



# CITY OF WHEATLAND

## CITY COUNCIL MEETING STAFF REPORT

May 28, 2024

**SUBJECT:** Consider Adoption of Resolution Authorizing the Execution of an Agreement with Donald Scott for Interim Public Works Director Services

**PREPARED BY:** Bill Zenoni, City Manager

---

### **Recommendation**

Staff recommends that the Wheatland City Council consider the adoption of this resolution authorizing the execution of an employment agreement with Donald Scott to provide Interim Public Works Director services.

### **Discussion**

A pending vacancy in the Public Works Director position has created the need to fill the Public Works Director position on a temporary basis while a permanent solution is identified. Donald Scott served as the City's Public Works Director from June 2017 to June 2020. While staff determines the best strategy for filling the Public Works Director position on a permanent basis, Mr. Scott has agreed to assume the position on an interim basis for an estimated 3 to 6 months. Mr. Scott is familiar with the operations of the Public Works Department and possesses the required qualifications for the position, including a Wastewater Operator certification that is issued by the California Water Resources Control Board.

If the City Council adopts the resolution, Mr. Scott will begin work on Monday June 10<sup>th</sup> and will work approximately 8 to 12 hours per week.

### **Fiscal Impact**

The Public Works Director is a budgeted position. Funding is available in the adopted Fiscal Year 2023-24 budget and is included in the Proposed Fiscal Year 2024-25 budget.

### **Attachment**

1. Resolution
2. Agreement

**WHEATLAND CITY COUNCIL  
RESOLUTION NO. 25-24**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND  
AUTHORIZING THE EXECUTION OF AN EMPLOYMENT AGREEMENT WITH  
DONALD SCOTT FOR SERVICES AS WHEATLAND PUBLIC WORKS DIRECTOR**

**WHEREAS**, a vacancy will soon exist for the position of City of Wheatland Public Works Director; and

**WHEREAS**, Donald Scott previously held the position of Wheatland Public Works Director from June 2017 to June 2020 and meets the qualifications for the position; and

**WHEREAS**, Donald Scott has agreed to fill the position on an interim basis while City staff determines the best strategy for filling the Public Works Director position on a permanent basis; and

**WHEREAS**, the City Council has evaluated the circumstances pertaining to the upcoming Public Works Director vacancy and wishes to enter into an Employment Agreement with Donald Scott for his services as Public Works Director.

**NOW, THEREFORE, BE IT RESOLVED AND DETERMINED** by the City Council of the City of Wheatland that:

- A. The foregoing recitals are true and correct.
- B. The City Council of the City of Wheatland hereby approves the attached Employment Agreement and directs the City Manager to execute the agreement.

**PASSED AND ADOPTED** by the City Council of City of Wheatland on this 28<sup>th</sup> day of May 2024, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

APPROVED:

\_\_\_\_\_  
Rick West, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Thomason, City Clerk

**AGREEMENT BETWEEN THE CITY OF WHEATLAND  
AND DONALD SCOTT FOR INTERIM PUBLIC WORKS DIRECTOR SERVICES**

This Agreement (“Agreement”) is made effective as of June 10, 2024, by and between the City of Wheatland, a municipal corporation (“City”), and Donald Scott, an individual (“Part-Time Employee”), collectively, the “Parties”, who agree as follows:

WHEREAS, the City has a temporary need to employ a Public Works Director until a permanent employee is sufficiently trained to assume the position;

WHEREAS, it is the desire of the City to employ Part-Time Employee as Public Works Director and Part-Time Employee is willing to accept such employment on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the following mutual promises and the foregoing recitals, the parties agree as follows:

1. **Employment.** City hereby appoints and employs Part-Time Employee as Public Works Director of the City, and Part-Time Employee hereby accepts such employment, on and subject to the terms and conditions of this Agreement.

2. **Term.** This Agreement shall become effective on June 10, 2024, and shall remain in effect until December 31, 2024, unless sooner terminated as provided by the termination provision below.

