

ACTING CITY MANAGER EMPLOYMENT AGREEMENT

This Acting City Manager Employment Agreement ("**Agreement**") is made and entered into as of May 8, 2025, ("**Effective Date**") by and between the City of Lodi, a municipal corporation, hereinafter called "City" and James Lindsay, a retired PERS annuitant, hereinafter called "Employee," collectively referred to as "Parties," both of whom agree as follows:

RECITALS:

It is the desire of the City to retain the services of Employee, a retired PERS annuitant, for extra help to perform work of a specialized skill for a limited duration as its Acting City Manager.

Employee has served as the City Manager of Saratoga for ten (10) years and in other high-level city positions. Employee will utilize his expertise as a former city manager and department director, which is critically important for the City while its permanent City Manager is on administrative leave.

Employee has significant experience as a long-time city manager making him well-qualified to serve as Acting City Manager.

Employee possesses the necessary, specialized skill-set necessary to perform the role of Acting City Manager and the work to be performed by Employee is in excess of what City's permanent staff can presently perform.

Section 21224 of the California Government Code authorizes the employment of a retired annuitant, as a person with specialized skills needed to perform work of limited duration, provided, that (1) the appointment(s) of the retired annuitant do not exceed a combined total of 960 hours per fiscal year, (2) the compensation does not exceed the maximum monthly base salary paid to other employees performing comparable duties based on an hourly rate, and (3) the retired annuitant does not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.

Employee desires to accept the appointment and the employment as the City's Acting City Manager subject to the limitations of Section 21224 and pursuant to the terms and conditions of this Agreement.

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

AGREEMENT:

1. POSITION; DUTIES; HOURS; DIRECTION; ACTIVITIES; PERIOD OF EMPLOYMENT; COMPENSATION; STATUS OF EMPLOYMENT AS A PERS ANNUITANT.

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1.1 Term of Position. The City hereby appoints Employee as the Acting City Manager (“ACM”) of City starting on May 8, 2025, at 8:30 a.m. (“**Effective Date**”), and Employee accepts such employment and agrees to perform the functions and duties of ACM for the City as provided by law and as they may be assigned by the City Council. The term of this Agreement shall be for up to 6-months, beginning on the Effective Date and terminating automatically on November 8, 2025, at 5:00 p.m., unless sooner terminated pursuant to Paragraph 7 below (“**Employment Term**”). Additionally, pursuant to Government Code section 21224, as a retired PERS annuitant, Employee may not perform more than 960 hours per fiscal year for the City, inclusive of other qualifying employment.

Employee agrees and understands that the purpose of this Agreement is to provide for Employee’s services to the City on a short-term basis, that this Agreement reflects the City’s need for interim services that regular staff cannot perform, and this Agreement does not create an ongoing position for Employee with City.

1.2 Duties & Authority. Employee will:

- (a) Perform the functions and duties of an ACM as specified in applicable statutes including, but not limited to, the California Government Code, and City Ordinances, Resolutions, Rules and Regulations, as well as all other applicable federal, state, and local laws and regulations;
- (b) Conduct the efficient administration of all the affairs of the City, which are under their control. In addition to the ACM's general powers as administrative head, and not as a limitation thereon, it is their duty and they shall have power to complete the tasks and responsibilities outlined in Lodi Municipal Code Section 2.12.060;
- (c) Perform all legally permissible and proper duties as the City Council may assign and as may be modified from time to time;
- (d) Comply with all applicable federal, state, and City laws and regulations;
- (e) Employee shall recommend strategies and procedures to implement City policies, rules, and regulations and shall enforce such policies, rules, and regulations, as established by the City Council. To accomplish this, Employee shall:
 - 1) Attend City Council meetings as needed or required by the City Council.
 - 2) Review all items, and any supporting documents, agendaized for any regular and special meetings of the City Council. Employee shall consult with the City Attorney, Department Heads, relevant staff and consultants as necessary to advise City Council concerning strategies, procedures and items on the City Council's agenda.

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3) For matters requiring legal interpretation of City policies, procedures, and agreements with third parties, coordinate with the City Attorney, or direct staff to do so.

