

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO. 2020-146

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUISUN CITY
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED AND
RESTATED EMPLOYMENT AGREEMENT WITH CHIEF OF POLICE AARON
ROTH**

WHEREAS, Chief of Police Aaron Roth (“Chief Roth”) was appointed to the position of chief of police by the City’s City Manager and commenced employment for the City effective July 1, 2019; and

WHEREAS, the terms and conditions of Chief Roth’s employment with the City are memorialized in the Chief of Police Employment Agreement effective June 18, 2019; and

WHEREAS, Chief Roth desires to continue to serve as the City’s chief of police; and

WHEREAS, the City desires that Chief Roth continue to provide professional services to the City as its chief of police; and


WHEREAS, the Parties now wish to enter into an amended and restated employment agreement to establish the terms and conditions of Chief Roth’s services to the City and ensure consistency with the employment agreement between the City and Fire Chief Justin Vincent.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Suisun City hereby authorizes the City Manager to execute the amended and restated employment agreement between the City and Chief of Police Aaron Roth, which is attached hereto as Attachment 1.

PASSED AND ADOPTED at a Regular Meeting of said City Council of the City of Suisun City duly held on Tuesday, the 24th day of November 2020, by the following vote:

AYES:	Council Members:	<u>Adams, Williams, Mayor Wilson</u>
NOES:	Council Members:	<u>Day</u>
ABSENT:	Council Members:	<u>Segala</u>
ABSTAIN:	Council Members:	<u>None</u>

WITNESS my hand and the seal of said City this 24th day of November 2020.



Donna Pock, CMC
Deputy City Clerk

**CITY OF SUISUN CITY
AMENDED AND RESTATED**

CHIEF OF POLICE

EMPLOYMENT AGREEMENT

This AMENDED AND RESTATED CHIEF OF POLICE EMPLOYMENT AGREEMENT (“Agreement”) is entered into and made effective the 25th day of November, 2020 by and between the CITY OF SUISUN CITY (the “City”), a general law city and municipal corporation, and AARON ROTH (“Employee”). The City and Employee may be referred to individually as a “Party” or collectively as “the Parties.”

R E C I T A L S

WHEREAS, pursuant to Suisun City Municipal Code §2.08.110, the city manager has the authority to appoint and remove department heads, subject to prior approval by the City Council; and

WHEREAS, the position of chief of police serves as the department head for the City’s police department; and

WHEREAS, the position of chief of police is prescribed by state law at Government Code §§ 41601-41612; and

WHEREAS, the duties of the chief of police position are set forth more specifically in the class specifications attached hereto as Exhibit “A”; and

WHEREAS, Employee was appointed to the position of police chief beginning July 1, 2019 by the City’s City Manager by means of a Chief of Police Employment Agreement effective June 18, 2019 (the “Original Agreement”); and

WHEREAS, Employee desires to continue to provide professional services to the City as its police chief; and

WHEREAS, the City desires that Employee continue to provide professional services to the City as its police chief; and

WHEREAS, the Parties now wish to establish the terms and conditions of Employee’s services to the City by means of a written contract, as contained and described in this Agreement; and

WHEREAS, the City intends to provide benefits to Employee consistent with the benefits provided to Executive Management Employees under the Schedule of Salary and Benefits for Executive Management Employees then in effect; and

WHEREAS, Employee is aware that the benefit levels provided to Executive Management

Employees may change and acknowledges that such change in benefits shall not be deemed a breach of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, City and Employee hereby agree as follows:

A G R E E M E N T

1.0 EMPLOYMENT & DUTIES

1.1 **Duties.** City hereby employs Employee as chief of police for the City to perform the functions and duties of the chief of police, as specified in the Government Code of the State of California and the job description attached hereto as Exhibit "A", and to perform such other legally permissible and proper duties and functions as the City Manager shall, from time-to-time, direct or assign. Employee shall perform these functions and duties in an efficient, competent, and ethical manner and shall devote his best efforts and full-time attention thereto.

1.2 **Work Schedule.** It is recognized that Employee is expected to engage in the hours of work that are necessary to fulfill the obligations of the position, must be available at all times, and must devote a great deal of time outside the normal office hours to the business of the City. Employee acknowledges that proper performance of the duties of chief of police will require Employee to generally observe normal business hours, as set by the City and may be duly revised from time-to-time (currently 8:00 a.m. to 6:00 p.m., Monday, Wednesday and Thursday; 8:00 a.m. to 7:00 p.m. on Tuesday), or as agreed to by the City Manager, and will also often require the performance of necessary services outside of normal business hours. Notwithstanding the foregoing, the City will permit Employee such reasonable "time off" as is customary for exempt employees of the City, so long as the time off does not interfere with normal business. Employee's compensation (whether salary or benefits or other allowances) is not based on hours worked, and Employee shall not be entitled to any compensation for overtime.

1.3 **Other Activities.** Employee shall focus his professional time, ability, and attention to City business during the term of this Agreement. Employee shall not engage, without the express prior written consent of the City Manager, in any other business duties or pursuits whatsoever, or directly or indirectly render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, that is or may be competitive with the City, that might cause a conflict-of-interest with the City, or that otherwise might interfere with the business or operation of the City or the satisfactory performance of the functions and duties of the chief of police.

1.4 **Employment Status.** Employee shall serve at the will and pleasure of the City Manager and understands that he shall be an "at-will" employee without recourse to bumping or other demotion rights and shall be subject to summary dismissal without any right of notice or hearing except as expressly provided in this Agreement, including any so-called due process pre-disciplinary "Skelly" hearing. The City may terminate Employee at any time in accordance with Section 3.4 below, which is in accordance with the state mandated protections afforded by the Public Safety Officers Procedural Bill of Rights Act ("POBOR") (Government Code sections 3300-3313).

1.5 City Documents. All data, studies, reports and other documents prepared by Employee while performing his duties during the term of this Agreement shall be furnished to and become the property of the City, without restriction or limitation on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Employee in connection with the performance of this Agreement shall be held confidential by Employee to the extent permitted by applicable law, except as may be required by any governmental agency or court of competent jurisdiction. Such materials shall not be used by Employee, without the prior written consent of the City Manager, for any purposes other than the performance of his duties. Additionally, no such materials may be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by (a) law, (b) any governmental agency, (c) subpoena, or (d) an order issued by a court of competent jurisdiction.

1.6 Exclusion from Competitive Service. Employee understands, acknowledges and agrees that he is exempt from the City's personnel system pursuant to Suisun City Municipal Code §2.40.040 and the City's Personnel Rules (Administrative Directive – AD 7) pursuant to Personnel Rule §1.4.9.

