

## EMPLOYMENT AGREEMENT

**THIS EMPLOYMENT AGREEMENT** ("Agreement") is made and entered into this 14th day of August 2018, ("Execution Date"), by and between the City of Dixon, a municipal corporation, ("City") and Jim Lindley, an individual ("Employee"). The City and Employee may individually be referred to herein as "Party" or collectively as "Parties". There are no other parties to this Agreement.

### RECITALS

A. Employee is presently employed with the City in the capacity as the City Manager. The City Manager is the executive head of the City government under the direction and control of the Dixon City Council ("City Council").

B. Employee commenced work as City Manager on March 12, 2012.

C. City Council has evaluated Employee's knowledge, experience, administrative skills, and abilities during Employee's employment as City Manager, and desires to continue his employment as City Manager pursuant to the terms of this Agreement.

D. The City Council is authorized to appoint the City Manager pursuant to Dixon Municipal Code ("Municipal Code") sections 2.09.010 and 2.09.020.

E. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as City Manager and shall replace the previous employment agreement and benefits conferred on the City Manager through the City personnel system.

F. The Parties desire to execute this Agreement pursuant to the authority of and subject to the provisions of California Government Code ("Government Code") section 53260 et seq.

**NOW, THEREFORE**, in consideration of the mutual covenants entered into between the Parties and in consideration of the benefits that accrue to each, it is agreed as follows:

### AGREEMENT

**Section 1. Recitals.** The recitals set forth above ("Recitals") are incorporated herein by this reference and made a part of this Agreement. In the event of any inconsistencies between the Recitals and Sections 1 through 11 of this Agreement, Sections 1 through 11 will prevail.

**Section 2. Effective Date.** This Agreement shall become effective once executed by both the City and the Employee.

**Section 3. Appointment of City Manager, Duties, and Term.**

**Section 3.1. Appointment of City Manager and Duties.** The City Council hereby appoints Employee to the position of City Manager, in and for the City, to perform the functions and duties of the City Manager under the direction of the City Council, under section 2.09.010 of the Municipal Code. Employee accepts such appointment and employment pursuant to the terms of this Agreement. Employee shall further perform the functions and duties specified under the laws of the State of California, the ordinances and resolutions of the City, and such other duties and functions as the City Council may from time-to-time assign.

**Section 3.2. No Secondary Employment.** Employee agrees to devote all his productive time, ability, and attention to the City's business. During the Term, as defined below in this Agreement, Employee shall not hold secondary employment and shall be employed exclusively by the City, subject to any exceptions approved in writing by the City Council; provided, however, Employee has the right to volunteer for such nonprofit organizations as he may see fit, and further provided that such volunteer services shall not interfere with his duties as City Manager.

**Section 3.3. Exempt Employee.** The general business hours for City employees are Monday through Friday, 9:00 a.m. to 5:00 p.m. However, it is recognized by the Parties that Employee is an exempt employee for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C., § 201, et seq.). As such, Employee shall not receive overtime or extra compensation for hours worked outside of the City's general business hours, which are necessary to fulfill the duties of the City Manager position, unless otherwise provided in this Agreement.

**Section 3.4. Schedule.** The City Manager's schedule of work each day and week shall vary in accordance with the work required to be performed. The City Council recognizes that the City Manager must devote a great deal of his time outside normal office hours to business of the City and to that end, will be allowed to take compensatory time off as he shall deem appropriate during said normal office hours.

**Section 3.5. Term.** The term of this Agreement shall expire on March 12, 2024 ("Term"). The City Council may extend the Term from time to time in increments of at least two (2) years. No later than three (3) months prior to the expiration of the Term, the City Council shall provide written notice to Employee as to whether the City Council intends to extend the Term.

**Section 4. At-Will Employment.** Employee is an at-will employee serving at the pleasure of the City Council, as provided in Government Code section 36506 and the Municipal Code section 2.09.020. Accordingly, the City Council may terminate Employee's employment at any time, with or without cause. Only if Employee is terminated by City without cause, as defined below, shall Employee be entitled to a Severance, as defined below.

**Section 5. Compensation and Evaluations.**

**Section 5.1. Base Salary.** City agrees to pay Employee a salary consistent with the pay plan for the City Manager ("Base Salary"), payable in installments at the same time that the other City employees are paid.

