REQUEST FOR COUNCIL ACTION

SUBJECT: A resolution ("Resolution") authorizing an agreement memorializing the compensation owed to the outgoing West Jordan City Mayor under Utah Code § 10-3b-606.

SUMMARY: State law requires that when a municipality changes its form of government the municipality is required by law to pay elected officials, whose positions are eliminated by the change in form of government, the compensation they would have received if their term had not been cut short by the change. See Utah Code § 10-3b-606. The proposed Resolution would approve an agreement memorializing such payment to outgoing Mayor Jim Riding.

(see additional information included on subsequent pages)

FISCAL AND/OR ASSET IMPACT: Approval will save the City $55,684.00, which represents a 23.5% savings over that which would otherwise be required by law.

STAFF RECOMMENDATION:

Staff recommends approving the Resolution.

MOTION RECOMMENDED:

"I move we approve Resolution # 19-211, A RESOLUTION AUTHORIZING THE CITY TO EXECUTE A SEPARATION AGREEMENT WITH MAYOR JIM RIDING."

Roll Call vote required

To be Presented by:

[Signature]
I Robert Wall
City Attorney

Requested by:

[Signature]
Jim Riding
Mayor

Authorized for Council Consideration:

[Signature]
David R Brickey
City Manager

Reviewed for Legal Sufficiency:

[Signature]
City Attorney’s Office
Attachment 1

(to A RESOLUTION AUTHORIZING THE CITY TO EXECUTE A SEPARATION AGREEMENT WITH MAYOR JIM RIDING)

Separation and Settlement of Claims Agreement
SEPERATION AND SETTLEMENT OF CLAIMS AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of West Jordan, a political subdivision of the State of Utah ("City") and Jim Riding ("Riding"), as of the effective date set forth in this Agreement. The City and Riding are jointly referred to as "Parties."

WHEREAS, Riding was elected Mayor of the City in November 2017 and sworn into office on January 3, 2018; and

WHEREAS, in the same November 2017 election, the residents of the City voted to change the City’s form of government from a council-manager form of government to a mayor-council form of government ("Change in Form of Government"), with the change to take effect on January 6, 2020 at 12:00 PM; and

WHEREAS, the Change in Form of Government reduced Riding’s term in office as the Mayor in the council-manager form of government from four years to two years, expiring on January 6, 2020; and

WHEREAS, Utah Code § 10-3b-606 states that if a change in form of government results in the “elimination of an elected official’s position, the municipality shall continue to pay that official at the same rate until the date on which the official’s term would have expired, unless under the new form of government the official holds municipal office for which the official is regularly compensated” ("Statutory Payment"); and

WHEREAS, Riding was defeated in his campaign to be reelected to Mayor in the mayor-council form of government and will therefore not hold municipal office after January 6, 2020 at 11:59 AM; and

WHEREAS, questions have arisen between the City and Riding regarding the timing, scope, form, and way in which the Statutory Payment should be implemented; and

WHEREAS, the City and Riding wish to resolve the questions surrounding the interpretation and application of Utah Code § 10-3b-606 amicably and equitably.

NOW, THEREFORE, the Parties agree as follows:

1. Recitals. The Recitals set forth above contain true and accurate statements and are incorporated herein by reference.

2. Timing of Statutory Payment. The Parties agree that the Statutory Payment shall be made in one lump sum on January 10, 2020, rather than in 24 monthly payments or 52 bi-weekly payments over the course of two years.

3. Payroll. The Parties agree that Riding shall be taken off the City’s Payroll and no longer have the right to further compensation or benefits from the City once the Statutory Payment is made.

Version 1 Council Review
4. **Statutory Payment.** The Salary used to calculate the Statutory Payment shall be $89,500.00 per/year. The total gross Statutory Payment made to Riding shall be $179,000.00.

5. **Excluded Items of Value.** The Parties agree that the following non-salary portions of Ridings total compensation will be excluded from the Statutory Payment: (a) car allowance ($11,180.00); (b) Telephone allowance ($2,400.00); (c) medical cash-out payment for 2020 ($2,400.00); medical cash-out payment for 2021 ($2,400.00); Utah Retirement System ("URS") contribution for 2020 ($16,531.00); and URS contribution for 2021 ($16,531.00).

6. **Consideration and Entire Agreement.** This Agreement provides a resolution to all questions and ambiguities regarding the application of Utah Code § 10-3b-606 to the satisfaction of the Parties. This Agreement is the entire agreement and there are no oral or written understandings between the parties that vary from the terms set forth herein. The Agreement memorializes all benefits and payments of any kind or nature owed to Riding from the City. Any amendment of this Agreement must be in writing signed by the Parties.

7. **Effective Date.** The Agreement shall be effective upon execution by both Parties.

8. **Waiver and Release of All Claims.** Riding knowingly and voluntarily waives, releases, and forever discharges the City, its agents, and its current and former employees and officials, both individually and in their official capacities (collectively "Releasees"), from any and all claims, whether known or unknown, that Riding has or may have in the future related to his position as the Mayor in the council-manager form of government or having his terms as Mayor being cut-short by the Change in Form of Government, including but not limited to claims based on Utah Code § 10-3b-606. This paragraph shall receive the broadest possible interpretation as a general and complete waiver and release as of the Effective Date.