(f) Employee acknowledges that the position of ACM is a position of high visibility before the public. Employee shall conduct themselves before the public, both during and outside of regular working hours, in a manner that reflects favorably upon City.

(g) Employee will maintain a log of hours worked for the City and shall submit a record of hours worked to the City Finance Department according to the same schedule and procedures as other City retired annuitants. The City will provide Employee with copies of the hours reports periodically submitted to CalPERS regarding hours worked under this Agreement.

1.3 Outside Employment.

(a) Except as provided as the City Council may otherwise approve in writing pursuant to subparagraph (b) of this Paragraph 1.3, Employee has the duty and herein commits to devote at least 80% of his/her working time per week on the duties and responsibilities of the position of ACM as specified in Lodi Municipal Code section 2.12.060, as well as other duties assigned by the City Council, which reasonably relate to the position of ACM. While performing these duties and responsibilities, Employee will work onsite at City Hall or another City or community facility a minimum of four (4) days per week for the first thirty (30) days of this Agreement and a minimum of three (3) days per week thereafter.

(b) Subject to the terms of this Agreement, Employee is permitted to maintain outside employment or conduct outside business activities on behalf of any person, firm, corporation or entity during the Employment Term provided that such outside employment or business activities do not create a Conflict of Interest as defined by the California Political Reform Act of 1974 and other applicable state laws and regulations, a prohibited contract, or incompatibility of office under applicable laws and regulations, and provided that such outside employment or business activities do not prevent employee from devoting at least 80% of their working time and a minimum of four (4) days per week on site for the first thirty (30) days of this Agreement and a minimum of three (3) days per week thereafter to the position of ACM. Employee represents that any such outside employment or business activities will not interfere with their duties as ACM.

(c) Paragraph 1.3(b) shall not be construed to prevent Employee from performing volunteer community service, participating in community service organizations, Employee's membership on non-profit boards, or managing personal and real property investments, outside the City jurisdiction, without requiring further approval of the City Council. Any outside services shall not create nor tend to create a disqualifying conflict of interest as defined by the California Political Reform Act of 1974, as amended, nor shall such services impair Employee's ability to fully perform his duties for City hereunder.

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(d) Prior to finalizing an offer of employment, Employee shall submit to City a Statement of Economic Interests (Form 700) to ensure all potential conflicts of interest or incompatible offices are disclosed to City and to give notice of the nature and extent of any proposed outside employment activities while Employee serves as ACM. Employee hereby agrees that the information documented on their Form 700 is true and complete.

1.4 Employee Commitments.

(a) Specific Tasks and Work Plans - Employee agrees to accomplish specific tasks as specified and described by the City Council from time to time in a timely and professional manner. Such specific tasks shall be discussed with Employee and then adopted by motion of the City Council as frequently as the City Council may choose.

(b) Hours of Work - Employee is an exempt employee who does not accrue compensatory time off but is expected to engage in those hours of work as necessary to fulfill the obligations of the position.

1.5 City Commitments.

(a) City shall provide Employee with an office, support staff, office equipment, supplies, and all other facilities and services adequate for the performance of his duties.

(b) City shall pay for, or provide, Employee reimbursement of actual business expenses, with the exception of mileage/commute and housing expenses.

1.6 Mutual Commitments. Performance Evaluation - Routine performance evaluations are an important way for the City Council and Employee to ensure effective communication about expectations and performance. The City Council recognizes that for Employee to respond to its needs, Employee may from time to time need feedback from the City Council about the performance of his job. The City Council may schedule performance evaluations for Employee at its discretion.

1.7 Compensation. City agrees to provide the following compensation to Employee during the Employment Term of the Agreement:

(a) Base Salary - Employee shall be paid at the rate of \$ 140 per hour ("Hourly Rate"). This hourly rate reflects the hourly rate of City's current City Council adopted salary schedule for City Manager.

(b) Hourly Rate shall be payable to Employee on regularly scheduled City payroll dates and shall be subject to all applicable payroll taxes and withholdings. Such compensation shall be the sole compensation for services under this Agreement.

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1.8 Employment of a PERS Annuitant. Employee understands that CalPERS retired annuitants may be employed by a CalPERS public agency employer, by temporary appointment not to exceed 960 hours in any fiscal year for all such employers; either (1) during an emergency to prevent stoppage of public business, or (2) because the retired employee has skills needed in performing the work of limited duration.