1.7 FLSA Exempt Status. Employee agrees that his position is that of an exempt employee for the purposes of the Fair Labor Standards Act.

2.0 COMPENSATION AND REIMBURSEMENT

2.1 Compensation. For the services rendered pursuant to this Agreement, Employee's base compensation shall be Thirteen Thousand Five Hundred Seven Dollars and Eighty Three Cents (\$13,507.83) monthly ("Salary"), which shall be paid on a pro-rated basis bi-weekly at the same time as other employees of the City are paid. Such Salary shall be adjusted for payroll taxes, workers' compensation, and other payroll-related liability costs.

2.2 Annual Salary Review. The City Manager and Employee agree to conduct an annual salary review concurrently with the annual performance evaluation set forth in Section 5.2.

2.3 Effectuating Salary Adjustments. Employee shall be entitled to so-called cost of living adjustments ("COLA") or increases to the Salary, as received by other Executive Management employees, pursuant to the Schedule of Salary and Benefits for Executive Management Employees, as the same may be modified for all such employees by resolution of Council from time to time.

3.0 TERM

3.1 Commencement & Effective Date. Employee commenced his services as Police Chief on July 1, 2019. This Agreement shall be effective on November 25, 2020 ("Effective Date").

3.2 Term. This Agreement shall remain in effect from the Effective Date specified at Section 3.1 until this Agreement is terminated pursuant to Section 3.3 or Section 3.4.

3.3 Termination by Employee. Employee may terminate this Agreement at any time, provided Employee provides the City Manager with at least thirty (30) days' advance written notice. In the event Employee terminates this Agreement, Employee expressly agrees that he shall not be entitled to any severance pay.

3.4 Termination by City. The City Manager may terminate this Agreement at any time with or without cause, subject to the prior approval of the City Council as required by Suisun City Municipal Code §2.08.110, by providing written notice of the reason(s) and an opportunity for administrative appeal, as provided herein. Administrative appeal shall be in accordance with the requirements of the POBOR, including but not limited to Government Code section 3304(c), which states that the City is required to provide written notice of termination and the reason or reasons therefore and an opportunity for administrative appeal. The City Manager's right to terminate Employee pursuant to this Section 3.4 shall not be subject to or in any way limited by the City's Personnel Rules or past City practices related to the employment, discipline or termination of the City's employees. Except as expressly provided in this Section 3.4, Employee expressly waives any rights provided for the chief of police under the City's Personnel Rules, Municipal Code, or under other state or federal law to any other form of pre- or post-termination hearing, appeal, or other administrative process pertaining to termination. Nothing herein, however, shall be construed to create a property interest, where one does not exist by rule of law, in the position of chief of police. Notwithstanding this Section 3.4, Employee remains an at-will employee serving at the pleasure of the City Manager.

(a) Termination by City for Cause. The City may terminate this Agreement for cause at any time by providing Employee with five (5) business days' written notice of the termination for cause and the facts and grounds constituting such cause. The term "cause" shall be defined to include any misconduct materially related to performance of official duties, including but not be limited to any of the following: 1) Breach of this Agreement, 2) Willful or persistent material breach of duties, 3) Résumé fraud or other acts of material dishonesty, 4) Unauthorized absence or leave, 5) Conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality), conviction of a misdemeanor DUI, or conviction of a felony under California law, 6) Violation of the City's anti-harassment policies and/or a finding that legally prohibited personal acts of harassment against a City official or employee or legally prohibited personal acts of discrimination against a City official or employee has occurred, 7) Violation of the City's Municipal Code, Ordinances, Rules, and Regulations, including but not limited to the City's Personnel Rules and the Suisun City Police Department policy manual, 8) Use or possession of illegal drugs, 9) Engaging in conduct tending to bring embarrassment or disrepute to the City, 10) Any illegal or unethical act involving personal gain, 11) A pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted direction of the City Manager or policy decisions of the City Council, 12) Gross misfeasance or gross malfeasance, and 13) "abuse of office or position" as defined in Government Code §53243.4 (i.e., waste, fraud, and violation of the law under color of authority and crimes against public justice, including crimes involving bribery and corruption). For any of the foregoing, the City may, in its discretion, place Employee on paid or unpaid administrative leave until resolution. If the City terminates for cause this Agreement and the services of Employee hereunder, the City shall have no obligation to pay

severance. In order to comply with the requirements of California Government Code section 3304(c), a termination by the City Manager for cause shall be conducted in accordance with the following procedures:

(1) Within five (5) days of receipt of written notice under Section 3.4(a), Employee may submit a request in writing to the City Manager for an administrative appeal. Such appeal shall not prohibit or otherwise delay the termination of Employee prior to the administrative appeal. Failure to timely file such a request shall be deemed to be a waiver of the right to do so.

(2) Upon Employee's written appeal request, the City Manager shall appoint an independent hearing officer to conduct an administrative hearing and issue an advisory decision which shall then be reviewed and considered and either adopted, modified or rejected by City Council. Both the Employee and the City and their respective representatives, if any, shall make reasonable efforts to set an administrative appeal hearing date within thirty (30) days from the City Manager's receipt of the written appeal request. Pursuant to Government Code section 3304(c) and for purposes of this subdivision, the removal of Employee for the purpose of implementing the goals or policies, or both, of the City, for reasons including, but not limited to, incompatibility of management styles or as a result of a change in administration, shall be sufficient to constitute "reason or reasons" for Employee's termination in addition to those stated in Section 3.4(a) above.

(3) At the administrative appeal hearing, the independent hearing officer shall be presented with both the information and documents on which the City based its decision to terminate as well as any information and documents on which the City based its decision to terminate for cause as well as any information and documentation that the Employee chooses to submit to challenge the City's information and documents to raise mitigating circumstances for consideration by the independent hearing officer.

(4) Within thirty (30) days of completing the hearing, the independent hearing officer shall issue an advisory decision in writing to the City Council determining whether Employee was properly terminated and whether there was sufficient "cause" to justify not paying severance under the terms of this Agreement unless severance was already tendered. Following City Council's review and consideration of the advisory decision, Employee shall be notified in writing as to whether the advisory decision will be upheld, modified or rescinded.