3. **Duties.** Part-Time Employee shall perform those duties and have those responsibilities that are commonly assigned to a public works director of a city in California, and as may be further set forth in the Wheatland Municipal Code. Part-Time Employee also shall perform such other duties and responsibilities as assigned by the City Manager from time to time. Part-Time Employee at all times shall act in the best interests of City and perform his duties in a competent and professional manner. Part-Time Employee 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 the City under this Agreement or that would reflect unfavorably upon the interests of the City.

4. **Hours.** Part-Time Employee acknowledges that his position is a part-time management position. It is anticipated that Part-Time Employee shall work an average of eight to twelve hours per week. However, the Parties acknowledge that time may vary depending on City’s needs.

5. **Compensation.**

(a) For all services to be rendered by Part-Time Employee under this Agreement, City shall provide to Part-Time Employee a salary in the amount of \$65 per hour. The salary shall be paid at the times and in the same manner as other City employees are paid.

(b) Part-Time Employee shall not be entitled to any benefit paid to full-time employees, unless provided for in this Agreement or otherwise required by law. Part-Time Employee shall not be entitled to paid time off for holidays.

(c) Part-Time Employee shall not accrue vacation. Part-Time Employee shall accrue sick leave only to the extent provided by California law.

(d) Part-Time Employee shall be allowed to participate in the City's dental and vision insurance coverage if he chooses. Upon enrolling in the City's dental and vision insurance coverage plan, Part-Time Employee shall pay the necessary premiums for himself and any dependent(s).

(e) Part-Time Employee 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 Part-Time Employee shall not be eligible for any "matching" contributions by City.

(f) Part-Time Employee'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 Part-Time Employee 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.

(g) Because Part-Time Employee's duties require the use of an automobile, City shall reimburse Part-Time Employee for mileage incurred while performing City business (exclusive of commuting mileage) at the current Internal Revenue Service mileage rates. Part-Time Employee shall be required to obtain a rider on his personal automobile insurance naming City as an additional insured, and City shall reimburse Part-Time Employee for any direct expenses related thereto.

(h) City-related direct expenses shall be reimbursed to Part-Time Employee by City. Itemized documentation shall be required for any such reimbursement.

**6. 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 Part-Time Employee 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 Part-Time Employee.

7. **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 Part-Time Employee, upon giving City not less than 60 days prior written notice of his election to resign from employment and terminate this Agreement.

(c) By the death of Part-Time Employee.

(d) By City, for cause, upon giving to Part-Time Employee 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 Part-Time Employee to meet with the City Council on the reasons for his termination. If Part-Time Employee requests a meeting, the meeting will be held at the City Council's earliest convenience in a closed session, unless Part-Time Employee 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 Part-Time Employee 30 days prior written notice of termination and payment of severance pay in an amount equal to Part-Time Employee's then-monthly salary multiplied by either: (1) one month; or (2) the portion of a month remaining on the current term of this Agreement as of the effective date of the termination, whichever is less.

8. **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.

9. **Notices.** Any notice to be given to Part-Time Employee 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.

**10. Tax and Contributions.** Subject to the limitations in Section 5 of this Agreement, the City shall make applicable payroll deductions from Part Time Employee's monthly paychecks for all applicable state, federal employee/employer taxes and other obligations.

**11. Successors and Assigns.** This Agreement is personal to Part-Time Employee. 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 Part-Time Employee'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. Headings.** The paragraph headings used in this Agreement are for reference only, and shall not in any way limit or amplify the terms and provisions hereof, nor shall they enter into the interpretation of this Agreement.

**16. Cooperation.** Each party to this Agreement agrees to do all things that may be necessary, including, without limitation, the execution of all documents that may be required hereunder, in order to implement and effectuate this Agreement.

**17. 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.

**18. 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.

**19. Signatures and Authority.** Each party warrants that the person signing this Agreement is authorized to act on behalf of the party for whom that person signs. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which

together shall constitute the same instrument. Counterparts may be delivered by facsimile, electronic mail (including PDF or any electronic signature complying with California's Uniform Electronic Transactions Act (Cal. Civ. Code, §1633.1, et seq.) or any other applicable law) or other transmission method. The parties agree that any electronic signatures appearing on the Agreement are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

CITY OF WHEATLAND

DONALD SCOTT

---

Rick West, Mayor

---

Donald Scott

Attest:

---

Lisa Thomason, City Clerk