City shall pay Employee a Base Salary in the amount of One Hundred and Eighty Thousand Dollars (\$180,000) per year.

Effective beginning in the first full pay period following March 13, 2020, through the end of the Term, Employee's Base Salary will be adjusted in accordance with any increase in the All Urban Consumer Price Index for the San Francisco-Oakland-San Jose Area ("CPI"), but will not be decreased in the event there is any year-to-year or cumulative decrease in the CPI during the Term of this Agreement. Any increase to the Base Salary as a result of an increase to the CPI will be rounded up to the nearest dollar. Any changes in Employee's Base Salary shall be based on the February CPI, released every year in January, and shall become effective the first full pay period following March 12 of years 2020 through 2023. Notwithstanding the aforementioned, at no time shall Employee's Base Salary be increased more than five percent (5%) per year.

**Section 5.2. Base Salary Adjustments.** The City Council may annually consider adjustment of Employee's Base Salary or other benefits in such amounts and to the extent as the City Council may determine that it is desirable on the basis of the annual review and evaluation of the Employee as provided for in section 5.5 of this Agreement.

**Section 5.3. Pro-rata Decrease.** Employee acknowledges that the Base Salary may be subject to pro-rata decrease based on the City Council's adoption of an unpaid Mandatory Furlough Program adopted as a budgetary measure.

**Section 5.4. Reopener.** Employee acknowledges that in the event the City's monetary reserves fall below ten percent (10%) before the expiration of the Term of this Agreement, City may elect to reopen this Agreement for negotiations.

**Section 5.5. Review and Evaluation.** The City Council agrees to review and evaluate Employee's performance of his duties as City Manager pursuant to the terms of this Agreement ("Review and Evaluation") on not less than an annual basis and to provide Employee with a written performance review. The annual Review and Evaluation shall be conducted in March of each year, or at the City Council's discretion.

**Section 6. Benefits.**

**Section 6.1. Retirement.** The City will continue its participation in the Public Employees Retirement System (“PERS”). Employee is not currently defined as a “New Member” in Government Code section 7522.04 and is eligible for the Tier One Miscellaneous 2.5% @ 55 retirement formula. Employee shall continue to contribute eight percent (8%) towards the employee share of the PERS contributions.

**Section 6.2. Deferred Compensation.** In addition to the City’s payment to PERS set forth in section 6.1 of this Agreement, City agrees to contribute a six percent (6%) match of Employee’s Base Salary towards Employee’s deferred compensation retirement account.

**Section 6.3. Monthly Benefit Allowance (MBA).**

6.3.1. Eligibility Date. Employee will continue to receive a Monthly Benefit Allowance (“MBA”) at the applicable rate referenced in section 6.3.2 below.

6.3.2. City Contribution. The City will contribute to Employee’s MBA. Employee shall receive seventy percent (70%) of the Kaiser (Bay Area) family rate. If Employee elects not to receive the MBA, he will receive Six Hundred Dollars (\$600.00) per month as taxable income. If during the Term of this Agreement, all City employees are afforded greater medical, dental, and/or vision benefits, Employee shall be entitled to the same.

6.3.3. Distribution.

- (a) The City’s MBA will be added to Employee’s earnings as taxable income and may be used for benefits under the IRC Section 125 Plan (“Cafeteria Plan”) or other pre-tax program options offered by the City. The MBA will not be added to Base Salary for purposes of calculating PERS contributions or other salary-based inventive pay/benefits.
- (b) If Employee chooses to enroll in plans that cost more than the City’s MBA, he shall pay the additional cost by deduction from gross salary payroll.

6.3.4. CalPERS Medical: Unequal Contribution Method.

- (a) From the appropriate MBA amount set forth above, the City will contribute, under PERS Medical Unequal Contribution Method for Employee, the amount necessary to pay the costs of his enrollment, including the enrollment of family members in the CalPERS health benefits plan.

- (b) The City will contribute, under the PERS Medical Unequal Contribution Method, for each annuitant the amount necessary to pay for the costs of his enrollment, including the enrollment of family members in the CalPERS health benefits plan.
- (c) The City shall pay the current CalPERS monthly administrative fees.