(b) Termination by City Manager Without Cause. By providing Employee at least thirty (30) days' prior written notice thereof, the City may terminate Employee without cause but rather based upon management reasons such as implementing the City's goals or policies, including but not limited to: (i) change of administration, or (ii) incompatibility of management styles. In the event Employee is terminated without cause, Employee expressly agrees that he shall not be entitled to any severance pay as the result of the termination of this Agreement except as provided in Section 4.1 below. In order to comply with the requirements of California Government Code section 3304(c), termination by the City Manager for a reason other than cause shall be conducted in accordance with the following procedures:

(1) The City reserves the right to place Employee on paid administrative leave for all or a portion of the thirty (30) day period provided under Section 3.4(b).

(2) Employee may request to appear before the City Council prior to the effective date of the termination to challenge the reasons for the termination or to raise mitigating circumstances regarding the termination but in such event would waive any right to severance pay under Section 4.1 below.

4.0 SEVERANCE

4.1 Severance Pay. Except as provided in Sections 3.3 and 3.4, in the event Employee is terminated without cause and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then City shall pay to Employee severance in an amount equal to his monthly base salary (as defined in Section 2 above, calculated on a per diem basis) then in effect multiplied by four (4), less applicable deductions and excluding deferred compensation or the value of any other benefits.

Notwithstanding the foregoing, Government Code Section 53260 provides that all contracts of employment with a city must include a provision limiting the maximum cash settlement for the termination of the contract to the monthly salary (excluding benefits) multiplied by the number of months left on the unexpired term, but not more than 18 months if the unexpired term exceeds 18 months. Accordingly, should such proposed severance payment exceed the amount authorized to be paid under Government Code Section 53260, then the amount paid to Employee shall be reduced in the amount necessary to comply with such statute. (For example, if termination occurs with two (2) months left in the term, severance would be equal to the monthly base salary multiplied by two (2) rather than the four (4) months provided in this Section.)

4.2 No Severance Pay if Termination for Cause or Initiated by Employee. As provided in Section 3.4(a), should Employee be terminated for cause, the City shall have no obligation to pay the severance provided for in Section 4.1 above. As provided in Section 3.3, should Employee initiate termination of this Agreement, the City shall have no obligation to pay the severance provided for in Section 4.1 above.

4.3 Sole Rights. The severance rights provided in this Section 4.0 shall constitute the sole and only entitlement of Employee with respect to severance pay in the event of the termination, other than for cause. Employee expressly waives any and all other rights with respect to severance pay except as provided herein. Any and all severance rights are conditioned upon and in consideration for execution of the standard "Agreement of Separation, Severance, and General Release" attached hereto in form only as Exhibit "B."

5.0 PERFORMANCE EVALUATIONS

5.1 Purpose. The performance review and evaluation process set forth herein is intended to provide review and feedback to Employee so as to facilitate a more effective management of the Police Department and the City. Nothing herein shall be deemed to alter or change the employment status of Employee (as set forth in Section 1.4 above), nor shall this Section 5.0 be construed as requiring "cause" to terminate this Agreement, or the services of Employee hereunder.

5.2 Annual Evaluation. The City Manager shall review and evaluate the performance of Employee annually within thirty (30) days after each anniversary of the Effective Date. In addition, Employee shall submit for the City Manager's consideration at those times established by the City Manager, but at least annually, Employee's proposed performance goals and objectives and incorporate the City Manager's suggestions. Such review and evaluation shall be conducted concurrently with an annual salary review, and in accordance with the purpose noted in Section 5.1 above.

5.3 Written Summary. The City Manager may, at his sole discretion, elect to provide a written summary of each performance evaluation to Employee within two (2) weeks following the conclusion of the review and evaluation process, and may, at his sole discretion, schedule at least one (1) closed personnel session with Employee to deliver and discuss the evaluation.

6.0 BENEFITS

6.1 Retirement. Employee is a "classic" CalPERS member and shall participate in the City's 3% at 50 CalPERS formula for classic police employees. Such formula for classic police employees is subject to the following under the City's contract with CalPERS: (i) final compensation calculated based on single highest year of compensation; (ii) Level 4, Survivor Benefits (requiring payment by Employee in the amount of \$2 per month); and (iii) credit for unused sick leave (reduced by the number of any hours converted to cash). The City shall pay employer and employee contributions applicable to the chief of police position consistent with the amounts defined in the Schedule of Salary and Benefits for Executive Management Employees then in effect. The City currently pays the full employer CalPERS contribution. The current employee contribution is presently nine percent (9%), with the City paying a five percent (5%) portion of the required employee contribution and Employee paying the remaining four percent (4%) portion.

6.2 Medical, Dental, and Vision. The City shall provide to Employee the same group medical, dental, and vision insurance benefits offered to the City's Executive Management Employees under the Schedule of Salary and Benefits for Executive Management Employees then in effect, subject to the terms, conditions and limits specified therein. The City currently participates in CalPERS Health and pays up to the current Kaiser family rate. Employee may use a Flex Spending account to select health, dental, and vision plans. In the event that Employee can demonstrate, to the satisfaction of the City, that he has obtained substantially equivalent medical, dental and vision coverage through some other insurance plan in lieu of City-provided insurance, then so long as Employee maintains such medical, dental and vision insurance coverage, he shall be entitled to an in-lieu payment from the City, currently up to Seven Hundred Dollars (\$700) per month for Executive Management employees.

6.3 Vacation Leave. Employee shall accrue vacation leave consistent with the Schedule of Salary and Benefits for Executive Management Employees then in effect, subject to the terms, conditions and limits specified therein. Utilization and cash out of vacation leave shall also be subject to the terms and conditions of the Schedule of Salary and Benefits for Executive Management Employees then in effect. Currently, vacation leave accrual ranges from 120 hours

per year up to 200 hours per year depending on years of service, with accrual caps of 280 hours (for 15 or fewer years of service) and 320 hours (for over 15 years of service).

6.4 Executive Leave. Employee shall accrue executive leave consistent with the Schedule of Salary and Benefits for Executive Management Employees then in effect, subject to the terms, conditions and limits specified therein. Executive Management Employees are currently provided one hundred twenty (120) hours of administrative leave with pay each fiscal year (July 1 to June 30). Eligibility for cashout of executive leave, if any, shall be as set forth in the Schedule of Salary and Benefits for Executive Management Employees then in effect.

6.5 Holidays. Employee shall be entitled to the holidays specified in the Schedule of Salary and Benefits for Executive Management Employees then in effect, subject to the terms, conditions and limits specified therein. The City currently observes eleven (11) holidays and provides two (2) floating holidays. Utilization and cash out of floating holiday leave shall be subject to the terms and conditions of the Schedule of Salary and Benefits for Executive Management Employees then in effect.

