



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Adopt Resolution Ratifying Employment Agreement Entered into Between City Manager Blair King and Director of Public Works F. Wally Sandelin

MEETING DATE: April 2, 2008

PREPARED BY: City Manager

RECOMMENDED ACTION: Adopt resolution ratifying the terms of the employment agreement entered into between City Manager Blair King and Director of Public Works F. Wally Sandelin.

BACKGROUND INFORMATION: Lodi Municipal Code Section 2.12.060 vests with the City Manager the power to select subordinate staff. Based upon an open and competitive selection process, the City Manager selected F. Wally Sandelin to serve as the Director of Public Works.

The City Manager wishes to provide the terms and conditions related to employment that extends beyond the Manager's authority and therefore requires ratification by the City Council. Of particular interest to the Council is the following:

- * The proposed Employment Agreement provides for a six-month severance if the Director of Public Works is terminated without cause; and
- * The second year of the agreement allows for a ten percent (10%) pay differential between the Public Works Director and the Public Works Department's next highest paid executive or mid-management position (this does not necessarily mean a 10% pay increase), plus up to a five percent (5%) increase at the Manager's discretion.

As has been previously indicated to City Council, it is the Manager's intention to have all members of the Executive Management Team under a "standard employment agreement."

A copy of the Employment Agreement is attached.

FISCAL IMPACT: A well-qualified, competent Public Works Director is a significant asset. The first year's salary falls within the current approved range for the position. The salary represents a five percent (5%) increase for Mr. Sandelin.

FUNDING AVAILABLE: Funding is available for the Director of Public Works in the Public Works Department budget.

Kirk Evans, Budget Manager

Blair King
City Manager

BK
Attachment

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL
RATIFYING THE EMPLOYMENT AGREEMENT
ENTERED INTO BETWEEN CITY MANAGER
AND PUBLIC WORKS DIRECTOR

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby ratify the Employment Agreement entered into between City Manager Blair King and Public Works Director F. Wally Sandelin, as shown on Exhibit A attached hereto.

Dated: April 2, 2008

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I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 2, 2008, by the following vote:

- AYES: COUNCIL MEMBERS –
- NOES: COUNCIL MEMBERS –
- ABSENT: COUNCIL MEMBERS –
- ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

EMPLOYMENT AGREEMENT

**Executive Management
Exempt Service**

Public Works Director

THIS AGREEMENT entered into on _____, by and between the CITY OF LODI, a municipal corporation (hereinafter referred to as "City") and F. Wally Sandelin, an individual (hereinafter referred to as "Employee").

WHEREAS, City desires to employ the services of Employee as Public Works Director; and

WHEREAS, Employee desires to serve as Public Works Director for the City beginning April 7, 2008; and

WHEREAS, City and Employee agree in writing to the terms and conditions of employment as Public Works Director; and

WHEREAS, Employee and City agree and acknowledge that Employee's employment as Public Works Director is his sole and exclusive employment with City, and that their employment relationship is governed solely and exclusively by this Agreement.

NOW, THEREFORE, in consideration of the promises and conditions set forth herein, the parties mutually agree as follows:

1. **Employment:** City agrees to employ Employee as Public Works Director, in accordance with the following provisions:

(a) Employee shall serve as Public Works Director, and shall be responsible for managing and directing the operations of the Public Works Department.

(b) Employee shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations established by the City.

(c) Employee shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Employee shall comply fully with his reporting and disclosure obligations under regulations promulgated by the Fair Political Practices Commission (FPPC).

(d) Employee agrees to remain in the exclusive employ of the City during the term of this Agreement. Employee shall dedicate his full energies and qualifications to his employment as Public Works Director, and shall not engage in any other employment except as may be specifically approved in writing in advance by the City Manager.

2. **Maintenance of Professional Expertise:** To promote continued professional growth and benefit to the City, Employee shall, at City expense and consistent with budgetary constraints: maintain professional licenses, maintain membership in professional organizations related to Public Works administration and related professional disciplines; attend workshops, seminars and other similar activities designed to advance Employee's professional development; and, represent the City in professional associations and other organizations.

3. **Term:** The term of the Agreement shall be for a period of two (2) years, commencing April 7, 2008, until April 6, 2010 unless terminated by either party in accordance with the provisions set forth in Paragraph 4. The Agreement (or any renewal of this Agreement) shall be automatically renewed, unless either party gives a written notice that the contract will not be renewed at least six months prior to the expiration of this Agreement (or any subsequent renewal). In the event this written notice is given, Employee shall not be entitled to severance pay as provided in Paragraph 5 herein.

4. **Resignation or Termination:**

(a) Employee may resign at any time and agrees to give City at least 30 days advance written notice of the effective date of his resignation. In such event, Employee shall not be entitled to severance pay as provided in Paragraph 5 herein.

(b) The parties recognize and affirm that Employee may be terminated by the City Manager with cause, which shall mean gross insubordination, incapacity, dereliction of duty, conviction of a crime involving acts of moral turpitude or involving personal gain to him, or material breach of this Agreement. In such event, Employee shall not be entitled to severance pay as provided in Paragraph 5 herein.

