

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (“Agreement”) is made and entered into this 3rd day of May, 2022 by and between the City of Dixon, a municipal corporation (“City”), and Raffi Boloyan, an individual (“Employee”). 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. The City Manager is authorized to appoint City staff pursuant to Dixon Municipal Code (“Municipal Code”) section 2.09.040, subject to review and ratification by the City of Dixon City Council (“City Council”) in the case of department heads;
- B. The City Manager has evaluated Employee’s knowledge, experience, administrative skills, and ability to serve as the City’s Community Development Director, and recommends that Employee be appointed as the Community Development Director pursuant to the terms of this Agreement;
- C. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as Community Development Director;
- D. 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 10 of this Agreement, Sections 1 through 10 will prevail.

Section 2. Effective Date. This Agreement shall become effective once executed by both the City and Employee (“Effective Date”).

Section 3. Appointment of Community Development Director, Duties and Term.

Section 3.1. Appointment of Community Development Director and Duties.

The City Manager hereby appoints Employee to the position of Community Development Director, in and for the City, to perform the function and duties of the Community Development Director under the direction of the City Manager, as the City Manager is authorized to oversee City employees under Section 2.09.040 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 Municipal Code, the Ordinances and Resolutions of the City, and such other duties and functions as the City Manager may from time-to-time assign.

Section 3.2. No Secondary Employment. Employee agrees to devote all of his productive time, ability, and attention to the City's business. During the Term, as defined in Section 3.5 of 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 Manager or the City of Dixon City Council (the "City Council"). Provided, however, that 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 Community Development Director.

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.). 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 Community Development Director position, unless otherwise provided in this Agreement.

Section 3.4. Schedule. The Community Development Director's daily and weekly work schedule shall vary in accordance with the work required to be performed. The Community Development Director position may include frequent attendance at evening meetings and frequent irregular hours, as necessary, to meet deadlines and achieve objectives. The City Council and the City Manager recognize that the Community Development Director 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 be for three (3) years from the Effective Date ("Term"). The City Manager, in his sole discretion, may extend the Term, from time to time, in increments of one (1) year. No later than three (3) months prior to the expiration of the Term, the City Manager shall provide written notice to Employee as to whether the City Manager intends to extend the Term.

Section 4. At-Will Employment. Employee is an at-will employee serving at the pleasure of the City Council and City Manager, as provided in Government Code section 36506 and the Municipal Code section 2.09.040. Accordingly, the City Manager may terminate Employee's employment at any time, with or without cause. Only if Employee is terminated by City without cause, pursuant to Section 6.3 of this Agreement, shall Employee be entitled to a Severance, as defined in Section 6.3 of this Agreement.

Section 4.1. No Property Right in Employment. Employee understands and agrees that the terms of his employment are governed solely by this Agreement. Employee further understands and agrees that this Agreement does not confer a right of employment for any specified term and that he is not entitled to due process for any disciplinary action under the City's personnel policies and rules, including termination.

Section 5. Compensation and Evaluations.

Section 5.1. Base Salary. The City agrees to pay Employee a salary of One Hundred and Seventy-Five Thousand, Seven Hundred Seventy Dollars (\$175,770.00) ("Base Salary"), payable the first full pay period following December 7, 2022.

Effective the first full pay period following December 7, 2023, Employee's Base Salary shall be increased by six percent (6%) to One Hundred Eighty-Six Thousand Three Hundred Sixteen Dollars and Twenty Cents (\$186,316.20).

Effective the first full pay period following December 7, 2024, Employee's Base Salary shall be increased by three percent (3%) to One Hundred Ninety-One Thousand Nine Hundred Five Dollars and Sixty-Nine Cents (\$191,905.69).

Section 5.2. 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 5.3. Review and Evaluation. The City Manager agrees to review and evaluate Employee's performance of his duties as Community Development Director 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 December of each year, or at the City Manager's discretion.

Section 5.4. Benefits. During the Term of this Agreement, Employee shall be entitled to receive the same benefits provided in the City's "Compensation Plan for Confidential Senior Management Classifications" (the "Compensation Plan") attached hereto as **Exhibit A** and incorporated herein by reference, or as may be amended from time to time. Any benefits listed in Sections 5.5 through 5.8 of this Agreement shall be in lieu of those benefits provided in the Compensation Plan. Any benefits not specifically listed

in Sections 5.5 through 5.7 of this Agreement are enumerated in the attached Compensation Plan.

Section 5.5. Retirement Benefits. The City agrees to continue its contribution to Employee's retirement benefits into the State of California Public Employees Retirement System ("PERS"), as set forth in the Compensation Plan.

Section 5.6. Deferred Compensation. If Employee elects to participate in the City's deferred compensation plan, Employee shall receive a matching City contribution for deposit into such a deferred compensation retirement account. The City shall match Employee's contribution up to four percent (4%) of Employee's Base Salary each month.

Section 5.7. Vacation. Employee shall accrue one hundred sixty (160) hours of vacation leave per year. Upon separation, Employee is entitled to receive payment at their current base pay for all vacation time earned but not taken as of the effective date of separation.

Section 5.8. 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 leave. 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 sixty (60) hours of Administrative Leave each fiscal year. The City's fiscal year begins on July 1 and ends on June 30 each year.

Section 5.9. Reopener. Employee understands and acknowledges that in the event the City's monetary reserves fall below fifteen percent (15%) prior to the expiration of the Term of this Agreement, City may elect to reopen this Agreement for negotiations.