6.6 Sick Leave. Employee shall accrue sick leave consistent with the Schedule of Salary and Benefits for Executive Management Employees then in effect, subject to the terms, conditions and limits specified therein. Utilization and cash out of sick leave shall be subject to the terms and conditions of the Schedule of Salary and Benefits for Executive Management Employees then in effect. Sick leave accrual is currently 96 hours per year.

6.7 Uniform Allowance. Employee shall be provided an annual uniform allowance consistent with the amount provided for Executive Management Employees in the Schedule of Salary and Benefits for Executive Management Employees then in effect (currently \$1,300 annually).

6.8 Vehicle. Employee shall be provided with a City vehicle for employment and emergency response purposes during work hours, as well as after scheduled work hours. All maintenance, fuel, and insurance will be paid for by the City.

6.9 Cellular Phone. Employee shall receive a cellular phone to be used for conducting City business. Employee's use of such cellular phone shall be subject to the City's policies and regulations then in effect applicable to employee use of City cell phones and computers.

6.10 Deferred Compensation. The City currently provides an ICMA Deferred Compensation Plan as an optional benefit and shall provide to Employee deferred compensation matching contributions consistent with the amount provided for Executive Management Employees in the Schedule of Salary and Benefits for Executive Management Employees then in effect, subject to the terms, conditions and limits specified therein. Currently, the City will match any contributions made by Employee, up to 3.5% per pay period. The City's matching contribution, if any, will be contributed on a pay period basis.

6.11 Life Insurance. The City shall provide to Employee term life insurance and accidental death and dismemberment insurance coverage consistent with the Schedule of Salary and Benefits for Executive Management Employees then in effect, subject to the terms,

conditions and limits specified therein. The City currently provides for a term life insurance policy for Employee with coverage in the amount of Two Hundred Thousand Dollars (\$200,000).

6.12 Miscellaneous Benefits. Employee shall be entitled to the same additional benefits not specified in this Section 6.0 as provided to the City's Executive Management Employees under the Schedule of Salary and Benefits for Executive Management Employees then in effect, and subject to the terms, conditions and limits specified therein.

6.13 Gym Membership Reimbursement. Employee shall be eligible for gym membership reimbursement from the City in the amount of \$25.00 per pay period.

6.14 Changes in Compensation and Benefits. The compensation and benefits provided to Employee pursuant to this Agreement are intended to be consistent with those provided to the City's Executive Management Employees under the Schedule of Salary and Benefits for Executive Management Employees then in effect. Employee acknowledges that the City Council may in the future reduce the level of compensation (exclusive of Employee's base salary) or benefits provided to Executive Management Employees by amendment of the Schedule of Salary and Benefits for Executive Management Employees. In the event the level of compensation or benefits provided to Employee changes (whether by increase or decrease), the Parties agree that such changes shall not be deemed material or a breach of this Agreement.

6.15 City Manager Amendment Authority. Pursuant to Section 9.2 of this Agreement, the City Manager shall have the authority to agree with Employee to amend this Agreement to provide Employee benefits consistent with the benefits levels authorized by the City Council and specified for the position of chief of police in the Schedule of Salary and Benefits for Executive Management Employees then in effect.

7.0 PROFESSIONAL DEVELOPMENT

7.1 Membership. The City encourages Employee's continued professional development and shall provide payment of appropriate related costs for such activities, as budgeted and approved by the City Manager. Such memberships may include the Solano County Police Chiefs Association and such other national, regional, state and local governmental groups and committees on which Employee may from time to time serve as a member. The total of any such professional dues, certifications and subscriptions shall not exceed the budgeted amounts during any fiscal year without prior written approval by the City Manager.

7.2 Out-of-Town Meetings & Seminars. The City agrees to reimburse Employee the actual cost for registration, travel, lodging, meals, and other expenses incurred by Employee while attending overnight, out-of-town meetings or seminars related to his employment with the City, in accordance with the City's policies for expense reimbursement. Moreover, to be eligible Employee must have budgeted funds available for same; provided, however, that the City Manager may, in his sole discretion, approve such unbudgeted expenditures in writing if he deems it in the best interests of the City.

7.3 Local Meetings & Seminars. The City agrees to reimburse Employee the actual cost of registration, meals, and other expenses necessarily incurred while in attendance at

local meetings or seminars related to his employment with City in accordance with the City's policies for expense reimbursement.

7.4 Incidental Expenses. The City agrees to reimburse Employee the actual cost of those incidental expenses necessarily incurred by Employee while engaged in the business of the City upon the presentation of an appropriate receipt therefor, in accordance with the City's policies for expense reimbursement.

8.0 BONDS AND INDEMNIFICATION

8.1 Indemnification. To the extent mandated by the California Government Code, the City shall defend, hold harmless, and indemnify Employee against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Employee's services under this Agreement. This section shall not apply to any intentional tort or crime committed by Employee, to any action outside the course and scope of the services provided by Employee under this Agreement, or any other intentional or malicious conduct or gross negligence of Employee.

8.2 Bonds. City shall bear the full cost of any fidelity or other bonds, which may be required in the performance of Employee's services under this Agreement.

9.0 GENERAL PROVISIONS

9.1 Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes any and all other agreements (including the Original Agreement), either oral or in writing, between the parties with respect to Employee's employment by the City and contains all of the covenants and agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promises not contained in this Agreement shall be valid or binding upon either party.

9.2 Amendment. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing, which amendment shall require City Council approval, except where City Manager approval is expressly authorized herein.

9.3 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party as sent by United States Postal Service, postage prepaid and addressed as follows:

To City:

City Manager
City of Suisun City
701 Civic Center Blvd.
Suisun City, California 94585

To Employee:

Aaron Roth
[On file with Human Resources Dept.]

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

9.4 Conflicts Prohibited. During the term of this Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this Agreement. Employee shall comply with all requirements of law, including but not limited to, Sections 87100 et seq., Section 1090 and Section 1125 of the Government Code, and all other similar statutory and administrative rules.

9.5 Effect of Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

9.6 Partial Invalidity. If any provision in 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.

9.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution and delivery by each party hereto.

9.8 AB 1344. Assembly Bill 1344, which was subsequently enacted as Government Code §§ 53243 - 53243.4, sought to provide greater transparency in local government and institute certain limitations on compensation paid to local government executives. These statutes also require that contracts between local agencies and its employees include provisions requiring an employee who is convicted of a crime involving an abuse of his office or position to provide reimbursement to the local agency. These statutes are incorporated herein by reference. Accordingly, the Parties agree that it is their mutual intent to fully comply with these Government Code sections and all other applicable law as it exists as of the date of execution of this Agreement and as such laws may be amended from time to time thereafter. Specifically, the following Government Code sections are called out and hereby incorporated by this Agreement:

§53243. Reimbursement of paid leave salary required upon conviction of crime involving office or position.

