

CITY OF YUBA CITY  
STAFF REPORT

**Date:** May 18, 2010  
**To:** Honorable Mayor & Members of the City Council  
**From:** Administration  
**Presentation By:** Steven R. Jepsen, City Manager

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**Summary**

**Subject:** Revisions to the City Manager's Employment Agreement for Fiscal Year 2010/2011

**Recommendation:** Authorize the Mayor to sign the Agreement providing for the City Manager's Employment from July 1, 2010 through June 30, 2011.

**Fiscal Impact:** Approval of the one year Employment Agreement with the City Manager, replacing the current Agreement, through Fiscal Year 2010/2011. The savings for Fiscal Year 2010/2011 total \$19,931 (10.3% salary reduction) and \$30,556 (15.9% salary reduction) for Fiscal Year 2011/2012. In addition to salary and benefit reductions, 13% in previously contracted pay increases have been eliminated. The combined savings in reductions and eliminated pay increases total 23.3% for Fiscal Year 2010-2011 and 28.9% for Fiscal Year 2011/2012.

**Background:**

Mr. Jepsen was hired as Yuba City's City Manager on May 30, 2006. Subsequently, the City entered into a five year Agreement with the City Manager on November 1, 2007.

At Mr. Jepsen's request, the five year Agreement was modified on November 1, 2008 to reflect the economic uncertainties at that time. Last year, again at Mr. Jepsen's request, the five year Agreement was nullified eliminating the merit and cost of living adjustment of: 5.5% for Fiscal Year 2008/2009, 5.0% for Fiscal year 2009/2010 and 2.5% for Fiscal Year 2010/2011. The five year Agreement was replaced with a one year Agreement on July 1, 2009 eliminating all prior obligations of the City with regard to Mr. Jepsen's salary and benefits.

Due to continued economic uncertainties, the City Manager is again requesting that the City Council replace his existing contract with a one year Agreement which will include: continuation of the existing 5% furlough; an additional 5% furlough starting January 1, 2011; and an obligation to pay all increased cost of health care and pension increases during the life of the Agreement.

**Analysis:**

The revised Agreement is for a one year period extending from July 1, 2010 through June 30, 2011.

The terms of the Agreement provide for the following:

Reductions:

- Existing base compensation of \$192,780 per year, to remain reduced by the existing 5 percent furlough.
- Existing base compensation to be reduced by an additional 5% furlough beginning January 1, 2011.
- Additional reductions and/or increases in salary and/or benefits during the term of the contract will be at the same rate as the average of all the employee bargaining groups.
- Employee to pay all increased cost from 2009/2010 base year for City PERS contributions.
- Employee to pay all increased cost from 2009/2010 base year for City provided health care benefits.

Continued benefits:

- Existing 2 percent deferred compensation
- Existing auto allowance of \$400 per month
- Existing vacation provision of 21 days per year or 6.5 hours per pay period.
- Provides for the same dental, health and medical benefits in place for Department Head Employees at the time of hire.

Termination Clause:

- The Agreement provides for the same termination clause limiting the City's obligation to 6 months salary and benefits. If Mr. Jepsen leaves for any other reason, he is entitled to no additional compensation beyond accrued benefits.

**Fiscal Impact:**

Approval of the one year Employment Agreement with the City Manager replacing the current Agreement, through Fiscal Year 2010/2011. The savings for Fiscal Year 2010/2011 total \$19,931 (10.3% salary reduction) and \$30,556 (15.9% salary reduction) for Fiscal Years 2011/2012. In addition to salary and benefit reductions, 13% in previously contracted pay increases have been eliminated. The combined savings in reductions and eliminated pay increases total: 23.3% for Fiscal Year 2010-2011 and 28.9% for Fiscal Year 2011/2012.

A summary of salary and benefit reduction based on projected benefit cost is provided in Table 1 as follows.

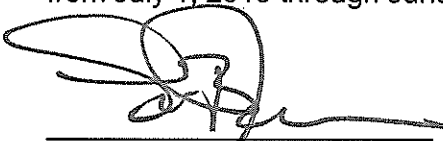
Table 1

**City Manager  
Compensation Reduction Table**

Item	FY 09/10		FY 10/11		FY 11/12	
	\$	%	\$	%	\$	%
Furlough	\$9,639	5.0%	\$14,477	7.5%	\$19,315	10.0%
Health Insurance			\$735	7.5%	\$2,315	15.0%
M/C & W/C	\$189		\$277		\$365	
PERS:						
Furlough Savings	\$2,769		\$4,173		\$5,577	
Employee Paid			\$269	0.300%	\$2,984	1.859%
	<u>\$12,597</u>	6.5%	<u>\$19,931</u>	10.3%	<u>\$30,556</u>	15.9%

**Recommendation:**

Authorize the Mayor to sign the replacement Agreement providing the City Manager's employment from July 1, 2010 through June 30, 2011.