9. **Jurisdiction and Agreement to Mediate.** This Agreement will be governed by the laws of the State of Utah. If any disagreement or problem arises with respect to this Agreement, the Parties agree to first submit such a disagreement or problem to mediation before a qualified mediator practicing in Salt Lake County, Utah. The cost of the mediator shall be split equally by the Parties.

10. **Right to an Attorney and Tax Advisor.** Riding has been provided the opportunity to consult with an attorney and tax advisor of his choice regarding this Agreement. Riding freely, knowingly, and after due consideration, enters into this Agreement intending to waive and release all claims Riding has or might have against the City and its agents, employees, and officials, including but not limited to claims for renumeration under Utah Code § 10-3b-606.

(space left intentionally blank)
City of West Jordan

Name: ___________________________  Date: ___________________________
Title: ___________________________

Attest:

______________________________
Jamie Brooks
Interim City Recorder

Jim Riding

______________________________  Date: ___________________________
Jim Riding

STATE OF ___________________________
COUNTY OF ___________________________

On this _____ day of __________, 2019, personally appeared before me, Jim Riding, whose identity is personally known to me or proved to me based upon satisfactory evidence to be, the person whose name is subscribed to this instrument and he acknowledged to me that he executed the same.

______________________________
NOTARY PUBLIC
BACKGROUND

In November 2017, Mayor Jim Riding was elected to serve a four-year term as mayor in the council-manager form of government. However, in the same November 2017 election City residents voted to change the City’s form of government from a council-manager form to a council-mayor form (“Change in Form of Government”). The Change in Form of Government will take effect January 6, 2020 at 12:00 PM (“Effective Date”).

The Change in Form of Government approved by City voters also triggered obligations required by State law on the part of the City. One obligation addresses the premature end to the four-year term of the current mayor. A mayor in West Jordan City under the council-manager form of government performs a very different function than that required of a mayor in the council-mayor form of government. Consequently, residents of the City were required to elect a mayor to serve under the new form of government. Therefore, by operation of law Mayor Riding’s current position is eliminated on the Effective Date, two years prior to that term to which he was originally elected.

Under Utah Code § 10-3b-606, if a change in form of government results in the “...elimination of an elected official’s position, the municipality shall continue to pay that official at the same rate until the date on which the official’s term would have expired, unless under the new form of government the official holds municipal office for which the official is regularly compensated” (“Statutory Payment”). Mayor Riding was not elected to serve as mayor in the mayor-council form of government and will therefore not hold municipal office after January 6, 2020 at 11:59 AM.

Certain questions have arisen regarding the timing, scope, form, and manner by which the Statutory Payment may be implemented. Mayor Riding has asked that the Statutory Payment be provided to him in a lump sum following the Effective Date. In exchange for the lump sum payment, after consultation with his personal legal and tax advisors, Mayor Riding has agreed to forgo certain benefits that are otherwise required to be paid to him by the City per State law.

The Resolution authorizes an agreement that will resolve the questions and accommodate the request of Mayor Riding in a manner acceptable to Mayor Riding and will save the City $55,684.00 over the course of the next two years, which represents a 23.5% savings to the City.
THE CITY OF WEST JORDAN, UTAH

Resolution No. 19-211

A RESOLUTION AUTHORIZING THE CITY TO EXECUTE
A SEPERATION AGREEMENT WITH MAYOR JIM RIDING

WHEREAS, the City is changing its form of government from a council-manager form to a
council-mayor form on January 6, 2020 at 12:00 PM;

WHEREAS, the change in form of government will eliminate the position of mayor in the council-
manager form of government;

WHEREAS, the change in form of government has resulted in reducing Mayor Jim Riding’s term
as mayor by two years;

WHEREAS, Utah law requires the City to pay an elected official whose position is eliminated by
a change in form of government the compensation an official would have received had the official’s
position not been eliminated by the change in form of government; and

WHEREAS, the City Council desires to meet its legal obligations in an amicable and economical
manner.

NOW, THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF WEST JORDAN
CITY, UTAH AS FOLLOWS:

Section 1. Separation Agreement. The City Council authorizes the Mayor Pro Tempore to
execute a Separation Agreement with Mayor Jim Riding to satisfy the statutory
obligation under Utah Code § 10-3b-606. The form of agreement is included as
Attachment 1 to this Resolution.

Section 2. Effective. This Resolution shall take effect immediately upon passage.

Adopted by the City Council of West Jordan, Utah, this _____ day of _________
20___.

Chad Lamb
Mayor Pro Tempore

ATTEST:

______________________________
Jamie Brooks
Interim City Recorder
<table>
<thead>
<tr>
<th>Voting by the City Council</th>
<th>&quot;YES&quot;</th>
<th>&quot;NO&quot;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alan Anderson</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dirk Burton</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zach Jacob</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chad Lamb</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chris McConnehey</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kayleen Whitelock</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mayor Jim Riding</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>