Section 5.10. Vehicle Allowance. During the Term of this Agreement, the City shall pay Employee the sum of Three Hundred Dollars (\$300.00) per month as a vehicle allowance ("Vehicle Allowance") to compensate Employee for using his private vehicle in the course of work. This Vehicle Allowance is in addition to Employee's Base Salary and other benefits herein provided and will be subject to typical withholding provisions as it is considered income to Employee. Employee shall be responsible for paying all liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsibility for all expenses attendant to the purchase, lease, operation, maintenance, repair and regular replacement of the vehicle.

Section 6. Termination of Employment and Severance.

Section 6.1 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

Employee's resignation, unless the Parties otherwise agree in writing. If Employee retires from full-time public service with the City, Employee shall provide three (3) months' advance written notice. 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 Employee's 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 Section 6.3 of this Agreement.

Section 6.2. Termination by City Manager. The City Manager may terminate this Agreement and remove Employee from his position as Community Development Director at any time with or without cause. 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 Manager's notice to Employee of his or her 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 at 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 Manager's decision to terminate will be effective by the close of business on the fifth (5th) day after the City Manager provided notice to Employee of his or her intent to terminate Employee's employment.

Section 6.3. Termination Without Good Cause. In the event the City terminates this Agreement without Good Cause, as defined in Section 6.4, below, the City shall pay Employee a sum equal to six (6) months' Base Salary ("Severance"). This Severance is subject to the restrictions of Government Code section 53260. Any cash settlement related to the termination of this Agreement received by Employee from the 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 the 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 Employee's deferred compensation account (including the matching amount as noted in Section 5.6. above) on the value of the Severance, calculated using the rate ordinarily contributed on regular compensation. In the event the City terminates this Agreement, Employee shall be entitled to continued medical and dental benefits at his cost pursuant to the provisions of the federal Consolidated Omnibus Budget Reconciliation Act ("COBRA").

Section 6.4. Termination For Good Cause. The City may, at any time, immediately terminate this Agreement for Good Cause, as defined below. 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 the 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 Community Development Director's office and duties;
9. Willful destruction or misuse of City property;
10. Conduct that in any way has a direct, substantial, and adverse effect on the City's reputation;
11. Willful violation of federal, state, or City discrimination laws;
12. Continued substance abuse which adversely affects performance of Employee's duties as Community Development Director;
13. Refusal to take or subscribe any oath or affirmation which is required by law;
14. Disability that renders Employee unable to perform the essential functions of his job, with or without reasonable accommodation, which places an undue burden on the City;
15. Dishonesty;
16. Engaging in other employment or activities which conflict with, or present the appearance or possibility of conflicting with, the City's legitimate business interests; or
17. Continuous or repeated failure or refusal to perform Employee's duties to the standards set by the City.

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 7. 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 Community Development Director in accordance with California's Tort Claims Act (Government Code section 825 et seq.), and shall provide a defense to Employee in accordance with Government Code sections 995-996.5. The City may decline to defend or indemnify Employee only as permitted by the Government Code. City may compromise and settle any such claim or suit and pay the amount of any resulting settlement or judgment. Provided, however, that the City's duty to defend and indemnify shall be contingent upon Employee's good faith cooperation with such defense. In the event the City provides funds for legal criminal defense pursuant to this Section, Employee shall reimburse the City for such legal criminal defense funds if Employee is convicted of a crime involving an abuse of office or position, as provided by Government Code sections 53243-53243.4.

Section 8. Bonding. The City shall bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

Section 9. Notices. Any notice or communication required hereunder between the City and Employee must be in writing, and may be given either personally, by email (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 email 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 email server. 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
lruiz@cityofdixon.us

If to City Manager: City of Dixon
ATTN: City Manager
600 East A Street
Dixon, California 95620
jlindley@cityofdixon.us

And copy to: White Brenner LLP
ATTN: Douglas L. White
1414 K Street, 3rd Floor
Sacramento, CA 95814
doug@whitebrennerllp.com

If to Employee: City of Dixon
ATTN: Raffi Boloyan
600 East A Street
Dixon, CA 95620
w/ cc: home address on file
rboloyan@cityofdixon.us

Section 10. General Provisions.

Section 10.1. Modification of Agreement. This Agreement may be supplemented, amended, or modified only by a writing signed by the City and Employee.

Section 10.2. Entire Agreement. This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the Parties and supersedes all other prior or contemporaneous oral or written understandings and agreements of the Parties. 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.

Section 10.3. 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.

Section 10.4. 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 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.

Section 10.5. 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.

Section 10.6. 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.

Section 10.7. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

Section 10.8. 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.

Section 10.9. 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.

Section 10.10. Venue. Venue for all legal proceedings shall be in the Superior Court of California in and for the County of Solano.

Section 10.11. 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 CITY as of the Effective Date set forth above.

EMPLOYEE

Raffi Boloyan, an individual



Raffi Boloyan

Date Signed: 5/9/22

EMPLOYER

City of Dixon, a California municipal corporation



By: Steve Bird, Mayor

Date Signed: 5/9/2022

Attest:

By: 

Kristin Janisch, Elected City Clerk

Date Signed: 5-13-22

Approved as to Form:

By: 

Douglas L. White, City Attorney

Dated: 5-24-22

EXHIBIT A