6.3.5. IRC Section 125 Plan Cafeteria Plan.

- (a) The City will maintain a Cafeteria Plan for the benefit of its employees.
- (b) After making the required contribution for medical insurance under the PERS Medical Unequal Contribution Method (see section 6.3.4 above), the remaining dollars may be used by the Employee either to purchase medical insurance through CalPERS health or to purchase any other optional plans that may be offered by the City in accordance with a qualified plan.
- (c) Plans currently offered include: Dental, Voluntary Vision, Long Term Care, Voluntary Group Life Insurance, and Supplemental Life Insurance.
- (d) The choice of insurance plan(s) is made once a year by Employee during the open enrollment period, at the time of hire for new employees, or when Employee's dependent status changes. Insurance premiums will be deducted from gross pay each payroll period throughout the plan year as pre-tax contributions.
- (e) Flexible Spending Account (FSA) - Unreimbursed Medical/Dependent Care Allocation amounts or modifications to these accounts must be determined for a full twelve (12) month period (i.e., the calendar year) during open enrollment period, at the time of hire for new unit members, or when Employee's dependent status changes. Services must be received during the plan period, which is January 1 through December 31. Any unused allocations will be lost. For plan details, contact the Human Resources Department. Administration costs associated with the Flexible Spending Account plan(s) will be paid by the City.

6.3.6. Medical After Retirement.

- (a) If Employee retires from the City during the Term of this contract, he shall receive the following City paid medical benefits after retirement:
  - 1. The dollar equivalent of one (1) month's premium for the PERS Kaiser Plan for Employee, plus one dependent, at the rate of one (1) month's premium for each full year worked in the employ of the City prior to retirement.
  - 2. The total time period of these payments shall not exceed twenty-four (24) months.
- (b) Thereafter, the CalPERS retiree shall, as required by CalPERS, receive a City contribution for medical as required by the City's participation in the PERS Medical Unequal Contribution Method.
- (c) Said payment shall be extended to the surviving spouse or dependent of a deceased retiree, to the extent that said payments would have been made had the employee not died.

6.3.7. Health Insurance Plan Waiver Option. Employee shall be covered by a health insurance plan, either as offered by the City or from another source. If Employee is covered by a health insurance plan other than offered by the City, he has the option to waive the City's health insurance. Employee must complete a City provided Health Insurance Waiver Form and provide proof of alternative health insurance plan coverage.

6.3.8. Long-Term Disability. If Employee is regularly scheduled to work at least twenty (20) hours per week, the City shall provide for a long-term disability plan. Benefits are payable after sixty (60) days at the rate of two-third (2/3) of base salary up to the maximum as designated in the plan agreement. The monthly premium is paid by the City.

6.3.9. Term Life Insurance. The City shall provide a Fifty Thousand Dollars (\$50,000) term life insurance policy for Employee during the Term of his employment.

**Section 6.4. Vacation Leave.** Employee shall accrue one hundred and sixty (160) hours of vacation annually during the Term of this Agreement. Employee may cash out up to seventy-five percent (75%) of his unused accrued vacation once per fiscal year.

**Section 6.5. Administrative Leave.** In recognition of the extra hours required, Employee shall earn one hundred and twenty (120) hours of administrative leave every

July 1. This leave shall be used in the same manner as vacation. All administrative leave received by Employee pursuant to this Agreement must be used prior to July 1 of each year and any unused administrative leave time shall automatically expire. During the Term of this Agreement, Employee may cash-out up to ninety (90) hours of administrative leave each fiscal year. The City's fiscal year begins on July 1<sup>st</sup> and ends on June 30<sup>th</sup> of each year.

**Section 6.6. Sick Leave.** The purpose of sick leave is to provide income protection if Employee must be absent from work due to his injury or illness, or due to the illness or injury of a family member. A family member includes child, parent (including parent-in-law), spouse, registered domestic partner, grandparent, grandchild, or sibling.

6.6.1. Sick Leave Accrual. Employee shall accrue sick leave at the rate of eight (8) hours for each full month of service completed. There is no maximum accrual of sick leave credits.

