

## SECOND AMENDMENT TO AGREEMENT BETWEEN JIM LINDLEY AND THE CITY OF DIXON FOR EMPLOYMENT OF CITY MANAGER

The Second Amendment to the Agreement Between Jim Lindley and the City of Dixon for Employment of City Manager ("Second Amendment") is made and entered into on this 27<sup>th</sup> day of May, 2015 ("Effective Date") by and between the City of Dixon ("City"), a California municipal corporation, and Jim Lindley ("Employee"), an individual. Each party to this Second Amendment may be referred to hereinafter as a "Party" or collectively as the "Parties". There are no other parties to this Second Amendment.

### RECITALS

- A. The Parties entered into an Agreement for Employment of City Manager on February 15, 2012 ("Agreement"), which provides the terms and conditions of Employee's employment; and
- B. Employee commenced work as City Manager on March 12, 2012.
- C. The Parties amended the Agreement on May 15, 2013 ("First Amendment"), which provides changes to the Agreement; and
- D. The Parties now desire to further amend the terms and conditions of the Agreement and First Amendment; and
- E. Section 12(a) of the Agreement requires a written agreement executed by both Parties when amending the Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the Parties agree as follows:

### AGREEMENT

**Section 1. Incorporation of Recitals.** The recitals set forth above are incorporated herein by this reference and made a part of the Second Amendment. In the event of any inconsistencies between the recitals and section 1 through 11 of the Second Amendment, section 1 through 11 will prevail.

**Section 2. Effect of Original Agreement.** Except as otherwise provided herein, all provisions, defined terms, and obligations in the original Agreement, as amended by the First Amendments, remain in full force and effect. The Parties agree that they continue to be bound by all terms of the Agreement and the First Amendment except as modified by this Second Amendment. All capitalized terms used in this Second Amendment which are not otherwise defined in this Second Amendment shall have the meanings given to such terms in the Agreement.

**Section 3. Definition of Agreement.** The Agreement, attached hereto as **Exhibit A** and First Amendment, attached hereto as **Exhibit B** together with this Second Amendment collectively make and are defined together to collectively be the "Agreement".

**Section 4. Amendments.** The Agreement is amended as follows:

1. Section 2 of the Agreement, "Term of Agreement," is amended to read as follows:

This Agreement is for a term of four (4) years from the Effective Date of the Second Amendment, and will expire on March 12, 2019, unless extended or sooner terminated pursuant to the provisions of this Agreement ("Term").

2. Section 5 of the Agreement, "Compensation", is amended to read as follows:

5. Compensation:

a. During the Term of this Agreement, Employee shall be paid an annual base salary ("Total Base Salary") as follows:

<b>Term Year</b>	<b>Day of Total Base Salary Increase</b>	<b>Total Base Salary</b>
First Year	Commencing on the first day of the full City pay period on or after March 12, 2015	One Hundred Fifty Thousand Dollars (\$150,000)
Second Year	Commencing on the first day of the full City pay period on or after March 12, 2016.	One Hundred Sixty Thousand Dollars (\$160,000)

Third Year	Commencing on the first day of the full City pay period on or after March 12, 2017.	One Hundred Seventy Thousand Dollars (\$170,000)
Fourth Year	Commencing on the first day of the full City pay period on or after March 12, 2018.	One Hundred Eighty Thousand Dollars (\$180,000)

Such increases shall be applied at the completion of the next Annual Performance Evaluation of the City Manager if such evaluation results in an overall score of "3.0" or higher or an overall rating of "satisfactory" or higher.

b. **Intentionally Omitted.**

c. Employee shall receive the benefits identified in Exhibit A to the Agreement in addition to the Total Base Salary.

d. **Intentionally Omitted.**

e. Consistent with City Policy, Employee shall be paid at the same intervals and in the same manner as regular City employees.

f. Employee acknowledges that in the event of a salary reduction to all City staff, Employee's salary will be reduced by the same percentage as the average reduction of all City staff.

g. 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.