1.9 Effect of Agreement on Retired Annuitant's CalPERS Retirement Benefits; Indemnification: The City makes no representation on the impact, if any, this Agreement shall or may have upon Retired Annuitant's CalPERS retirement benefits, status, duties, and/or obligations. Retired Annuitant acknowledges that in entering into this Agreement, Retired Annuitant has not relied upon any such representations in assessing the CalPERS-related impact of this temporary employment. Retired Annuitant releases the City from any and all CalPERS-related claims or liabilities that may arise in connection with Retired Annuitant's employment pursuant to this Agreement.

2. EXPENSES:

2.1 General Expenses. Employee shall also be reimbursed by City for reasonable job-related expenses incurred in the course and scope of his employment, except that Employee will not be compensated for mileage/commuting or housing expenses.

2.2 No Leaves or Benefits. As a retired PERS annuitant, Employee shall not receive any holiday, vacation, sick, or administrative leave or any other benefit, incentive, or compensation in lieu of benefits other than the hourly rate of pay. Employee understands and agrees that Employee is not, and will not be, entitled to receive any benefits from City.

2.3 Other Terms & Conditions. Except as otherwise provided herein, and to the extent such provisions apply to a retired PERS annuitant, all provisions of the City of Lodi Municipal Code, official policies and regulations and rules of the City relating to working conditions as they now exist or hereafter may be amended also shall apply to Employee.

3. "AT WILL" EMPLOYMENT STATUS:

(a) Employee is an "at will" employee and shall serve at the pleasure of the City Council. Employee's at-will status cannot be changed except by formal amendment to this Agreement approved by the City Council at a properly noticed meeting and signed by the Mayor.

(b) Except as provided in Paragraph 7 nothing in this Agreement shall prevent, limit or otherwise interfere with the rights of the City Council to terminate the services of Employee.

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(c) Except as provided in Paragraph 7, nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign from his position as ACM at any time.

4. AUTHORITY TO WORK IN THE UNITED STATES:

Employee represents, under penalty of perjury, that he is authorized to work in the United States. In accordance with §274A (8 USC 1324) of the Immigration Reform and Control Act of 1986, before this Agreement can become effective, Employee must provide documentary evidence to City consistent with the Act, that he is legally entitled to work in the United States, and must execute the verification required by that Act.

5. CONFLICT OF INTEREST:

Because of the duties and role of Employee on behalf of the City and its residents, Employee shall not, without the prior approval of the City Council, during the Employment Term, individually, as a partner, joint venturer, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of City, except for stock ownership in any company whose capital stock is publicly held and regularly traded. Employee shall also be subject to the conflict of interest provisions of the California Government Code and any other conflict of interest code applicable to his City employment. Employee is responsible for submitting to the City Clerk the Appropriate Conflict of Interest Statements as a condition of appointment, annually thereafter, and upon separation from his position.

6. ABUSE OF OFFICE:

Any legal criminal defense payments made by the City in the defense of Employee, if any, are subject to, and shall be interpreted to comply with, the limitations set forth in Government Code section 53260, concerning the maximum cash settlement in an employment contract, and Government Code sections 53243 through 53243.4, limiting and/or restricting payment and/or legal criminal defense payments should Employee be convicted of a crime involving an abuse of office or position. "Abuse of office or position" for purposes of this Agreement, shall be as defined in Government Code section 53243.4 which provides: "abuse of office or position" means either of the following: (a) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority. (b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code."

7. TERMINATION:

(a) Termination With Cause - The City reserves the right to terminate Employee's employment with cause at any time without notice.

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(b) Termination Without Cause - City also may terminate Employee's position without cause. In that event, City will endeavor to provide 30 days' advanced written notice of termination to Employee, but City may terminate Employee's position without cause with no less than 72 hours' advanced written notice.