6.6.2. Payment Upon Termination. A portion of Employee's accrued unused sick leave may be converted into cash upon separation from the City or retirement according to the following schedule:

Years of Service	Conversion Percentage
1-2	0%
3-5	20%
6-10	30%
11 +	30% + 2% for each year after ten (10) years to a maximum of 50%

**Section 6.7. Bereavement Leave.** In the event of a death in the immediate family, Employee will be granted up to three (3) working days of paid bereavement leave per incident.

**Section 6.8. Car Allowance.** In lieu of reimbursement for automobile expenses, Employee shall provide his own automobile for use in conducting normal City business and shall receive a car allowance of Six Hundred Dollars (\$600.00) per month.

**Section 6.9. Cell Phone, Wireless Email.** Employee will receive a monthly technology stipend to use towards the cost of, and in lieu of, a City-provided cell phone for use at work. This stipend will be in the amount of Ninety-Five Dollars (\$95.00) a month.

**Section 6.10. Low Interest Down Payment Loan.** Employee shall be eligible for a low interest loan from the City for the down payment for the purchase of a home in the City in an amount not exceed One Hundred and Fifty Thousand Dollars (\$150,000) ("City Loan"). Employee shall execute the necessary documentation, including a personal guarantee, substantially in the form of **Exhibit A** of this Agreement to secure the City Loan.

6.10.1. Principal and Interest Payment. Interest for the City Loan shall be calculated based on apportionment rates of the Local Agency Investment Fund, administered by the California State Treasurer's Office ("LAIF") plus half of one percent (0.5%). The payment of the City Loan will be amortized over a thirty (30) year period, unless the Employee breaches this Agreement or leaves employment with the City, as outlined in sections 6.10.2-6.10.4 below.

6.10.2. City Loan Home Usage. Employee must use the City Loan to purchase a home within the City, which he will use and reside in as his primary residence. Employee shall not use the City Loan to purchase a home to rent or lease to other occupants, whether on a short-term or long-term basis. If Employee rents or leases the home purchased with the City Loan, he will be in breach of this Agreement, and will be required to pay back the City Loan immediately.

6.10.3. City Loan Repayment Upon Separation from City. If Employee is terminated, resigns, retires from his employment as City Manager with the City, or the Term of this Agreement lapses, Employee shall pay the outstanding balance of the City Loan within eighteen (18) months of his separation from the City.

6.10.4. City Loan Repayment Upon Transfer of Deed. In the event Employee sells the property purchased with the City Loan or otherwise transfers ownership, the City Loan will be due and payable immediately.

**Section 7. Termination of Employment and Severance.**

**Section 7.1. Voluntary Resignation.** Employee may resign at any time and agrees to give the City at least sixty (60) days advance written notice of the effective date of the Employee's resignation unless the Parties otherwise agree in writing. If the Employee retires from full-time public service with the City, the Employee shall provide three (3) months advance written notice. The Employee's actual retirement date will be mutually established between the Parties. During the notice period, all rights and obligations of the Parties under this Agreement shall remain in full force and effect. Promptly after the effective date of resignation, the City shall pay to Employee all salary and benefit amounts both accrued and owing under this Agreement. In the event of voluntary resignation, Employee shall not be entitled to a Severance as set forth in this Agreement.

**Section 7.2 Termination by City Council.** The City Council may terminate this Agreement and remove Employee from his position as City Manager at any time with or without cause and with or without notice, by a three-member vote of the whole City Council as then constituted, convened in a regular City Council meeting, as outlined in the Municipal Code section 2.09.020. If Employee's termination is based on charges of misconduct that publicly stigmatizes Employee's reputation or impairs his ability to earn a living, or might damage his standing in a community, Employee may, within five (5) business days of the City Council's notice to Employee of their intent to terminate



Employee's employment, make a written request for a "name-clearing" hearing (as described in *Lubey v. City and County of San Francisco* (1979) 98 Cal.App.3d 340, and its progeny) before the City Council in closed session. The "name-clearing" hearing is solely to provide Employee the opportunity to clear his name. The City Council may determine whether the allegations contained in the notice of termination are supported. If the City Council determines that the allegations are not supported, a decision shall be issued to reflect that Employee's termination was without fault. This decision will not, however, require that Employee be reinstated to his position. In the event Employee does not request a "name-clearing" hearing before the City Council, the City Council's decision to terminate will be effective by the close of business on the fifth (5th) day after the notice was provided to Employee of their intent to terminate his employment.

