



# CITY OF WHEATLAND

## CITY COUNCIL MEETING STAFF REPORT

January 8, 2021

**SUBJECT:** City Council consideration of Amended and Restated Contract for City Manager services

**PREPARED BY:** Jennifer Buckman, City Attorney

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### **Recommendation**

The designated negotiators for this contract recommend that the City Council approve the attached Amended and Restated Agreement with Jim Goodwin for City Manager services.

### **Discussion and Summary of Fiscal Impacts**

On May 18, 2018, the Parties entered into the Agreement between the City of Wheatland and Jim Goodwin for City Manager Services (the "Initial Agreement"). The Initial Agreement was amended when the Parties adopted Amendment No. 1 on August 27, 2019. On November 10, 2020, the Parties agreed to extend the term of the Initial Agreement, as amended. The Parties have amended and restated the Agreement with the intent that this Amended and Restated Agreement supersede the Initial Agreement and encompass all the existing and the new terms as agreed upon by the Parties.

The following terms have been changed by the Amended and Restated Agreement; all other terms of the Initial Agreement were carried forward and remain the same in the Amended and Restated Agreement as they were in the Initial Agreement.

- The effective dates for the Amended and Restated Agreement begin on January 1, 2021 and run through December 31, 2023. By December 31, 2022, the City Council will determine whether to extend the Agreement and provide Goodwin with a Notice of Intent to Renew. If renewed, the Agreement will be extended for an additional term commencing on January 1, 2024 and concluding at 11:59 P.M. on December 31, 2026.
- The Amended and Restated Contract provides for an annual cost of living adjustment of 1.2%, which is expected to increase the cost to the City by approximately \$1500/year.
- The Amended and Restated Contract also authorizes the City Manager to be paid for City medical leave and vacation time at a pro-rated amount consistent with his part-time status. These benefits have a combined value of up to about \$9000/year, though medical leave is payable only if used.

- The Amended and Restated Contract also specifies that the City would pay all premiums pay all premiums for the City Manager's dental and vision insurance coverage for both himself and up to two dependents. This benefit is expected to cost the City approximately \$2000/year.
- To facilitate City's recruiting efforts, the City Manager has agreed to provide the City at least 90 days written notice if he intends to resign his position. The City has agreed that if the City Council terminates the City Manager without cause, the City Manager will be entitled to severance pay in an amount equal to three months' of his then-monthly salary, or, if less than three months remain on the Agreement, the severance payment will be the monthly salary multiplied by the number of months or portions thereof remaining. If the severance provision were to be exercised during the term of the Agreement, the City could incur a one-time payment of approximately \$31,000 - \$32,000.

**Attachment**

AMENDED AND RESTATED AGREEMENT BETWEEN THE CITY OF WHEATLAND  
AND JIM GOODWIN FOR CITY MANAGER SERVICES

**AMENDED AND RESTATED  
AGREEMENT BETWEEN THE CITY OF WHEATLAND  
AND JIM GOODWIN FOR CITY MANAGER SERVICES**

This Amended and Restated Agreement (“Agreement”) is made and entered into this 1st day of January, 2021, by and between the City of Wheatland, a municipal corporation (“City”) and Jim Goodwin, an individual (“Goodwin”), collectively, the “Parties”, who agree as follows:

1. **Recitals.** This Agreement is made with reference to the following background recitals:

- (a) On May 18, 2018, the Parties entered into the Agreement between the City of Wheatland and Jim Goodwin for City Manager Services (the “Initial Agreement”).
- (b) On August 27, 2019, the Parties entered into an Amendment No. 1 to the Initial Agreement.
- (c) On November 10, 2020, the Parties agreed to extend the term of the Initial Agreement, as amended. The Parties now desire that this Agreement will supersede the Initial Agreement and will reflect the existing and the new terms as agreed upon by the Parties.

2. **Employment.** City hereby appoints and employs Goodwin as City Manager of the City, and Goodwin hereby accepts such employment, on and subject to the terms and conditions of this Agreement.