Steven R. Jepsen  
City Manager

Reviewed by:

City Attorney via email

## **Employment Agreement between the City of Yuba City and Steven R. Jepsen**

This Agreement made and entered into this July 1, 2010, by and between the City of Yuba City, California, a general law city, (herein called "the Employer") and Steven R. Jepsen (hereinafter called "Employee") with respect to employment as the City Manager of Yuba City, California. This Agreement supersedes and replaces the previous Agreement between the City of Yuba City and Steven R. Jepsen dated July 1, 2009. This contract is not meant to supersede any State laws.

### **Section 1: Term**

The term of this Agreement shall be for one year. This Agreement shall automatically be renewed for one year unless notice that the Agreement shall terminate is given at least six months before the expiration date or the Agreement is replaced and/or amended by mutual Agreement of both parties in the future.

In the event the Agreement is not renewed, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns. The Employee acknowledges he serves in the position of City Manager at the discretion of the City Council and may be terminated at any time and prior to the expiration of the term of this Agreement. In the event that the Employee is terminated, as defined in Section 8 of this Agreement, the Employee shall be entitled to severance as provided for in Section 9 of this Agreement.

### **Section 2: Duties and Authority**

Employer agrees to employ Steven R. Jepsen as City Manager to perform the functions and duties specified in Government Code Section 36506 and Section 2-2.07 of the Yuba City Municipal Code. The City Manager also serves as the Executive Director of Redevelopment Agency. Employee shall hold the appointed office as City Manager at will and during the pleasure of the City Council and may be terminated at any time with or without cause by the City Council. Employee understands that he has no constitutionally protected property or other interest in his employment as City Manager.

### **Section 3: Compensation**

Base Salary: Employer agrees to pay Employee an annual base salary of \$192,789 to be reduced by the five (5) percent furlough provided in Fiscal Year 2009/2010 and an additional five (5) percent furlough provided beginning January 1, 2011.

Compensation shall be payable in installments at the same time that the other Executive Management employees of the Employer are paid.

### **Section 4: Health, Disability and Life Insurance Benefits**

1. The Employer agrees to provide for comprehensive medical insurance and vision/dental on a pre-tax basis for the Employee and his dependents equal to that which is provided to all other Executive Management employees of the Employer.

2. The split for medical costs shall be 80%/20% between the City and the Employee, with the City paying 80% of the total premium cost and the Employee paying 20%. The contribution shall be based on the lowest cost health plan available to the majority of City employees and is subject to Section 8.2. In addition, the Employee agrees to pay all increased cost in medical insurance cost above the Fiscal Year 2009/2010 base cost.
3. Employee shall pay the same premium amount of the City's dental and vision plan as provided to all other Executive Management employees of the Employer. In addition, the Employee agrees to pay all increased cost in dental and vision care above the Fiscal Year 2009/2010 base cost.
4. Cash-in-Lieu payments of medical insurance shall be calculated as outlined below and will be subject to Section 8.2.

Cash-in-Lieu payments are when an employee reduces the level of health care coverage rather than the entire coverage. Employees who reduce the level of health care coverage to which they are entitled, i.e., from full family coverage to employee plus one, or employee only coverage, or from employee plus one to employee only coverage, shall be entitled to Cash-in-Lieu benefit.

The Employee making the election covered above, shall receive the difference between the Cash-in-Lieu benefit to which they would have been entitled had they waived coverage at their present coverage level and Cash-in-Lieu benefit for the lower level elected.

Cash-in-Lieu of medical insurance payments to employees electing to forego health insurance coverage will be based on the below percentage of the current lowest cost health plan available to the majority of City employees:

Employee only:	25%
Employee plus one dependent:	25%
Family coverage:	30%

5. Life insurance benefit amount of \$50,000 shall be maintained for Employee.

**Section 5: Vacation and Leave**

Employee shall accrue vacation at the rate of 6.5 hours per pay period (21 days/year).

The Employee shall accrue sick leave at the rate provided to all other miscellaneous employees of the Employer.

The Employee is entitled to accrue all unused sick leave, without limit, and vacation leave accrual shall have the limits as set forth in the Personnel Rules and Regulations. In the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, executive leave, and other benefits to date.

The Employee shall annually be credited with ten (10) days of administrative leave.

Up to forty (40) hours of unused leave time may be converted annually to compensation at the discretion of the Employee. At the end of each calendar year, the Employee may cash out a maximum of 40 hours to be paid in the first pay period of the succeeding calendar year, and/or may carry over their unused balance up to 40 hours, subject to following limitations. Employee shall be allowed to carry over unused administrative leave to the next calendar year, subject to a maximum carry over balance of 80 hours.