**Section 7.3. Termination Without Good Cause.** In the event City terminates this Agreement without cause, as defined below, the City shall pay Employee a sum equal to twelve (12) months Base Salary and shall pay Employee twelve (12) months of continued healthcare benefits under the provisions of the Federal Consolidated Omnibus Budget Reconciliation Act (collectively, "**Severance**"). If Employee has not retained other employment by the thirteenth (13<sup>th</sup>) month following termination, he shall continue to receive Severance on a monthly basis, not to exceed a total of eighteen (18) months. If Employee obtains employment between the 13<sup>th</sup> and 18<sup>th</sup> month, he must notify the City within ten (10) days of accepting an employment offer, or he will be in breach of this Agreement. Severance will cease the month following notice of new employment.

This Severance is subject to the restrictions of Government Code section 53260, including without limitation, that the maximum amount of Severance pay that Employee may receive shall be the lesser of (i) twelve (12) months base salary; or (ii) base salary for the number of months remaining on the term of this Agreement. Any cash settlement related to the termination of this Agreement received by Employee from City shall be fully reimbursed to the City if Employee is convicted of a crime involving an abuse of his office or position while employed with City, pursuant to Government Code section 53243.2. This Severance shall be paid in the same manner as other employees unless otherwise agreed to by the City and Employee. The City agrees to make a contribution to the Employee's deferred compensation account on the value of this compensation, calculated using the rate ordinarily contributed on regular compensation.

**Section 7.4. Termination for Good Cause.** The City may at any time immediately terminate this Agreement for good cause as defined in this section 7.4. If Employee is terminated for good cause, the City shall not be required to pay any Severance under this Agreement, and the City shall have no obligation to Employee beyond those benefits accrued as of Employee's last day of employment and those the City is obligated to provide under federal or state law.

"**Good Cause,**" for purposes of this Agreement, means a fair and honest cause or reason for termination. These reasons include, but are not limited to:

1. Conviction of a felony;

2. Disclosing confidential information of City;
3. Gross carelessness or misconduct;
4. Unjustifiable and willful neglect of the duties described in this Agreement;
5. Mismanagement;
6. Non-performance of duties;
7. Any conduct which violates the City's Personnel Rules and for which a City employee may be terminated;
8. Repeated and protracted unexcused absences from the City Manager's office and duties;
9. Willful destruction or misuse of City property;
10. Willful political activity involving the support of candidates for City Council;
11. Conduct that in any way has a direct, substantial, and adverse effect on the City's reputation;
12. Willful violation of federal, state, or City discrimination laws;
13. Continued substance abuse which adversely affects performance of Employee's duties as City Manager;
14. Refusal to take or subscribe any oath or affirmation which is required by law; or
15. Permanent disability of Employee, or Employee becoming otherwise unable to perform the duties of City Manager, by reason of sickness, accident, illness, injury, mental incapacity, or health for a period of six (6) weeks following the exhaustion of all available leave balances and any applicable Family Medical Leave Act or California Medical Leave Act leaves, or where the same occurs for forty (40) working days over a sixty (60) working day period, following exhaustion of such leaves.

Notwithstanding any provision in this Agreement to the contrary, the City Manager may suspend Employee with full pay and benefits at any time during the Term of this Agreement.

**Section 8. Indemnification.** The City shall defend, hold harmless, and indemnify Employee against any tort, personnel, civil rights, or professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager in accordance with the California Government Claims Act (Government Code, § 810, *et seq.*) and shall provide a defense to Employee in accordance with Government Code sections 995-996.6. The City may decline to defend or indemnify Employee only as permitted by the Government Code. The City may compromise and settle any such claim or suit and pay the amount of any resulting settlement or judgment; provided, however, the City's duty to defend and indemnify Employee shall be contingent upon Employee's good faith cooperation with such defense. In the event the City provides paid leave to Employee pending an investigation, or provides funds for a legal criminal defense pursuant to this section, Employee shall reimburse the City for the amount of such paid leave or cost of the legal criminal defense, if Employee is convicted of a crime involving an abuse of office or position, as provided by Government Code sections 53243-53243.1. Also, if this Agreement is terminated, any cash settlement related to the termination that Employee may receive from the City shall be fully reimbursed to the City if Employee is convicted of a crime involving an abuse of his or her office or position as provided in Government Code section 53243.2-53243.4.