§53243.1. Reimbursement of legal criminal defense upon conviction of crime involving office or position.

§53243.2. Reimbursement of cash settlement upon conviction of crime involving office or position.

§53243.3. Reimbursement of noncontractual payments upon conviction or crime involving office or position.

§53243.4. "Abuse of office or position" defined.

Employee represents that Employee has reviewed, is familiar with, and agrees to comply fully with each of these provisions if any of these provisions are applicable to Employee, including that Employee agrees that any cash settlement or severance related to a termination that Employee may receive from the City shall be fully reimbursed to the local agency if Employee is convicted of a crime involving an abuse of Employee's office or position.

9.9 Independent Legal Advice. The City and Employee represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement, or has had the opportunity to do so, and the City and Employee further represent and warrant that each has carefully reviewed this entire Agreement and that each and every term thereof is understood and that the terms of this Agreement are contractual and not a mere recital. This Agreement shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

IN WITNESS WHEREOF, the City of Suisun City has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its officers thereunto duly authorized, and Employee has signed and executed this Agreement, all in triplicate.

CITY OF SUISUN CITY



Lori Wilson, Mayor

ATTEST:



Donna Pock, CMC, Deputy City Clerk

EMPLOYEE



Aaron Roth

APPROVED AS TO FORM:

Anthony R. Taylor, City Attorney

§53243. Reimbursement of paid leave salary required upon conviction of crime involving office or position.

§53243.1. Reimbursement of legal criminal defense upon conviction of crime involving office or position.

§53243.2. Reimbursement of cash settlement upon conviction of crime involving office or position.

§53243.3. Reimbursement of noncontractual payments upon conviction or crime involving office or position.

§53243.4. "Abuse of office or position" defined.

Employee represents that Employee has reviewed, is familiar with, and agrees to comply fully with each of these provisions if any of these provisions are applicable to Employee, including that Employee agrees that any cash settlement or severance related to a termination that Employee may receive from the City shall be fully reimbursed to the local agency if Employee is convicted of a crime involving an abuse of Employee's office or position.

9.9 Independent Legal Advice. The City and Employee represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement, or has had the opportunity to do so, and the City and Employee further represent and warrant that each has carefully reviewed this entire Agreement and that each and every term thereof is understood and that the terms of this Agreement are contractual and not a mere recital. This Agreement shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

IN WITNESS WHEREOF, the City of Suisun City has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its officers thereunto duly authorized, and Employee has signed and executed this Agreement, all in triplicate.

CITY OF SUISUN CITY



Lori Wilson, Mayor

ATTEST:



Donna Pock, CMC, Deputy City Clerk

EMPLOYEE



Aaron Roth

APPROVED AS TO FORM:



Anthony R. Taylor, City Attorney

EXHIBIT “A”

[Chief of Police Job Description]

POLICE CHIEF

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

SUMMARY DESCRIPTION

Under general administrative direction of the City Manager, plans, directs, manages, and oversees the activities and operations of the Police Department including law enforcement, crime prevention, and administrative support services and activities; coordinates assigned activities with other departments and outside agencies; and provides highly responsible and complex administrative support to the City Manager.

IDENTIFYING CHARACTERISTICS

The Police Chief is considered a Department Head with responsibility for directing the activities of a Department within the City. Positions at this class level serve as a member of the City's senior management team and provide advice and counsel to the City Manager regarding strategic policy and problem solving issues relating to the assigned Department and the City overall. The incumbent is responsible for accomplishing the City's goals and objectives related to assigned program areas.

REPRESENTATIVE DUTIES

The following duties are typical for this classification. Incumbents may not perform all of the listed duties and/or may be required to perform additional or different duties from those set forth below to address business needs and changing business practices.

1. Assumes full management responsibility for all Police Department services and activities including the work of staff preserving order, preventing crime, protecting life and property, and enforcing laws and municipal ordinances.
2. Manages the development and implementation of Police Department goals, objectives, and priorities for each assigned service area; recommends and administers policies and procedures.
3. Establishes, within City policy, appropriate service and staffing levels; monitors and evaluates the efficiency and effectiveness of service delivery methods and procedures; allocates resources accordingly.
4. Assesses and monitors work load, administrative and support systems, and internal reporting relationships; identifies opportunities for improvement; directs and implements changes.
5. Plans, directs, and coordinates, through subordinate level staff, the Police Department's work plan; assigns projects and programmatic areas of responsibility; oversees sensitive investigations and the gathering of intelligence information; reviews and evaluates work methods and procedures; meets with key staff to identify and resolve problems.
6. Selects, trains, motivates, and evaluates assigned personnel; provides or coordinates staff training; works with employees to correct deficiencies; implements discipline and termination procedures.
7. Oversees and participates in the development and administration of the department budget; approves the forecast of funds needed for staffing, equipment, materials, and supplies; approves expenditures and implements budgetary adjustments as appropriate and necessary.

CITY OF SUISUN CITY
Police Chief (Continued)

8. Represents the Police Department to other departments, elected officials, and outside agencies; coordinates assigned activities with those of other departments and outside agencies and organizations.
9. Meets with various officials, citizens, members of the public, and representatives of the news media; responds to and resolve difficult and sensitive citizen inquiries and complaints; explains, justifies, and defends department programs, policies, and activities; negotiates and resolves sensitive and controversial issues.
10. Confers with citizens and area officials on law enforcement problems and assists in the development of innovative municipal law enforcement policies.
11. Participates on a variety of boards, commissions, and committees; attends local, regional, and state conferences on public safety; obtains information and cooperation on public safety issues; establishes and maintains cooperative working relationship with other Police Departments.
12. Confers with attorneys concerning the prosecution of criminal complaints, civil litigation, and/or disciplinary issues.
13. Performs related duties as required.

QUALIFICATIONS

The following generally describes the knowledge and ability required to enter the job and/or be learned within a short period of time in order to successfully perform the assigned duties.

Knowledge of:

Operations, services and activities of a comprehensive municipal law enforcement program.
Principles and practices of program development and administration.
Principles and practices of law enforcement administration, organization, and management.
Law enforcement theory, principles, and practices and their application to a wide variety of services and programs.
Methods and techniques used in providing the full range of law enforcement and crime prevention services and activities including investigation and identification, patrol, traffic control, juvenile programs, records management, search and seizure, care and custody of persons and property, and crime prevention.
Care, maintenance, and operation of firearms and other modern police equipment.
Methods and techniques of public relations.
Pertinent federal, state, and local laws, codes, and regulations.
Recent court decisions and how they affect department operations.
Principles and practices of municipal budget preparation and administration.
Principles of supervision, training, and performance evaluation.
Functions and objectives of federal, state, and local law enforcement agencies.
Office procedures, methods, and equipment including computers and applicable software applications such as word processing, spreadsheets, and databases.
Occupational hazards and standard safety practices.