(c) Employee agrees and understands that Section 2.12.050 of the Lodi Municipal Code does not govern the termination of Employee's position as ACM pursuant to this Agreement. Section 2.12.050 of the Municipal Code provides that the City Manager is appointed for an indefinite term and the City Council may remove him/her by a majority vote of its members, and it imposes further procedural requirements on the City Council in terminating the City Manager's position. **Employee hereby waives any claim to ongoing employment or to any procedural rights regarding termination of his employment as provided by Section 2.12.050 or as otherwise provided in the Lodi Municipal Code.**

Employee Acknowledgement: ____

(d) Resignation - If Employee voluntarily resigns his employment with City, he shall endeavor to give City at least thirty (30) days' advance written notice, but shall at a minimum provide no less than seven (7) days' advance written notice of resignation.

(e) No Severance – In the event Employee's employment is terminated by City, with or without cause, no severance payment shall be provided.

8. GENERAL PROVISIONS:

8.1 Modification. No modification of this Agreement shall be valid unless said modification is in writing and signed by both Parties.

8.2 Indemnification. In accordance with and subject to the provisions of California's Government Claims Act (Government Code §825 et seq.), and any other applicable law, City shall defend, indemnify, and hold harmless Employee in any civil action against and for all losses sustained by Employee in direct consequence of the discharge of his duties on the City's behalf for the period of his employment. City shall defend, indemnify, and hold harmless Employee against any tort, professional liability claim or demand, or other civil legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as ACM. City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. Whenever Employee shall be sued for damages arising out of the performance of his duties, the City may provide defense counsel for Employee in such suit and indemnify him from any judgment rendered against him; provided that such indemnity shall not extend to any judgment for damages arising out of any willful wrongdoing of Employee. Said duty to indemnify shall survive termination of employment and expiration of this Agreement to protect Employee for any such acts undertaken or committed in his capacity as ACM, regardless of whether the notice of filing of a lawsuit occurs during or following his employment with the City.

8.3 Dispute Resolution & Attorney's Fees. In the event of a dispute arising from or related to the Agreement, and before bringing any action or proceeding against the other, including

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but not limited to, an action to enforce or to declare the termination, cancellation or revision of this Agreement, the Parties shall participate in good faith mediation before a qualified and mutually agreeable neutral mediator. The City shall pay for the mediation expense not to exceed one day. Any further mediation expenses shall be shared equally by the City and Employee. In the event that the City or Employee must commence an action or proceeding, as against each other, in order to preserve any application statute of limitations, the party(s) commencing the action shall immediately stay such proceedings until mediation is completed. Should the initial mediation efforts to resolve the dispute related to this Agreement prove unsuccessful, either party shall be entitled to pursue all other legal remedies available under the law. The prevailing party in such further action or proceeding shall be entitled to receive from the other party all reasonable attorney's fees and costs, actually incurred in connection therewith. If either party shall initiate any suit, action, or appeal on any matter related to this Agreement, then the court before which such suit, action, or appeal is pending shall award to the prevailing party such attorney's fees and costs as the court shall deem reasonable.

8.4 Severability. If any provision or any portion of any provision of this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion hereof, shall be deemed severable and shall not be affected, but shall remain in full force and effect.

8.5 Integrated Agreement. This writing contains the entire agreement between the Parties and all prior or contemporaneous agreements, understandings, or discussions relative to this Agreement are hereby superseded.

8.6 Jurisdiction & Venue. This Agreement shall be construed in accordance with the laws of the State of California and the Parties hereto agree that venue for any dispute as to this Agreement shall be in Lodi, San Joaquin County, California.

8.7 Notices. All written notices required pursuant to this agreement shall be delivered to:

City Clerk, P.O. Box 3006, Lodi, CA 95241 or City Hall, 221 West Pine Street, Lodi, CA 95240; and

James Lindsay, 550 High Street, Suite 107, Auburn CA, 95603.

9. EXECUTION:

IN WITNESS WHEREOF, the City Council of the City of Lodi has caused this Agreement to be signed and executed on its behalf by the Mayor, and Employee has signed and executed this Agreement as of the day and year first above written.

CITY OF LODI, a municipal corporation:

Date: _____

Mayor Cameron Bregman

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EMPLOYEE:

Date: _____

James Lindsay

APPROVED AS TO FORM:

City Attorney

JK

Signature: Janelle Krattiger
Janelle Krattiger (May 2, 2025 11:12 PDT)

Email: jkrattiger@lodi.gov