

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 California municipal corporation (“City”) and Kate Zawadzki, 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 the Dixon Municipal Code (“D.M.C.”) Section 2.09.040, subject to review and ratification by the Dixon City Council (“City Council”) in the case of department heads;

B. Employee began employment with the City as the Deputy Finance Director on January 4, 2010;

C. Based on Employee’s knowledge, experience, administrative skills and abilities as the City’s Deputy Finance Director, Employee was promoted to the position of City Finance Director in 2021;

D. The City Manager has evaluated Employee’s performance as the Finance Director and recommends that she continue to serve as Finance Director pursuant to the terms of this Agreement;

E. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as Finance Director;

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 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 Finance Director, Duties and Term.

3.1. Appointment of Finance Director and Duties. The City Manager hereby appoints Employee to the position of Finance Director, in and for the City, to perform the function and duties of the Finance 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 D.M.C. 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 D.M.C., the ordinances and resolutions of the City, and such other duties and functions as the City Manager may from time to time assign. No modification or change in Employee's responsibilities, duties or position shall otherwise change or revoke any other provision of this Agreement.

3.2. No Secondary Employment. Employee agrees to devote all of her productive time, ability, and attention to the City's business to the extent necessary to perform her duties and responsibilities in a manner satisfactory to the City. During the Term, as defined in Section 3.5 of this Agreement, Employee shall not hold secondary employment or engage in activities which conflict with, or present the appearance or possibility of conflicting with, the City's legitimate business interests. As such, Employee agrees that she will notify the City Manager or the City Council in writing if Employee accepts secondary employment. The City shall determine whether there is the appearance of or an actual conflict, or potential conflict, with the performance of Employee's duties and/or what is in the best interest of the City. Employee has the right to volunteer for such nonprofit organizations as she may see fit; provided that such volunteer services shall not interfere with her duties as Finance Director.

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 Finance Director position, unless otherwise provided in this Agreement.

3.4. Schedule. The Finance Director's daily and weekly work schedule shall vary in accordance with the work required to be performed. The Finance 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 Finance Director must devote a great deal of her time outside normal office hours to business of the City and to that end, will be allowed to take administrative leave as she shall deem appropriate during said normal office hours, subject to the approval of the City Manager

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 at least two (2) years. 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.

4.1. At Will. 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 D.M.C. 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 good cause, as defined in Section 6.3 of this Agreement, shall Employee be entitled to a severance.

Unless otherwise specified in this Agreement, Employee shall be bound by all the policies, rules and regulations of City now in force and effect applicable to Employee's position, and by all such other applicable policies, rules and regulations as may be hereafter implemented and called to her notice, and will faithfully observe and abide by the same. No such policy, rule or regulation shall alter, modify or revoke employee's status as an at-will employee or any other provision of this Employment Agreement

4.2. No Property Right in Employment. Employee understands and agrees that the terms of her 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 she 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.

5.1. Base Salary. The City agrees to pay Employee an annual salary of One Hundred Eighty-Four Thousand Sixty-Two Dollars and Thirty-Eight Cents (\$184,062.38) ("Base Salary"), payable the first full pay period following October 1, 2022.

Effective the first full pay period following October 1, 2023, Employee's Base Salary shall be increased by four percent (4%) to One Hundred Ninety-One Thousand Four Hundred Twenty-Four Dollars and Eighty-Seven Cents (\$191,424.87).

Effective the first full pay period following October 1, 2024, Employee's Base Salary shall be increased by three percent (3%) to One Hundred Ninety-Seven Thousand One Hundred Sixty-Seven Dollars and Sixty-Two Cents (\$197,167.62).

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.

5.3. Review and Evaluation. The City Manager agrees to review and evaluate Employee's performance of her duties as Finance 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 generally be conducted in October of each year, or at the City Manager’s discretion.

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**, as may be amended from time to time, or any other Compensation Plan adopted by the City applicable to similarly situated employees. . Any benefits listed in Sections 5.5-5.9 of this Agreement, shall be in lieu of those benefits provided in the Compensation Plan. Any benefits not specifically listed in Sections 5.5-5.15 of this Agreement, are enumerated in the attached Compensation Plan.

5.5. Deferred Compensation. Employee shall receive a City contribution for deposit into a deferred compensation retirement account. Effective the first pay period after ratification, the City agrees to contribute a four percent (4%) match of Employee’s Base Salary each month.

5.6. Retirement. The City participates in the California Public Employees Retirement System (“CalPERS”). CalPERS will make the determination if Employee is considered as a “Classic” or “New Member” under Government Code section 7522.04, and Employee shall contribute based on the enrolled tier.

5.7. Vacation Leave. Employee shall accrue two hundred (200) hours of vacation leave per year. Upon separation, Employee is entitled to receive payment at her current Base Salary for all vacation time earned, but not taken, as of the effective date of separation.

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 ninety (90) hours of Administrative Leave each fiscal year. The City’s fiscal year begins on July 1st and ends on June 30th of each year.

5.9. Monthly Benefit Allowance. The City will contribute to Employee’s Monthly Benefit Allowance (“MBA”). Employee shall receive seventy percent (70%) of the Region 1 Kaiser Bay Area family rate. If Employee elects not to receive the MBA, she 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.

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

Section 6. Termination of Employment and Severance.

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 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 severance as set forth in Section 6.3 of this Agreement.

6.2. Termination by City Manager. The City Manager may terminate this Agreement and remove Employee from her position as Finance Director at any time with or without cause and with or without notice. Within ten (10) days of City Manager's termination of this Agreement, Employee may 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. The "name-clearing" hearing is solely to provide Employee an opportunity to clear her name. The City Council may determine whether the allegations 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 the Employee's termination was without fault. This decision, however, will not require that Employee will be reinstated to her position. In the event Employee does not request a hearing before the City Council, the City Manager's termination decision will stand. The hearing shall take place in closed session at a regularly scheduled City Council meeting, unless Employee requests that the hearing take place in open session. Upon Employee's request for the hearing to take place in open session, she will waive any claims to privacy associated with her rights to employment information that is the basis for her termination, including, but not limited to, her personnel file and any information contained therein, which would otherwise be private. In the event that 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 the City's intent to terminate her employment.

6.3. 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 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 her office or position while employed with the City, pursuant to Government Code section 53243.2. Severance shall

be paid in the same manner as to other City employees unless otherwise agreed to by the City and Employee. The City agrees to make a contribution to Employee's deferred compensation account based 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 her own cost, pursuant to the provisions of the federal Consolidated Omnibus Budget Reconciliation Act ("COBRA").

6.4. Termination for Good Cause. The City may at any time immediately terminate this Agreement for good cause as defined in this Section 6.4. If Employee is terminated for good cause the City shall not be required to pay any Severance under this Agreement, and City shall have no obligation to Employee beyond those benefits accrued as of Employee's last day of employment and those 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. Failure to perform duties to the standard set by the City;
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 Finance 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 Finance 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 her 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, City's legitimate business interests.

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

Section 7. Indemnification. 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 Finance 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 through 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 City provides funds for legal criminal defense pursuant to this Section, Employee shall reimburse 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 through 53243.4.

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

Section 9. Notices. Any notice or communication required hereunder between 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

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.

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.

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 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.

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.

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.

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

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.

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.

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

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.

[Signatures on Following Page]

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

EMPLOYEE


Kate Zawadzki, an individual


Kate Zawadzki

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