZ which makes it impossible or impracticable for her to perform her duties hereunder, or that seriously impedes EMPLOYER operations. GONZALEZ shall not have any right to appeal or hearing for termination pursuant to this section; or

D. By EMPLOYER (by affirmative vote of at least three (3) City Council/Agency Board members), without cause, upon giving to GONZALEZ written notice of termination. Upon termination and execution of a complete release and waiver of all claims and causes of action, GONZALEZ shall be paid forthwith a sum equal to her salary for a period of six (6) months. GONZALEZ shall not have any right to appeal or hearing for termination pursuant to this section. EMPLOYER will be willing to consider adjustment to the amount of "severance pay" due hereunder on an annual basis after GONZALEZ' performance review.

Notwithstanding the foregoing, GONZALEZ may not be removed from office without cause pursuant to this provision during or within a period of one hundred eighty (180) days succeeding any general municipal election held in the City at which a city council member is to be elected.

14. Compatibility With State Law. This Agreement is made subject to all applicable laws of the State of California, specifically including but not limited to Section 36506 of the Government Code. In the event of any conflict between the provisions of this Agreement and any such state law, the provisions of said State law shall apply.

15. Compatibility With Municipal Code. Except as noted below, the provisions of this

Agreement are subject to the limitations contained in Chapter 2.08 of the Soledad Municipal Code, and in the event of any conflict between the provisions of this Agreement and Chapter 2.08, the provisions of Chapter 2.08 shall be controlling. Notwithstanding the foregoing, the notice provisions of Paragraph 11(b), above, for termination by employee (sixty days) shall prevail over the provisions of Section 2.08.120 of the Soledad Municipal Code (thirty days). Additionally, by execution of this Agreement, the provisions of Sections 2.08.130 and 2.08.140, which the Council intends to consider for deletion from the Soledad Municipal Code, shall be considered null and void and of no further effect to the employment secured by this Agreement.

16. Miscellaneous.

A. The text herein shall constitute the entire Agreement between the parties. The Agreement may not be modified, except by written agreement executed by both parties.

B. 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, shall be deemed severable, shall not be affected and shall remain in full force and effect.

C. The parties agree that any ambiguity in this Agreement shall not be construed or interpreted against, or in favor of, either party.

D. In the event of litigation over the terms of this Agreement, the prevailing party shall be entitled to attorneys' fees and costs.

IN WITNESS WHEREOF, said parties have executed this Agreement on the 2ND day of July, 2008.

CITY OF SOLEDAD

Dated: July 11 2008

By: Richard V. Ortiz
Richard V. Ortiz, Mayor

SOLEDAD REDEVELOPMENT AGENCY

Dated: July 11 2008

By: Richard V. Ortiz
Richard V. Ortiz, Chairman

Dated: 7-3-08

Adela P. Gonzalez
ADELA P. GONZALEZ

1118673.3

**AGREEMENT FOR
EMPLOYMENT AS INTERIM CITY MANAGER/EXECUTIVE DIRECTOR**

THIS AGREEMENT is made by and between the CITY OF SOLEDAD ("City"), a municipal corporation, SOLEDAD REDEVELOPMENT AGENCY, ("Agency"), a political subdivision, corporate and politic, and ADELA P. GONZALEZ ("Employee"), as follows:

Recitals

- A. Employee has been employed by City since 2007, in the position of Assistant City Manager.
- B. During her term of employment, Employee has served as Acting City Manager on several occasions when the City Manager was out of town or otherwise unavailable. Employee also has previous city manager experience.
- C. At the request of the City Council/Agency Board, Employee has agreed to an appointment as Interim City Manager/Executive Director (hereinafter collectively referred to as "Interim City Manager"), and thereafter, to return to her position as Assistant City Manager.
- D. The parties hereto desire to memorialize the terms and conditions by which Employee shall serve in the employ of the City/Agency, as Interim City Manager, and thereafter return to the Assistant City Manager's position.

Agreement

- 1. Appointment as Interim City Manager. City/Agency hereby appoints Employee as Interim City Manager, and Employee accepts said appointment upon the terms and conditions hereinafter set forth.
 - A. Term. Employee shall serve in the position of Interim City Manager until a new City Manager/Executive Director is selected and appointed by the Soledad City Council/Soledad Redevelopment Agency.
 - B. Scope of Duty. While serving in the capacity of Interim City Manager, Employee's duties shall be those assigned to the office of City Manager/Executive Director by the general laws of the State of California, by City Ordinance (Municipal Code Chapter 2.08), as from time to time amended, by the Community Redevelopment Law (Part 1 of Division 24-commencing with Section 33000 of the Health and Safety Code of the State of California), and by City Council/Agency Board direction. Employee shall devote as much time to said duties as shall be required for their proper performance, regardless of the number of hours involved. Employee's authority shall include, but not be limited to the right to approve and execute contracts on behalf of the City/Agency, to hire and fire employees in accordance with relevant policies, and oversight and/or involvement in disciplinary procedures.
 - C. Salary and Benefits While Serving as Interim City Manager.
 - 1) For all Interim City Manager Services rendered by Employee pursuant to this Agreement, commencing from May 8, 2008, City/Agency shall pay Employee \$13,335.22 per month. In the event City/Agency does not retain a full time City

Exhibit "B"

Manager/Executive Director within twelve (12) months of the execution of this Agreement, Employee's compensation as established herein shall be evaluated and subject to adjustment. Employee's compensation may also be subject to adjustment to maintain parity with other employees. (Employee's salary shall be at least 5% above the highest paid City employee's salary.)