Ability to:

Manage and direct a comprehensive law enforcement program.
Develop and administer departmental goals, objectives, and procedures.
Analyze and assess programs, policies, and operational needs and make appropriate adjustments.
Identify and respond to sensitive community and organizational issues, concerns, and needs.
Plan, organize, direct, and coordinate the work of lower level staff

CITY OF SUISUN CITY
Police Chief (Continued)

Interpret, apply, and make decisions in accordance with applicable federal, state, and local policies, laws, and regulations.
Analyze complex law enforcement issues, evaluate alternatives, and implement sound solutions.
Make adjustments to standard operating procedures as necessary to improve organizational effectiveness.
Delegate authority and responsibility.
Select, supervise, train, and evaluate staff.
Analyze problems, identify alternative solutions, project consequences of proposed actions, and implement recommendations in support of goals.
Research, analyze, and evaluate new service delivery methods and techniques.
Prepare clear and concise administrative and financial reports.
Prepare and administer large and complex budgets.
Effectively present information and respond to questions from groups of managers, customers, and the general public.
Meet standards for physical endurance, agility, health and vision.
Act quickly and calmly in emergency situations.
Facilitate group participation and consensus building.
Effectively use and qualify with law enforcement tools and weapons including firearms, batons, defensive tactics, and other safety equipment.
Operate specialized law enforcement equipment including specialized police vehicles, radios, video systems, and radars.
Operate office equipment including computers and supporting word processing, spreadsheet, and database applications.
Communicate clearly and concisely, both orally and in writing.
Establish and maintain effective working relationships with those contacted in the course of work.

Education and Experience Guidelines - *Any combination of education and experience that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:*

Education/Training:

A Bachelor's degree from an accredited college or university with major course work in criminology, criminal justice, police science, business administration, public administration, or related field.

Experience:

Eight years of increasingly responsible law enforcement experience in all major phases of police work including three years of management and administrative responsibility.

License or Certificate:

Possession of a valid driver's license.

Possession of a P.O.S.T. Management Certificate.

PHYSICAL DEMANDS AND WORKING ENVIRONMENT

The conditions herein are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential job functions.

Environment: Work is performed in a standard office setting, reactive emergency, natural or man-made disaster, and routine peace keeping environments with travel to various locations to attend meetings or respond to major crime scenes, disasters or critical incidents; the employee is occasionally exposed to outside weather conditions; occasionally exposed to fumes or airborne particles, toxic or caustic chemicals, extreme cold, extreme heat, risk of electrical shock, risk of radiation, and vibration; the noise level in the work environment is usually moderate; however, the noise level is occasionally very loud due to sirens, firearm training, etc.; incumbents may be required to work extended hours including evenings and weekends and may be required to travel outside City boundaries to attend meetings.

Physical: Primary functions require sufficient physical ability and mobility to work in an office setting; walk, stand, or sit for prolonged periods of time; occasionally stoop, bend, kneel, crouch, reach, and twist; to lift, carry, push, and/or pull light to moderate amounts of weight; to operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard; to travel to other locations using various modes of private and commercial transportation; to operate and use specialized law enforcement tools and equipment including guns and handcuffs; and to verbally communicate to exchange information.

Vision: See in the normal visual range with or without correction.

Hearing: Hear in the normal audio range with or without correction.

EXHIBIT "B"

AGREEMENT OF SEPARATION, SEVERANCE, AND GENERAL RELEASE

1. PARTIES

This Agreement of Separation, Severance, and General Release (hereinafter referred to as the "AGREEMENT") is entered into by and between the City of Suisun City, a general law city and municipal corporation (hereinafter referred to as "THE CITY"), and AARON ROTH, an individual (hereinafter referred to as "EMPLOYEE").

2. RECITALS

2.1. EMPLOYEE was hired by THE CITY as an at-will Chief of Police effective _____ serving at the pleasure of the City Manager of THE CITY pursuant to a written contract, a copy of which is attached hereto as Exhibit "A" ("THE CONTRACT"). EMPLOYEE is currently [REDACTED] years old.

2.2. THE CITY and EMPLOYEE desire that EMPLOYEE resign and enter into a severance agreement whereby EMPLOYEE receives severance compensation in exchange for executing a general release and waiver of any and all claims that EMPLOYEE may have against THE CITY, including but not limited to its elected and non-elected officials, employees, attorneys, and agents. Accordingly, the parties hereto intend by this AGREEMENT to mutually conclude any and all employment relationships between THE CITY and EMPLOYEE by means of EMPLOYEE's voluntary separation as of [REDACTED], [REDACTED]. This AGREEMENT sets forth the full and complete terms and conditions concluding EMPLOYEE's employment relationship with the CITY and any obligations related thereto, including any provided under THE CONTRACT.

2.3. In accordance with this AGREEMENT and with applicable state and federal laws, EMPLOYEE acknowledges that EMPLOYEE has been advised of EMPLOYEE's post-employment rights, including but not limited to, EMPLOYEE's rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), the Employee Retirement Income Security Act of 1974 ("ERISA"), and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

3. CONSIDERATION

3.1. EMPLOYEE shall receive payment to him at the time of his voluntary separation all earned salary, accrued fringe benefits as detailed in THE CONTRACT, and/or all other wage compensation/benefits owed to EMPLOYEE upon separation of employment, as required by law or THE CONTRACT or any other agreement with THE CITY.

3.2. In exchange for the waivers and releases set forth herein, THE CITY shall also cause to be paid to EMPLOYEE an additional compensatory payment by means of severance, settlement and release in the form of a lump sum amount of [REDACTED] and [REDACTED] cents (\$ [REDACTED].00), as set forth in THE CONTRACT in the form of a check made payable to EMPLOYEE to be mailed to EMPLOYEE at EMPLOYEE's home address via certified mail return

receipt requested within thirty (30) business days after the EFFECTIVE DATE (as defined below) of this AGREEMENT.