3. **Term.** This Agreement shall remain in effect until December 31, 2023 unless sooner terminated as provided by the termination provision below. No later than December 31, 2022, the City Council will determine, in its sole discretion, whether City will extend this Agreement for one (1) additional three (3) year term. If the City Council determines to extend this Agreement, then, by December 31, 2022, City will provide Goodwin with a Notice of Intent to Renew, and the Agreement will be extended for an additional term commencing on January 1, 2024 and concluding at 11:59 P.M. on December 31, 2026.

4. **Duties.** Goodwin shall perform those duties and have those responsibilities that are commonly assigned to a city manager of a city in California, and as may be further set forth in the Wheatland Municipal Code. Goodwin also shall perform such other duties and responsibilities as assigned by the City Council from time to time. Goodwin at all times shall act in the best interests of City and perform his duties in a competent and professional manner.

5. **Hours.** Goodwin acknowledges that his position is a part-time management position. It is anticipated that Goodwin shall work an average of four days per week, with a target of approximately 60% of the hours of an equivalent full-time position. However, the Parties acknowledge that time may vary depending on City’s needs. Goodwin shall not engage in any conduct, other employment or business, commercial or professional pursuits, whether for compensation or otherwise, that would interfere with his responsibilities and duties to City or that would reflect unfavorably upon the interests of City. Any outside employment, consulting or

business conducted by Goodwin during the term of this Agreement requires the prior approval of the City Council.

## **6. Compensation.**

(a) For all services to be rendered by Goodwin under this Agreement, City shall provide to Goodwin a salary in the amount of \$102.62 per hour. Salary shall be paid at the times and in the same manner as other City employees are paid. In addition, Goodwin shall be entitled to receive an annual cost of living adjustment of 1.2%, effective January 1 of each year, during the Term of this Agreement.

(b) Goodwin shall not be compensated for overtime hours worked or otherwise earn or be entitled to compensatory time off for hours worked in excess of eight hours per day or 40 hours per week. Goodwin shall not be entitled to paid time off for holidays.

(c) Goodwin shall accrue vacation and sick leave at the same rate as the City's general employees, but the amount of vacation and sick leave earned by Goodwin will be pro-rated consistent with Goodwin's part-time schedule as set forth in Paragraph 5, Hours.

(d) City will pay all premiums for Goodwin's dental and vision insurance coverage for both Goodwin and up to two dependents.

(e) Goodwin shall be allowed to participate in the 457 deferred compensation plan established by City under the same terms as City's regular employees are allowed to participate, but Goodwin shall not be eligible for any "matching" contributions by City.

(f) Goodwin shall be allowed to participate in the ICMA 401(a) Money Purchase Plan established by City under the same terms as City's miscellaneous employees are allowed to participate.

(g) City shall provide Goodwin with a life insurance policy of \$75,000 on the same terms as provided to other City employees.

(h) Goodwin's employment shall be governed by the City Personnel Rules and Regulations Manual (City Resolution No. 27-06), as such rules and regulations may be amended by City from time to time; provided, however, that the Manual's employee benefit provisions shall not apply to Goodwin unless provided for in this Agreement. If any term or condition of this Agreement is in conflict with a term or condition in the Personnel Rules and Regulations Manual, the provision in this Agreement shall govern. If any term or condition of this Agreement is inconsistent or in conflict with a federal or state law, the law shall govern.

(i) Because Goodwin's duties require the use of an automobile, City shall reimburse Goodwin for mileage incurred while performing City business (exclusive of commuting mileage) at the current Internal Revenue Service mileage rates. Goodwin shall be required

to obtain a rider on his personal automobile insurance naming City as an additional insured, and City shall reimburse Goodwin for any direct expenses related thereto.

(j) City-related direct expenses shall be reimbursed to Goodwin by City. Itemized documentation shall be required for any such reimbursement.

(k) City shall budget for travel and conference expenses and membership in professional organizations, such as ICMA and CCMF, in order for Goodwin to attend official meetings, conferences and occasions reasonably adequate for Goodwin to continue his professional development and to reasonably pursue necessary official and other functions for City. In adopting the budget, City has discretion to set what it deems an appropriate number for attendance at conferences and meetings and membership in professional organizations. Use of such budget shall be at Goodwin's discretion. Authorization for Goodwin to attend or participate in, at City's expense, any travel or conference not included in the annual budget shall be at the discretion of the City Council.

