

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement") is made and entered into this 2nd day of July, 2018, by and between the City of Dixon, a municipal corporation ("City"), and Greg Lewis, 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. 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. Employee has been employed with the City's Fire Department for over thirty (30) years.
- C. The City Manager has evaluated Employee's knowledge, experience, administrative skills, and ability to serve as the City's Fire Chief, and recommends that Employee be appointed as Fire Chief, pursuant to the terms of this Agreement.
- D. The Parties agree that this Agreement shall be the sole agreement between the Parties regarding the employment of Employee as Fire Chief.
- E. 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 Fire Chief, Duties, and Term.

Section 3.1. Appointment of Fire Chief and Duties. The City Manager hereby appoints Employee to the position of Fire Chief, in and for the City, to perform the

AGREEMENT NO. 18-030

function and duties of the Fire Chief under the direction of the City Manager, as the City Manager is authorized to oversee City employees under Municipal Code section 2.09.040. 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 City's Municipal Code, Ordinances, and Resolutions, 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 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 Fire Chief.

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 Fire Chief position, unless otherwise provided in this Agreement.

Section 3.4. Schedule. The Fire Chief's daily and weekly work schedule shall vary in accordance with the work required to be performed. The Fire Chief 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 Fire Chief 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 one (1) year 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 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 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 Good Cause, as defined in Section 6.4 of this Agreement, shall Employee be entitled to a Severance, as defined in Section 6.3 of this Agreement.

Section 5. Compensation and Evaluations.

Section 5.1. Base Salary. The City agrees to pay Employee an annual salary of One Hundred Sixty Thousand Dollars (\$160,000) ("Base Salary"), payable in installments at the same time that the other City employees are paid.

Section 5.2. Out-of-Town Pay. When Employee is assigned to work on a strike team, he will receive additional compensation or compensatory time off for each hour Employee works on the strike team assignment in excess of forty (40) hours during his regular work week. Work time during the first operational period of a strike team assignment will not be credited towards the forty (40) hour total. The hourly rate that Employee will be paid for strike team hours worked in excess of forty (40) hours during a work week will be calculated by dividing Employee's regular weekly salary by forty (40). If Employee chooses to receive compensatory time off in lieu of additional compensation, Employee will receive one (1) hour of compensatory time off for each hour Employee works on the strike team assignment in excess of forty (40) hours during his work week.

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

Section 5.4. Review and Evaluation. The City Manager agrees to review and evaluate Employee's performance of his duties as Fire Chief, 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 July of each year, or at the City Manager's discretion.

Section 5.5. 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**, or as may be amended from time to time. Any benefits listed in Sections 5.6-5.15 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.

Section 5.6. Deferred Compensation. Employee shall receive a City contribution for deposit into a deferred compensation retirement account. The City agrees to contribute a three percent (3%) match of Employee's Base Salary each month.

Section 5.7. 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.

1 8 - 0 3 0

AGREEMENT NO. _____

Section 5.8. Vacation. Employee shall accrue twenty (20) days of vacation leave per year. Upon separation, Employee is entitled to receive payment at his current Base Salary for all vacation time earned, but not taken, as of the effective date of separation.

Section 5.9. Monthly Benefit Allowance. The City will contribute to Employee's Monthly Benefit Allowance ("MBA"). Employee shall receive seventy percent (70%) of the Kaiser (Bay Area) family rate.

Section 5.10. Cell Phone. Employee will receive a cell phone stipend in the amount of Ninety-Five Dollars (\$95.00) per month.

Section 5.11. Standby Pay.

5.11.1 Standby Compensation: Employee shall be paid at the rate of four hundred dollars (\$400.00) per week of assigned standby (prorated for less than full week assignments as follows: forty dollars (\$40.00) per weekday evening, and one hundred dollars (\$100.00) per day on holidays as described in the Compensation Plan). While Employee is working on behalf of the City of Winters under an Agreement approved by the City Council on October 28, 2014; he will be paid at the rate of eighty dollars (\$80.00) per weekday evening, two hundred dollars (\$200.00) per weekend day, and two hundred dollars (\$200.00) per holiday as defined in the Compensation Plan.

5.11.2 Standby duty requires that the Employee:

- Be ready to respond immediately when called for emergency service;
- Be reachable by telephone, pager, vehicle radio, or cellular phone;
- Remain within a reasonable distance from the City to be able to respond to the scene of the emergency within a reasonable time, approximately one-half (1/2) hour; and
- Refrain from activities which might impair the ability of the employee to perform the assigned duties.

5.11.3 If Employee is not assigned to standby duty, and he carries a standby duty pager or cellular phone for his personal convenience, he shall not be compensated for stand-by nor shall he be required to respond if paged or telephoned. If Employee is carrying a pager or cellular phone but is not compensated for stand-by shall not be restricted in their activities, location, or availability.

Section 5.12. Physical Fitness Incentive. The Fire Chief shall be eligible to participate in, and receive benefits of, the Fire Physical Fitness Program. Compensation for Employee's participation in the Fire Physical Fitness Program is as follows:

AGREEMENT NO. 18-030

One Hundred Fifty Dollars (\$150.00) per month for employees achieving a “passing” rating. Receipt of benefits shall be subject to and in conformance with all rules and regulations governing said program.