- 2) (a) Employee shall continue to be entitled to all other benefits and rights provided to management employees as provided in City of Soledad Resolution No. 4069, and all amendments thereto. Such benefits include, but are not limited to, the right to participate in City's retirement plan, health, accident, eye care and dental plan, bereavement leave, emergency family leave, and sick leave buy back. Employee shall also be entitled to an additional 4.0 hours of administrative compensatory leave per calendar month, calculated from May 1, 2008, which shall be used to supplement regular compensation for hours spent fulfilling Employee's duties. All such leave must be used prior to, or within thirty (30) days of, May 8, 2009.
- (b) City/Agency acknowledges that Employee had previously made plans for at least one week of vacation in August of 2008, and has no objections to said plans.
- 3) Employee shall have the exclusive and unrestricted use of a City owned automobile. City shall be responsible for the insurance, operation, maintenance, and expense of said vehicle. Employee shall reimburse City, at the current rate authorized by the IRS, for any personal automobile travel exceeding a 450 mile round trip radius. This benefit shall only be provided as long as Employee maintains a valid California Driver's License and a driving record that does not adversely impact City's ability to insure Employee's use of the involved vehicle at a reasonable cost.
- 4) City/Agency shall defend, save harmless, and indemnify Employee against any tort, professional liability claim, or demand or other legal action arising out of an alleged act or omission occurring in the performance of Employee's duties as Interim City Manager, except to the extent caused by negligent, willful, intentional or reckless conduct.

2. Employment After Expiration of Interim City Manager's Appointment. Barring earlier cessation of her appointment, Employee's appointment as Interim City Manager shall expire upon the City Council's/Agency Board's appointment of a new City Manager/Executive Director. Thereafter, Employee will return to the position of Assistant City Manager at the annual salary of \$125,964.80, subject to any adjustment received by management employees in the preceding term of this Agreement. Upon her return to the Assistant City Manager's position, Employee shall continue to be entitled to all benefits and rights provided to management employees as provided in City of Soledad Resolution No. 4069, and all amendments thereto. Such benefits shall include, but not be limited to, the right to participate in City's retirement plan, health, accident, eye care and dental plan, bereavement leave, emergency family leave, and sick leave buy back.

3. Resignation From Interim City Manager's Position/Termination.

A. Resignation During Service as Interim City Manager. Employee may resign from the position of Interim City Manager as follows:

- 1) By mutual agreement of the parties hereto, expressed in writing. In such circumstances, Employee shall be allowed the option of returning to her former position as Assistant City Manager.
- 2) By Employee, upon giving City/Agency not less than thirty (30) days' prior written notice of her election to resign. In such circumstances, Employee shall be allowed the option of returning to her former position as Assistant City Manager.

B. Termination During Service as Interim City Manager. City/Agency may terminate Employee's service with City/Agency while in the position of Interim City Manager as follows:

- 1) For cause, by affirmative vote of at least three (3) Council members/Board members, for conviction of a crime involving moral turpitude, or for any conduct by or condition affecting Employee which makes it impossible or impracticable for her to perform her duties hereunder.
- 2) Without cause, by affirmative vote of at least three (3) Council members/Board members, upon providing Employee written notice of termination. Upon termination, Employee shall be paid forthwith a sum equal to her salary for a period of six (6) months.

Notwithstanding the foregoing, Employee may not be removed from office without cause pursuant to this provision during or within a period of one hundred eighty (180) days succeeding any general municipal election held in the City at which a City council member is to be elected.

4. Compatibility With State Law. This Agreement is made subject to all applicable laws of the State of California. In the event of any conflict between the provisions of this Agreement and any such State law, the provisions of the State shall apply.

CITY OF SOLEDAD
A Municipal Corporation

By 

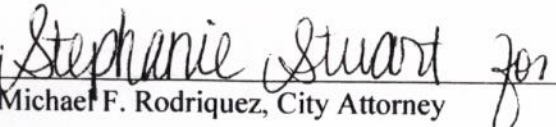
Title Richard V. Ortiz, Mayor

Dated 05/14/08


ADELA P. GONZALEZ

Dated May 14, 2008

APPROVED AS TO FORM:


Michael F. Rodriquez, City Attorney