**Section 9. Bonding.** City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

**Section 10. Notices.** Any notice or communication required hereunder between the City and Employee must be in writing and may be given either personally, by facsimile (with original forwarded by regular U.S. Mail), by registered or certified mail (return receipt requested), or by Federal Express, UPS, or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving Party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday, or holiday, shall be deemed to have been given and received on the next normal business day. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent; or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City: City of Dixon  
ATTN: City Clerk  
600 East A Street  
Dixon, California 95620

and Churchwell White, LLP  
ATTN: Douglas L. White  
1201 K Street, Suite 710  
Sacramento, CA 95814

If to Employee: City of Dixon  
ATTN: Jim Lindley  
600 East A Street  
Dixon, California 95620  
w/cc: home address on file

**Section 11. General Provisions.**

**11.1. Modification of Agreement.** This Agreement may be supplemented, amended, or modified only by written agreement signed by the City and Employee.

**11.2. Entire Agreement.** This Agreement constitutes the final, complete, and exclusive statement of the terms of the Agreement between the Parties pertaining to the action and supersedes all other prior or contemporaneous oral or written understandings and agreements of the Parties. This Agreement replaces any other employment agreements and amendments to those agreements that the Parties previously agreed to, beginning in March 12, 2012.

No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement.

**11.3. Severability of Agreement.** If a court or an arbitrator of competent jurisdiction holds any section of this Agreement to be illegal, unenforceable, or invalid for any reason, the validity and enforceability of the remaining sections of this Agreement shall not be affected.

**11.4. Authority.** All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states, or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement had been fully complied with. Further, by entering into this Agreement, neither Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

**11.5. Headings.** The headings in this Agreement are included for convenience only and neither affect the construction or interpretation of any section in this Agreement, nor affect any of the rights or obligations of the Parties to this Agreement.

**11.6. Necessary Acts and Further Assurances.** The Parties shall, at their own cost and expense, execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

**11.7. Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.

**11.8. Waiver.** No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

**11.9. Counterparts.** This Agreement may be executed in counterparts and all so executed shall constitute an agreement which shall be binding upon the Parties hereto, notwithstanding that the signatures of all Parties and Parties' designated representatives do not appear on the same page.

**11.10. Venue.** Venue for all legal proceedings shall be in the Superior Court of California, in and for the County of Solano.

**11.11. Attorney's Fees and Costs.** If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret sections of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

[SIGNATURE PAGE TO FOLLOW]

**IN WITNESS WHEREOF**, this Agreement has been entered into by and between Employee and the City as of the date of the Agreement set forth above.

**CITY:**

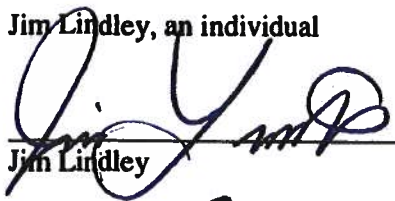
City of Dixon, a California municipal corporation

By:   
Thom Bogue, Mayor

Date Signed: 9-10-2018

**EMPLOYEE**

Jim Lindley, an individual

  
Jim Lindley

Date Signed: 9-10-18

**Attest:**

By:   
Leticia I. Miguel, City Clerk

Dated: 09-10-18

**Approved as to Form:**

By:   
Douglas L. White, City Attorney

Dated: 9-10-18

**EXHIBIT A**

**LOW INTEREST DOWN PAYMENT LOAN  
SECURED PROMISSORY NOTE**

{CW064452.7}

**AGREEMENT NO. 18-036**

SECURED PROMISSORY NOTE

\$150,000.00 \_\_\_\_\_, 20\_\_

FOR VALUE RECEIVED, \_\_\_\_\_ and \_\_\_\_\_ (collectively referred to as "Borrower"), hereby jointly and severally promises to timely pay to the City of Dixon, a municipal corporation ("Lender"), the principal sum of One Hundred Fifty Thousand Dollars (\$150,000) (the "Principal"), together with interest on the outstanding Principal amount, all in accordance with the terms and conditions set forth in this Secured Promissory Note ("Note").