3.3 In exchange for the severance payment provided for herein, EMPLOYEE, and on behalf of EMPLOYEE's spouse, heirs, representatives, successors, and assigns, hereby releases, acquits, and forever discharges THE CITY, and each of its predecessors, successors, assigns, officials, employees, representatives, agents, insurers, attorneys, and all persons and entities acting by, through, under, or in concert with any of them, and each of them (hereinafter referred to as "THE CITY PARTIES"), from any and all claims, charges, complaints, contracts, understandings, liabilities, obligations, promises, benefits, agreements, controversies, costs, losses, debts, expenses, damages, actions, causes of action, suits, rights, and demands of any nature whatsoever, known or unknown, suspected or unsuspected, which EMPLOYEE now has or may acquire in the future, or which EMPLOYEE ever had, relating to or arising out of any act, omission, occurrence, condition, event, transaction, or thing which was done, omitted to be done, occurred or was in effect at anytime from the beginning of time up to and including [REDACTED], [REDACTED] (hereinafter referred to collectively as "CLAIMS"), without regard to whether such CLAIMS arise under the federal, state, or local constitutions, statutes, rules or regulations, or the common law. EMPLOYEE expressly acknowledges that the CLAIMS forever barred by this AGREEMENT specifically include, but are not limited to, claims based upon any alleged breach of THE CONTRACT or any other agreement of employment, any demand for wages, overtime or benefits, any claims of violation of the provisions of ERISA, COBRA or HIPAA, any alleged breach of any duty arising out of contract or tort, any alleged wrongful termination in violation of public policy, any alleged breach of any express or implied contract for continued employment, any alleged employment discrimination or unlawful discriminatory act, or any claim or cause of action including, but not limited to, any and all claims whether arising under any federal, state or local law prohibiting breach of employment contract, wrongful termination, or employment discrimination based upon age, race, color, sex, religion, handicap or disability, national origin or any other protected category or characteristic, and any and all rights or claims arising under the California Labor Code or Industrial Welfare Commission Wage Orders, the Federal Fair Labor Standards Act, the California Fair Employment and Housing Act, California Government Code §§12, 900 et seq., the Americans With Disabilities Act, Title VII of the Civil Rights Act of 1964, the Public Safety Officers Procedural Bill of Right Act, and any other federal, state, or local human rights, civil rights, or employment discrimination or employee rights statute, rule, or regulation.

4. SPECIFIC ACKNOWLEDGMENT OF WAIVER OF CLAIMS UNDER ADEA AND OWBPA

The Age Discrimination in Employment Act of 1967 (hereinafter referred to as the "ADEA") makes it illegal for an employer to discharge any individual or otherwise discriminate with respect to the nature and privileges of an individual's employment on the basis that the individual is age forty (40) or older. The Older Workers Benefit Protection Act (hereinafter referred to as the "OWBPA," 29 U.S.C. § 626, et. seq., Pub L 101-433, 104 Stat. 978 (1990)) further augments the ADEA and prohibits the waiver of any right or claim under the ADEA, **unless the waiver is knowing and voluntary**. By entering into this AGREEMENT, EMPLOYEE acknowledges that he knowingly and voluntarily, for just compensation in addition to anything of value to which EMPLOYEE was already entitled, waives and releases any rights he may have

under the ADEA and/or OWBPA. EMPLOYEE further acknowledges that he has been advised and understands, pursuant to the provisions of the ADEA and OWBPA, that:

- (a) This waiver/release is written in a manner understood by EMPLOYEE;
- (b) EMPLOYEE is aware of, and/or has been advised of, his rights under the ADEA and OWBPA, and of the legal significance of his waiver of any possible claims he currently may have under the ADEA, OWBPA and/or similar age discrimination laws;
- (c) EMPLOYEE is entitled to a reasonable time of at least twenty-one (21) days within which to review and consider this AGREEMENT and the waiver and release of any rights he may have under the ADEA, the OWBPA and similar age discrimination laws; but may, in the exercise of his own discretion, sign or reject this AGREEMENT at any time before the expiration of the twenty-one (21) days;
- (d) The waivers and releases set forth in this AGREEMENT shall not apply to any rights or claims that may arise under the ADEA and/or OWBPA **after** the EFFECTIVE DATE of this AGREEMENT;
- (e) EMPLOYEE has been advised by this writing that he should consult with an attorney prior to executing this AGREEMENT;
- (f) EMPLOYEE has discussed this waiver and release with, and been advised with respect thereto by, his counsel of choice, and that he does not need any additional time within which to review and consider this AGREEMENT;
- (g) EMPLOYEE has **seven (7) days following his execution** of this AGREEMENT to revoke the AGREEMENT;
- (h) Notice of revocation within the seven (7) day revocation period must be provided, in writing, to THE CITY pursuant to Paragraph 8.9 herein, and must state, "I hereby revoke my acceptance of our Agreement of Severance and General Release;" and
- (i) This AGREEMENT shall not be effective until all parties have signed the AGREEMENT and ten (10) days have passed since EMPLOYEE's execution ("EFFECTIVE DATE").

5. UNKNOWN CLAIMS

In relation to the release provisions of Paragraphs 3 and 4 above, EMPLOYEE understands that California Civil Code section 1542 reads as follows:

"General Release--Claims Extinguished"

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her,

would have materially affected his or her settlement with the debtor or released party.”

EMPLOYEE hereby waives the protection of California Civil Code section 1542.

6. WAIVER OF ADDITIONAL CLAIMS

EMPLOYEE hereby waives any provisions of state or federal law that might require a more detailed specification of the claims being released pursuant to the provisions of Paragraphs 3, 4, and 5 above.

7. REPRESENTATIONS AND WARRANTIES

Each of the parties to this AGREEMENT represents and warrants to, and agrees with, each other party as follows:

7.1. Advice of Counsel: The parties hereto have received independent legal advice from their respective attorneys concerning the advisability of entering into and executing this AGREEMENT or have been given the opportunity to obtain such advice. The parties acknowledge that they have been represented by counsel of their own choice in the negotiation of this AGREEMENT, that they have read this AGREEMENT; that they have had this AGREEMENT fully explained to them by such counsel, or have had such opportunity to do so and that they are fully aware of the contents of this AGREEMENT and of its legal effect.

7.2. No Fraud in Inducement: No party (nor any officer, agent, employee, representative, or attorney of or for any party) has made any statement or representation or failed to make any statement or representation to any other party regarding any fact relied upon in entering into this AGREEMENT, and neither party relies upon any statement, representation, omission or promise of any other party in executing this AGREEMENT, or in making the settlement provided for herein, except as expressly stated in this AGREEMENT.

7.3. Independent Investigation: Each party to this AGREEMENT has made such investigation of the facts pertaining to this settlement and this AGREEMENT and all the matters pertaining thereto, as it deems necessary.