3. Section 9 of the Agreement, titled "Notices", is amended to read as follows:

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 or communication shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by facsimile transmission,



4. Section 1(b) of Exhibit "A" to the Agreement, titled "Other Employee Benefits," is amended to read as follows:

**b. Administrative Leave**

Beginning on the first day of the first full pay period on or after March 12, 2015, Employee shall be credited with one hundred and twenty (120) hours of administrative leave every Fiscal Year (defined below) the Term. The City's fiscal year begins on July 1<sup>st</sup> and ends on June 30<sup>th</sup> of each year ("Fiscal Year"). All administrative leave received by Employee pursuant to this Agreement must be used prior to July 1<sup>st</sup> of each year and any unused administrative leave time shall expire. Employee may cash out up to Sixty (60) hours of administrative leave time each Fiscal Year. Employee may not cash out more than sixty (60) hours of administrative leave time per Fiscal Year.

5. Section 1(d)(ii) of Exhibit "A" to the Agreement, titled "Other Employee Benefits," is amended to read as follows:

ii. Cafeteria Plan. Beginning on the first day of the first full pay period on or after March 12, 2015, in addition to Total Base Salary, City will pay up to \$1,216 per month for Employee or up to \$1,305 per month for Employee and one or more individuals for the purchase of applicable health, dental, life insurance, long term care and income repayment plans as "cafeteria benefits".

6. Section 1 of Exhibit "A" to the Agreement, titled "Other Employee Benefits," is amended to add a subsection (d)(vi), which shall read as follows:

vi. Deferred Compensation. Beginning on the first day of the first full pay period on or after March 12, 2015, in addition to the City's payment to CALPERS set forth in Section 1(d)(i) of Exhibit A to the Agreement, City agrees to contribute a three percent (3%) match of Employee's contribution towards Employee's deferred compensation retirement account.

**Section 5. Integrated Agreement.** The Agreement, as modified by the First Amendment and this Second Amendment, contains all of the agreements of the Parties and all previous understandings, negotiations and agreements are integrated into the Agreement.

**Section 6. Severability.** In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Second Amendment are declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Second Amendment which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties herein.

**Section 7. Counterparts.** This Second Amendment may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall be deemed one and the same instrument.

**Section 8. Authority.** All Parties to this Second Amendment warrant and represent that they have the power and authority to enter into this Second Amendment 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 Second Amendment had been fully complied with.

**Section 9. Document Preparation.** This Second Amendment will not be construed against the Party preparing it, but will be construed as if prepared by all Parties.

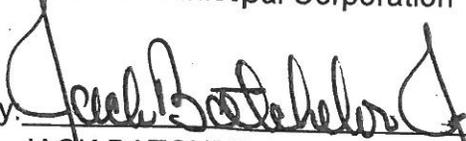
**Section 10. Advice of Legal Counsel.** Each Party acknowledges that it has reviewed this Second Amendment with its own legal counsel, and based upon the advice of that counsel, freely entered into this Second Amendment.

**Section 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 provisions of this Second Amendment, 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 Second Amendment has been entered into by and between City and Employee as of the Effective Date.

CITY OF DIXON,  
a California Municipal Corporation

By:   
JACK BATCHELOR, JR., Mayor

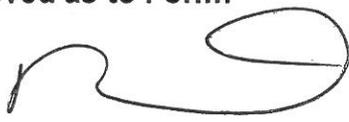
Date Signed: May 27, 2015

Attest:

By:   
City Clerk, Suellen Johnston

Date Signed: 6/1/15

Approved as to Form:

By:   
Douglas L. White, City Attorney

Date Signed: 6-1-15

EMPLOYEE  
an individual

By:   
JIM LINDLEY, an individual

Date Signed: 6-1-15

**EXHIBIT A  
ORIGINAL AGREEMENT**