7. **Ownership of Documents.** Every document, report, study, spreadsheet, worksheet, plan, blueprint, specification, drawing, map, photograph, computer model, computer disk, magnetic tape, CAD data file, computer software and any other writing or thing prepared by Goodwin during the term of his employment (the "Work") shall be the property of City. City shall have the right to use, modify, reuse, reproduce, publish, display, broadcast and distribute the Work and prepare derivative and additional documents or works based on the Work without further compensation to or permission from Goodwin.

8. **Termination.** This Agreement may be terminated prior to its expiration date in any one of the following ways:

(a) By mutual agreement of the parties, expressed in writing.

(b) By Goodwin, upon giving City not less than 90 days prior written notice of his election to resign from employment and terminate this Agreement.

(c) By the death of Goodwin.

(d) By City, for cause, upon giving to Goodwin written notice of immediate termination. The written notice of termination shall specify: (1) the particular cause(s) and the facts and circumstances justifying the termination of the Agreement for cause, and (2) the opportunity of Goodwin to meet with the City Council on the reasons for his termination. If Goodwin requests a meeting, the meeting will be held at the City Council's earliest convenience in a closed session, unless Goodwin requests an open session. After the meeting, the City Council may affirm, modify or reverse its discretion to terminate for cause. For purposes of this Agreement, the following will justify termination for cause: willful breach of duty; habitual neglect of duty; gross insubordination; conviction of a crime involving moral turpitude; conduct that makes it impossible or impracticable to perform the duties under this Agreement or that seriously impedes City operations; conduct that tends to bring discredit to City; conduct unbecoming an employee in public service;

mishandling of City funds; any intentional misrepresentation or fraud in connection with the performance of his duties; theft of City property; violation of law; or a material breach of this Agreement.

(e) By City, without cause, upon giving Goodwin 30 days prior written notice of termination and payment of severance pay in an amount equal to Goodwin's then-monthly salary multiplied by either: (1) three (3) months; or (2) the number of months or portions thereof remaining on the current term of this Agreement, whichever is less.

9. **Entire Agreement.** The parties intend this writing to be the sole, final, complete, exclusive, and integrated expression and statement of the terms of their contract concerning the subject matter addressed in the Agreement. This Agreement supersedes all prior oral or written negotiations, representations, contracts or other documents that may be related to the subject matter of this Agreement, except those other documents that may be expressly referenced in this Agreement.

10. **Notices.** Any notice to be given to Goodwin shall be sufficiently served if given to him personally or if deposited in the United States Mail, regular pre-paid mail, addressed to him at his most recent residence address as shown on the Agency payroll records. Any notice to be given to City shall be addressed to the City Council and delivered or mailed to the City Clerk at City Hall.

11. **Successors and Assigns.** This Agreement is personal to Goodwin. He may not transfer or assign the Agreement or any part of it. Subject to this restriction on transfer and assignment, this Agreement shall bind, and inure to the benefit of, the successors, assigns, heirs and legal representatives of the parties.

12. **Amendments.** This Agreement may be amended only by a subsequent writing approved and signed by both parties. Any amendment by City must be approved by the City Council at a noticed public meeting. Individual City Council members do not have the authority, express or implied, to amend, modify, waive, extend or in any way alter this Agreement or the terms and conditions of Goodwin's employment.

13. **Waiver.** The waiver at any time by either party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

14. **Construction and Interpretation.** The parties agree and acknowledge that this Agreement has been arrived at through negotiation and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Agreement.

15. **Partial Invalidity.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

**16. Governing Law and Venue.** Except as otherwise required by law, this Agreement shall be interpreted, governed by, and construed under the laws of the State of California. The County of Yuba will be venue for any state court jurisdiction and the Eastern District of California will be venue for any federal court litigation concerning the enforcement or construction of this Agreement.

CITY OF WHEATLAND

JIM GOODWIN

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Rick West, Mayor

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Jim Goodwin

Attest:

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Lisa Thomason, City Clerk