7.4. Mistake Waived: In entering into this AGREEMENT, each party assumes the risk of any misrepresentation, concealment or mistake. If any party should subsequently discover that any fact relied upon by it in entering into this AGREEMENT was untrue, or that any fact was concealed from it, or that its understanding of the facts or of the law was incorrect, such party shall not be entitled to any relief in connection therewith, including without limitation on the generality of the foregoing any alleged right or claim to set aside or rescind this AGREEMENT. This AGREEMENT is intended to be, and is, final and binding between the parties, regardless of any claims of misrepresentation, promise made without the intent to perform, concealment of fact, mistake of fact or law, or any other circumstance whatsoever.

7.5. Later Discovery: The parties are aware that they may hereafter discover claims or facts in addition to or different from those they now know or believe to be true with respect to the matters related herein. Nevertheless, it is the intention of the parties that EMPLOYEE fully,

finally and forever settle and release all such matters, and all claims relative thereto, which do now exist, may exist or have previously existed against THE CITY or THE CITY PARTIES. In furtherance of such intention, the releases given here shall be, and remain, in effect as full and complete releases of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.

7.6. Indemnification: EMPLOYEE agrees to indemnify and hold harmless THE CITY or THE CITY PARTIES from, and against, any and all claims, damages, or liabilities sustained by them as a direct result of the violation or breach of the covenants, warranties, and representations undertaken pursuant to the provisions of this AGREEMENT. EMPLOYEE understands and agrees that he shall be exclusively liable for the payment of all taxes for which he is responsible, if any, as a result of his receipt of the consideration referred to in Paragraph 3 of this AGREEMENT. In addition, EMPLOYEE agrees fully to indemnify and hold the CITY PARTIES harmless for payment of tax obligations as may be required by any federal, state or local taxing authority, at any time, as a result of the payment of the consideration set forth in Paragraph 3 of this AGREEMENT.

7.7. Future Cooperation & Consultation fees: EMPLOYEE shall execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this AGREEMENT. EMPLOYEE shall provide THE CITY with consultation services (including deposition or trial testimony) in any litigation involving THE CITY which is reasonably related to acts or occurrences transpiring during his employment. Said services shall be provided as needed by THE CITY at a rate of \$100.00 per hour.

7.8. Return of Confidential Information and Property: Prior to the separation date, EMPLOYEE shall submit a written inventory of, and return to the City Clerk, all City keys, equipment, computer identification cards or codes, and other equipment or materials or confidential documents provided to or obtained by EMPLOYEE during the course of his employment with THE CITY.

7.9. No Pending Claims and/or Actions: EMPLOYEE represents that he has not filed any complaints or charges against THE CITY or THE CITY PARTIES with any local, state or federal agency or court; that he will not do so at any time hereafter for any claim arising up to and including the EFFECTIVE DATE of this AGREEMENT; and that if any such agency or court assumes jurisdiction of any such complaint or charge against THE CITY or THE CITY PARTIES on behalf of EMPLOYEE, whenever or where ever filed, he will request such agency or court to withdraw from the matter forthwith.

7.10. Ownership of Claims: EMPLOYEE represents and warrants as a material term of this AGREEMENT that EMPLOYEE has not heretofore assigned, transferred, released or granted, or purported to assign, transfer, release or grant, any of the CLAIMS disposed of by this AGREEMENT. In executing this AGREEMENT, EMPLOYEE further warrants and represents that none of the CLAIMS released by EMPLOYEE thereunder will in the future be assigned, conveyed, or transferred in any fashion to any other person and/or entity.

7.11. Enforcement Fees and Costs: Should any legal action be required to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

7.12 Authority: Each party represents to the other that it has the right to enter into this AGREEMENT, and that it is not violating the terms or conditions of any other AGREEMENT to which they are a party or by which they are bound by entering into this AGREEMENT. The parties represent that they will obtain all necessary approvals to execute this AGREEMENT. It is further represented and agreed that the individuals signing this AGREEMENT on behalf of the respective parties have actual authority to execute this AGREEMENT and, by doing so, bind the party on whose behalf this AGREEMENT has been signed.

8. MISCELLANEOUS

8.1. No Admission: Nothing contained herein shall be construed as an admission by THE CITY of any liability of any kind. THE CITY denies any liability in connection with any claim and intends hereby solely to avoid potential claims and/or litigation and buy its peace.

8.2. Governing Law: This AGREEMENT has been executed and delivered within the State of California, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

8.3. Full Integration: This AGREEMENT is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This AGREEMENT may be amended only by a further agreement in writing, signed by the parties hereto.

8.4. Continuing Benefit: This AGREEMENT is binding upon and shall inure to the benefit of the parties hereto, their respective agents, spouses, employees, representatives, officials, attorneys, assigns, heirs, and successors in interest.

8.5. Joint Drafting: Each party agrees that it has cooperated in the drafting and preparation of this AGREEMENT. Hence, in any construction to be made of this AGREEMENT, the parties agree that same shall not be construed against any party.

8.6. Severability: In the event that any term, covenant, condition, provision or agreement contained in this AGREEMENT is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant, condition, provision or agreement shall in no way affect any other term, covenant, condition, provision or agreement and the remainder of this AGREEMENT shall still be in full force and effect.

8.7. Titles: The titles included in this AGREEMENT are for reference only and are not part of its terms, nor do they in any way modify the terms of this AGREEMENT.

8.8. Counterparts: This AGREEMENT may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one AGREEMENT, which shall be binding upon and effective as to all parties.

8.9. Notice: Any and all notices given to any party under this AGREEMENT shall be given as provided in this paragraph. All notices given to either party shall be made by certified or registered United States mail, or personal delivery, at the noticing party's discretion,

and addressed to the parties as set forth below. Notices shall be deemed, for all purposes, to have been given on the date of personal service or three (3) consecutive calendar days following deposit of the same in the United States mail.

As to EMPLOYEE:

At EMPLOYEE's home address on file with THE CITY.

As to THE CITY:

City Manager
City of Suisun City
701 Civic Center Blvd.
Suisun City, California 94585

IN WITNESS WHEREOF, THE CITY has caused this AGREEMENT to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk, EMPLOYEE has signed and executed this Agreement, and the attorneys for THE CITY and EMPLOYEE, if any, have approved as to form as of the dates written below.

DATED: _____

EMPLOYEE

By: _____
AARON ROTH

THE CITY

DATED: _____

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
_____, City Attorney

[EMPLOYEE's LAW FIRM]

By: _____
[Counsel]