The loan evidenced by this Note ("Loan") is a housing loan to Borrower for the purchase of \_\_\_\_\_, Dixon, CA 95620 (the "Property"), a residence in the City of Dixon. The obligations under this Note are secured by a Deed of Trust ("Deed of Trust") and a personal guarantee ("Personal Guarantee"), both executed by Lender and Borrower, dated substantially concurrently herewith encumbering the Property purchased in part with proceed of the Loan.

1. The outstanding balance under this Note, including interest, shall be due and payable on the earlier date of three hundred and sixty (360) months from the date of this Note, or upon the occurrence of any of the following, whichever comes first:

- a) Immediately upon transfer if Borrower transfers the Property or any interest in the Property, including but not limited to a sale, assignment, lease, license, hypothecation, mortgage, refinance to take equity out of the Property (including a home equity line of credit), or otherwise transfers the Property or any interest in the Property, except for the following: (i) a fixed-rate refinancing loan where no cash is taken out by Borrower, or (ii) a transfer specifically approved in writing by Lender, which approval may be withheld in Lender's sole discretion.
- b) Eighteen (18) months following the end of Borrower's employment with the City of Dixon, including retirement.
- c) Twenty-four (24) months following the death of Borrower.
- d) Immediately following the Borrower's failure to occupy the Property as Borrower's principal residence or upon Borrower renting or leasing the Property to a third party.
- d) Immediately if Borrower violates any term or provision of this Note or the Deed of Trust securing this Note or any senior mortgage on the Property and fails to cure such violation within thirty (30) days after receipt of notice to cure from Lender.

2. Interest for the Loan shall be calculated based on apportionment rates of the Local Agency Investment Fund, administered by the California State Treasurer's Office plus half of one

Borrower Initials – Page 1 of 4 - \_\_\_\_\_

AGREEMENT NO. 18-036



percent (0.5%). Borrower should consult with their tax advisor(s) regarding any tax effects on Borrower due to the interest rate.

3. During the first sixty (60) months, Borrower is not obligated to make any principal payments, but must make a payment equivalent to the accrued monthly interest.

4. During months sixty-one (61) through three hundred sixty (360), Borrower is obligated to make monthly interest and principal payments sufficient to amortize the Loan on the last business day of each calendar month. Each payment will be applied to principal. Payments by Borrower will be made to Lender at the City of Dixon City Hall.

5. Payments of all or any portion of the Principal may be made at any time before they are due (a "Prepayment") without additional charge. Borrower will notify the Lender in writing of any Prepayment but may not designate a payment as a Prepayment if any payments then due under this Note are past due.

6. Subject to Lender's compliance with California Civil Code Section 2954.5, if Lender has not received the full amount of any payment due under Section 3 within ten (10) calendar days after the date it is due, Lender may require Borrower to pay a late charge to Lender. The amount of the charge will be five percent (5%) of the overdue payment of Principal and interest, and the late charge must be paid within ten (10) days after written demand thereof.

7. Borrower agrees to pay the following costs, expenses, and attorney's fees paid or incurred by Lender, or adjudged by a court: (a) reasonable costs of collection, costs, and expenses, and attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed; and (b) costs of suit and such sum as the court may adjudge as attorneys' fees in any action to enforce payment of this Note or any part of it. In addition to the foregoing award of attorneys' fees, Lender shall be entitled to its attorneys' fees incurred in any post judgment proceedings to enforce any judgment in connection with this Loan. This provision is separate and several and shall survive the merger of this provision into any judgment.

8. Presentment, notice of dishonor, and protest are waived by Borrower. "Presentment" means the right to require Lender to demand payment of amounts due. "Notice of dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid.

9. Any notice pursuant to this Note shall be given by personal delivery or by mailing such notice by first class or certified mail, return receipt requested, addressed to the party at the following address, or to such other address as the party may designate by written notice to the other party:

Lender:

City of Dixon  
Attn: Finance Department  
600 East A Street  
Dixon, CA 95620

Borrower:

Jim Lindley  
at the most recent address on file in his  
personnel file held by City's Human Resources Department

Mailed notices shall be deemed delivered and received three (3) days after deposit in accordance with this provision in the United States mail.