(c) The parties recognize and affirm that Employee may be terminated by the City Manager without cause. In such event, Employee shall be entitled to severance pay as provided in Paragraph 5 herein.

(d) In the event of termination and in recognition of Employee's professional status and integrity, Employee and the City Manager shall prepare a joint public statement to be made by the City Manager. This employment relationship is based on the mutual respect between the parties and a desire to maintain the highest degree of professionalism. In communicating with third parties about the parties' employment relationship and the circumstances under which it may have been severed, the parties shall (a) protect and advance their mutual respect and professionalism, and (b) refrain from making statements that would negatively impact either party.

(e) Employee may choose to resign or retire his office instead of being terminated if agreed to by the City Manager. In such an event the public announcement, as provided for in Paragraph 4 (d) above, will note Employee has resigned or retired. The provisions of Paragraph 4 (d) shall remain applicable.

5. **Severance Pay:** If Employee is terminated by the City Manager without cause while still willing and able to perform the duties of Public Works Director, City agrees to pay Employee a cash payment equal to six (6) months' aggregate salary and the City's cost of six (6) months' health insurance benefits only (no other benefits will be accrued or converted to a cash equivalent) subject to reduction as set forth in this Paragraph 5. The severance payment will be paid in installments coinciding with the City's regular paydays during the severance period and subject to customary withholdings. In the event Employee retains new employment during the six-month severance period, any remaining severance payment will be forfeited as of the date Employee begins his new employment. To be eligible for such severance pay,

Employee shall fulfill all of his obligations under this Agreement, and shall sign an Acknowledgment and Release of Claims against the City in a form acceptable to the City Attorney. Payment under this Paragraph 5 will release City from any further obligations under this Agreement, or any other transaction between the parties

6. **Employment as Department Head is Sole Employment with City:** Employee further represents and acknowledges that his employment as Public Works Director is his sole and exclusive employment with the City. Employee has no right to any other exempt position with the City or to any employment in the classified service.

7. **Salary:**

- (a) City agrees to pay Employee \$138,750 in salary per annum for his services, payable in installments at the same time as other employees of the City are paid and subject to customary withholding.
- (b) After one year, and subject to a satisfactory performance evaluation, a salary increase will be granted by the City Manager to establish a ten percent (10%) differential between the public works director and the public works department's next highest paid executive or mid management position, including incentive pay ("Second Year's Base Salary"). In addition, the City Manager will have discretion to grant an additional five percent increase over the Second Year's Base Salary.

8. **Benefits:** The City shall provide Employee the same benefits as provided to management employees in accordance with the terms of the Executive Management Statement of Benefits dated 1998 and as they may be amended, increased or decreased, except as modified herein. These are the sole and exclusive benefits to be provided to Employee. Any improvement or modification of such benefits may only be made by written instrument signed by the City Manager. As used herein, benefits include, but are not limited to: vacation, sick leave, holidays, administrative leave, retirement, vision insurance, health insurance, dental insurance, long-term disability insurance and life insurance. Employee's vacation leave shall be calculated as if Employee was in his fifteenth year of employment (i.e., Employee shall accrue twenty days of vacation per year increasing from there as provided in the Executive Management Statement of Benefits.) Moreover, Employee shall retain all sick leave and vacation leave he has accrued as City Engineer but at his new pay rate. Employee will also earn and accumulate sick leave as provided in the Executive Management Statement of Benefits.

9. **Performance Evaluation:** The City Manager shall review and evaluate the performance of Employee each year and set goals and objectives for the ensuing year.

10. **Assignment:** Employee shall not assign any of the duties and responsibilities, or obligations of this Agreement except with the express written consent of the City Manager.

11. **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.

12. **Cell Phone/Vehicle:** Employee will be provided with a Cell Phone for employment related use at the City's expense on terms consistent with other Executive

Managers. Employee will also be provided with access to the Public Works Pool Car for work related use on an as available basis.

13. **Notice:** All notices required herein shall be sent first class mail to the parties as follows:

To **CITY:** Blair King, City Manager
City of Lodi
P. O. Box 3006
Lodi, CA 95241-1910

To **EMPLOYEE:** F. Wally Sandelin
2304 Cochran Road
Lodi, California 95240

Notice shall be deemed effectively served upon deposit in the United States mail.

14. **Entire Agreement:** This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by any party hereto. This Agreement may only be amended by written instrument signed by Employee and the City Manager and specifically approved by the City Council in open session.

15. **Severability:** If any provision of this Agreement is invalid or unenforceable, it shall be considered deleted herefrom and the remainder of this Agreement shall be unaffected and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written above.

CITY OF LODI, a municipal corporation

EMPLOYEE

Blair King
City Manager

F. Wally Sandelin

ATTEST:

By: _____
Randi Johl, J.D.
City Clerk

APPROVED AS TO FORM:

D. Stephen Schwabauer
City Attorney