## **Section 6: Retirement**

1. The Employer agrees to enroll the Employee into the Public Employee Retirement System (PERS) and to make all the appropriate contributions on the Employee's behalf, for both the Employer and Employee share required and is subject to Section 8.2.
2. The City shall pay 100% of the Employee's contributions to PERS at the Fiscal Year 2009/2010 base year. The City shall report 100% of the employer payment of member contributions (EPMC) to PERS as additional compensation for retirement purposes only and is subject to Section 8.2. In addition, the Employee agrees to pay all increased City cost for PERS benefits beyond the 2009/2010 base year.
3. Employee shall receive a City contribution of two (2) percent of Employee's annual salary paid into a City of Yuba City deferred compensation plan.

The dollar value of this contribution may be used at the Employee's option, to purchase service from another qualified plan.

4. In addition to the Employer's payment to the state or local public retirement system (as applicable) referenced above, Employer agrees to execute all necessary Agreements provided by ICMA Retirement Corporation or other Section 457 deferred compensation plan for Employee's participation in said supplementary retirement plan.
5. If the Employee retires from the City, has at least five years of City service, and is of full retirement age (55 for miscellaneous and 50 for public safety) the Employee shall have the "Employee Only" medical premium paid by the City until such time as the Employee is eligible to receive Medicare. If the Employee receives a disability retirement, this benefit is not available.

The amount of premium paid by the City will be determined each year by what the City's maximum health insurance contribution is for "Employee Only" for First Level Managers. The retiree will be responsible for paying the difference based on the City's contribution. If the retiree selects a health plan that costs less than the City's contribution, he/she will not be eligible to receive the cash difference. All premium contributions must be received one month in advance and it is the responsibility of the retiree to ensure that the City receives the payment. Failure

to pay the retiree's contribution in a timely manner may result in the loss of the benefit.

## **Section 7: General Business Expenses**

1. Employer agrees to budget for and to pay for professional dues and subscriptions of the Employee necessary for continuation and full participation in ICMA and one other professional organization necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.
2. Employer agrees to budget for and to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer including, but not limited to, the ICMA Annual Conference, and/or the California League of Cities.
3. The Employer shall provide Employee with a cell phone required for the Employee to perform the job and to maintain communication. Usage of cell phone shall be in accordance with the City's policy on cell phone usage.
4. The Employer shall provide the Employee with an automobile allowance of \$400 per month to provide compensation for auto use within the Yuba-Sutter-Sacramento region. Mileage reimbursement will only be paid outside a 50 mile radius of Yuba City for City business. The auto allowance will be reviewed annually for adjustments based on use and cost. Any change in auto allowance rate will require an amendment to this Agreement.

## **Section 8: Termination**

**For the purpose of this Agreement, termination shall occur when:**

1. The City Council, by a three-fifths vote, terminates the Employee at a duly authorized public meeting.
2. If the Employee resigns following a formal offer to accept resignation by three members of the City Council then the Employee may declare a termination as of the date of the resignation offer.

## **Section 9: Severance**

Severance shall be paid to the Employee when employment is terminated as defined in Section 8.

If the Employee is terminated, the Employer shall provide a minimum severance payment equal to six months salary at the current rate of pay. This severance shall be paid in a lump sum unless otherwise agreed to by the Employer and the Employee.

The Employee shall also be compensated for accrued sick leave in accordance with the Personnel Rules and Regulations, vacation time, all paid holidays, and administrative

leave. The Employer agrees to make a contribution to the Employee's deferred compensation account, and PERS, based on the value of this compensation calculated using the rate ordinarily contributed on regular compensation.

For a minimum period of six months following termination, the Employer shall pay the cost to continue the following benefits:

1. Health insurance for the Employee and all dependents as provided in Section 4
2. Employer shall take all necessary actions to insure continuation of benefits and service credits with PERS for the severance period.

Employee shall not be entitled to severance pursuant to this section if (1) Employee voluntarily resigns or (2) Employee is terminated for willful misconduct, malfeasance, dishonesty for personal gain, conviction of a misdemeanor involving moral turpitude or conviction of a felony.

### **Section 10: Resignation**

In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 30 days notice unless the parties agree otherwise.

### **Section 11: Performance Evaluation**

Employer shall annually review the performance of the Employee in April, 2010 subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee prior to May 1, 2010.

### **Section 12: Hours of Work**

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

### **Section 13: Outside Activities**

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may, with City Manager approval, elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his/her responsibilities under this Agreement.

## **Section 14: Indemnification**

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, 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 City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

## **Section 15: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

## **Section 16: Other Terms and Conditions of Employment**

The Employer, only upon Agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Yuba City Municipal Code or any other law.

## **Section 17: Notices**

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service.

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

## **Section 18: General Provisions**

1. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties

are merged into and rendered null and void by this Agreement. The parties by mutual written Agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

2. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.
3. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.
4. Effective Date. This Agreement shall become effective on July 1, 2010.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Steven R. Jepsen, City Manager

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kash Gill, Mayor

Attest:

Approved as to Form:

\_\_\_\_\_  
Terrel Locke, City Clerk

\_\_\_\_\_  
Timothy P. Hayes, City Attorney