10. The Deed of Trust and other documents and instruments evidencing and securing the Loan contain provisions for acceleration of the maturity of this Note on the occurrence of certain described events.

11. If there is a failure to comply with the Note or the Deed of Trust securing this Note, and such default is not cured within ten (10) days after written notice from Lender (an "Event of Default"), then Lender may demand that Borrower pay all outstanding principal and accrued interest. Failure to pay accrued interest and outstanding principal on the maturity date shall also be an Event of Default. Upon the occurrence of an Event of Default, Lender may exercise its rights and remedies at law and in equity, including, without limitation, nonjudicial foreclosure.

12. Even if, at a time when there is an Event of Default, Lender does not require payment immediately in full as described above, Lender reserves the right to require a full payment at a later date. No delay or omission on the part of Lender in exercising any rights under this Note or under the Deed of Trust or any other security agreement given to secure this Note, on default by the Borrower, shall operate as a waiver of such right or of any other right under this Note or other agreements, for the same default or any other default.

13. Lender may sell, assign, or otherwise transfer this Note, the Deed of Trust, and any other instrument evidencing or securing the indebtedness of this Note.

14. This Note shall be binding on and inure to the benefit of the respective legal and personal representatives, devisees, heirs, successors, and assigns of Borrower and Lender.

15. Time is of the essence for each and every obligation under this Note.

**[SIGNATURE PAGE TO FOLLOW]**

Borrower Initials – Page 3 of 4 - \_\_\_\_\_

**AGREEMENT NO. 18-036**

**LENDER:**

City of Dixon, a California municipal corporation

By: \_\_\_\_\_  
Thom Bogue, Mayor

Date Signed: \_\_\_\_\_

**Borrower**

Jim Lindley, an individual, and \_\_\_\_\_, an individual

\_\_\_\_\_  
Jim Lindley

Date Signed: \_\_\_\_\_

\_\_\_\_\_  
Date Signed: \_\_\_\_\_

**Attest:**

By: \_\_\_\_\_  
Leticia I. Miguel, City Clerk

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

**Approved as to Form:**

By: \_\_\_\_\_  
Douglas L. White, City Attorney

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

**RESOLUTION NO. 18-137**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DIXON APPROVING THE EMPLOYMENT AGREEMENT OF THE CITY MANAGER JIM LINDLEY AND AUTHORIZING THE MAYOR TO EXECUTE AND ENTER INTO THE AGREEMENT ON BEHALF OF THE CITY**

**WHEREAS**, pursuant to the City of Dixon's ("City") Municipal Code section 2.09.020, the City Council is authorized to hire and appoint the City Manager; and

**WHEREAS**, on May 26, 2015, the City Council adopted a resolution approving a four (4) year contract, to expire on March 12, 2019, between the City and Jim Lindley; and

**WHEREAS**, the City wishes to continue to employ Jim Lindley as City Manager based on favorable performance evaluations; and

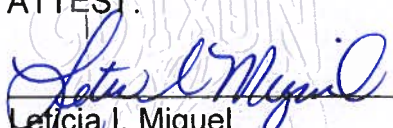
**WHEREAS**, the City and the City Manager now wish to enter in a new employment agreement for a term set to expire on March 12, 2024, which will adjust the City Manager's salary and other benefits, which is attached hereto as **Exhibit A** ("Agreement").


**NOW, THEREFORE, BE IT RESOLVED**, the City Council approves the Agreement, attached hereto as **Exhibit A**, and authorizes the Mayor to execute and enter into the Agreement on behalf of the City.

PASSED AND ADOPTED THIS 28<sup>TH</sup> DAY OF AUGUST 2018 BY THE FOLLOWING VOTE:

AYES: Bird, Hickman, Pederson, Bogue  
NOES: Minnema  
ABSTAIN: None  
ABSENT: None

ATTEST:

  
\_\_\_\_\_  
Leticia I. Miguel  
City Clerk

  
\_\_\_\_\_  
Thom Bogue  
Mayor