Section 5.13. Education Incentive. Employee shall continue to receive Educational Incentive benefits pursuant to the Dixon Public Safety Mid-Management Association Memorandum of Understanding, section 3.1, which was executed on July 1, 2016.

Section 5.14. Administrative Leave. In recognition of the extra hours required as part of Employee’s duties as Fire Chief, Employee shall earn one hundred twenty (120) hours of administrative leave per year. This leave shall be used in the same manner as vacation. Any unused administrative leave balance remaining as of June 30 each year will be lost. Employee may cash out his administrative leave each year, to a maximum of 120 hours of administrative leave earned.

Section 5.15. Longevity Incentive. In recognition of Employee’s tenure with the City, the City will provide Employee eight percent (8%) of his Base Salary, as a longevity incentive.

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 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.

Section 6.2. Termination by City Manager. The City Manager may terminate this Agreement and remove Employee from his position as Fire Chief at any time with or without cause. Within ten (10) days of City Manager’s termination of this Agreement, Employee may make a written request for an administrative hearing before a neutral hearing officer, as required by the Firefighter Bill of Rights (Government Code, § 3250 *et seq.*) In the event Employee does not timely request an administrative hearing, the City Manager’s termination decision will stand.

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 three (3) months Base Salary (“Severance”). Such Severance is subject to the restrictions of Government Code section 53260,

including, without limitation, that the maximum amount of Severance Employee may receive shall be the lesser of (i) two (2) 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 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. Severance shall be paid in the same manner as 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 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 own 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 Fire Chief'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 Fire Chief;
13. Refusal to take or subscribe any oath or affirmation which is required by law; or
14. Permanent disability of Employee, or Employee becoming otherwise unable to perform the duties of Fire Chief, 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 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 Fire Chief in accordance with California's Tort Claims Act (Government Code, § 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. 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 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

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.

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 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 in and for the County of Solano in the State of California.

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]

AGREEMENT NO. 18-030

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.

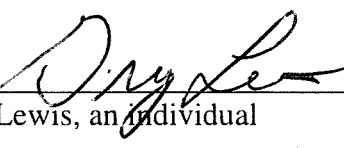
CITY:

City of Dixon, a municipal corporation of the State of California

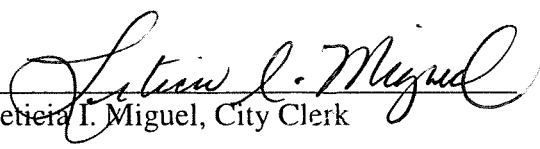
By:  _____
Jim Lindley, City Manager

Date Signed: 7-23-18

EMPLOYEE:

By:  _____
Greg Lewis, an individual

Date Signed: 7/25/18

By:  _____
Leticia I. Miguel, City Clerk

Date Signed: 7-26-2018

Approved as to Form and Content:

By:  _____
Douglas L. White, City Attorney

EXHIBIT A

AGREEMENT NO. 18-030

AGREEMENT NO. 18-030

RESOLUTION NO. 2018-18 - 104

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DIXON RATIFYING THE CITY MANAGER'S APPROVAL OF THE EMPLOYMENT AGREEMENT OF THE FIRE CHIEF GREG LEWIS; AND AUTHORIZING A RELATED BUDGET AMENDMENT

WHEREAS, pursuant to the City of Dixon's ("City") Municipal Code section 2.09.040, the City Manager is authorized to hire and appoint City staff, subject to review and ratification by the City Council, in the case of department heads; and

WHEREAS, the City has a vacancy for the position of Fire Chief; and

WHEREAS, the City conducted an internal recruitment for the position; and

WHEREAS, after conclusion of the recruitment and the interview process, the City Manager has selected Greg Lewis as the City's next Fire Chief and has negotiated the terms of his employment agreement ("Agreement").

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Dixon hereby ratifies the City Manager's selection and appointment of Greg Lewis for the position of Fire Chief; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, City Council of the City of Dixon authorizes a budget amendment for FY 2018-2019 of Eighty-Six Thousand Four Hundred Twenty-Six Dollars (\$86,426.00), with Forty-Three Thousand Two Hundred Sixty-Eight Dollars to the Fire Salaries/Wages account (Account Number: 100-166-511000-0000), and Forty-Three Thousand One Hundred Fifty-Eight Dollars to the Fire Retirement account (Account Number: 100-166-512200-0000) to fund this Agreement.

BE IT FURTHER RESOLVED, the City Council approves of the Employment Agreement for Greg Lewis, attached hereto as **Exhibit A** and the City Manager is hereby authorized to execute and enter into the Employment Agreement on behalf of the City.

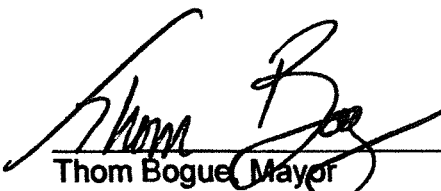
PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF DIXON ON THE 10th DAY OF JULY, 2018, BY THE FOLLOWING VOTE:

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

ATTEST:



Leticia I. Miguel, City Clerk



Thom Bogue, Mayor

