

**CITY OF CHICO
AMENDED AND RESTATED EMPLOYMENT AGREEMENT
Assistant City Manager**

THIS AGREEMENT is entered into on June 23, 2014, by and between the City of Chico, State of California, a municipal corporation ("City") and Chris Constantin ("Employee").

RECITALS

WHEREAS, Employee currently serves as the Administrative Services Director of City pursuant to an Employment Agreement between City and Employee dated March 29, 2013 and Amended and Restated Employment Agreement between City and Employee dated April 11, 2014; which position shall also serve as the City's Finance Director; and

WHEREAS, the City desires to appoint Employee to the position of Assistant City Manager and Employee desires to be so appointed;

WHEREAS, the City and Employee each desire that Employee relinquish his responsibilities as Administrative Services Director and Finance Director as set forth in an Employment Agreement between City and Employee dated March 29, 2013 and Amended and Restated Employment Agreement between City and Employee dated April 11, 2014; and

WHEREAS, the City desires that Employee serve exclusively as Assistant City Manager and Employee desires to so serve.

AGREEMENT

The City and Employee agree as follows:

1. Duties and Authority

- a. Employee agrees to serve as the Assistant City Manager and shall be responsible for managing and directing the City Manager's Office under the direction of the City Manager.
- b. Employee shall perform the duties of the position, as described in the job description for Assistant City Manager and the Chico Municipal Code, to the best of Employee's ability in accordance with the professional and ethical standards of the profession and shall comply with all general rules and regulations established by the City.
- c. Employee shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Employee shall comply fully with the reporting and disclosure obligations under regulations promulgated by the Fair Political Practices Commission (FPPC) and the City's Conflict of Interest Code.

2. Salary and Benefits

- a. The City shall pay Employee an annual base salary of \$185,000, payable in bi-weekly installments at the same time and in the same manner as other City employees are paid and subject to customary withholding of sums required by federal and state income tax payments, and other amounts customarily withheld from salary, such as Employee's share of insurance premium payments.
- b. During Employee's tenure as Assistant City Manager, Employee shall be entitled to the employment benefits set forth in Exhibit "A" hereto. As used herein, "benefits" include, but are not limited to, vacation, sick leave, paid holidays, administrative leave, deferred compensation, retirement benefits and payments, health insurance, dental insurance, and life insurance.
- c. Pursuant to an annual evaluation by the City Manager, the City Manager may increase Employee's annual base salary or benefits or both.

3. Professional Development.

The City Manager shall include an amount in the proposed budget for each year, consistent with the City's policies, to allow Employee to attend professional conferences and training programs and to pay for Employee's dues in professional organizations, such as, but not limited to, the California State Municipal Finance Officers (CSMFO), Government Finance Officers Association (GFOA), Association of Government Accountants (AGA), Association of Certified Fraud Examiners (ACFE), Institute of Internal Auditors (IIA), the International City/County Managers Association (ICMA), Chico Rotary, and California League of Cities, which pertain to performing the duties associated with serving as the City's Assistant City Manager and retaining professional certifications.

4. Performance Evaluation

- a. Upon execution of this Agreement, the City Manager and Employee shall confer on goals expectations and objectives for Employee to be used as the basis for an initial performance evaluation during June of 2014. The City Manager and Employee shall also develop criteria and a format for an annual performance evaluation.
- b. In June of each year thereafter, the City Manager shall conduct an evaluation of Employee's performance using the process and criteria mutually agreed upon between Employee and City Manager and shall define and prioritize goals, expectations and performance objectives for Employee for the next twelve months.

5. Term; Termination

The term of this Agreement shall commence on June 23, 2014, and remain in full force and effect until terminated as follows:

- a. (1) Employee terminates this Agreement at any time upon providing fourteen (14) days advanced written notice to City; or
- (2) City terminates this Agreement at any time upon the City Manager providing written notice to Employee of the effective date of the termination;
- b. Upon Employee's conviction of any crime involving moral turpitude or any felony.

6. Severance Pay

- a. If Employee's employment is terminated under any circumstances described in subsection 5.a. (2), above, the City shall pay Employee severance pay as follows: 1) nine (9) months salary, determined by reference to Employee's salary in effect on the date of termination; and 2) the value of all accrued but unused administrative, sick, vacation and other leave for which Employee would be entitled to be paid upon termination of this Agreement as set forth in Exhibit A hereto. The aggregate amount paid for such leaves shall be calculated by dividing Employee's then current salary by two thousand eighty (2080) and multiplying the result by the sum of all leave hours eligible for compensation under this subsection. This cash payment may be paid, at the option of Employee in one (1) lump sum upon date of termination, or in one (1) lump sum on January 1 of the calendar year following termination, or in six (6) equal monthly installments commencing upon the date of termination. Such payment(s) will release the City from any further obligations under this Agreement.
- b. Employee shall be required to reimburse City for any payment made under subsection a., above if, after receiving such payment, he is convicted of a crime involving abuse of office or position as the Assistant City Manager. For purposes of this section, the term "abuse of office or position" shall have the meaning set forth in California Government Code § 53243.4, as more fully set forth below.
- c. If Employee's employment is terminated with pursuant to subsection 5.a. (1) or 5.b., above, the City is not obligated to pay severance of any kind, except for the value of accrued but unused leave to which Employee is entitled.

7. Bonding

Pursuant to section 903 of the Charter, the City shall provide and bear the full cost of any fidelity or other bonds required of Employee under any law or ordinance.

8. Defense and Indemnification

a. The City shall provide a defense to Employee as to any claim, action, suit or proceeding against Employee for any tort, professional liability claim, or other cause or demand of a civil nature, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties under this Agreement or resulting from the exercise of discretion by Employee in connection with the performance of Employee's duties and responsibilities under this Agreement, unless the act, omission, or exercise of discretion involved intentional, willful or wanton misconduct by Employee. Employee may request, and the City shall not unreasonably refuse to provide, independent legal counsel at the City's expense to defend Employee in any such action, suit or proceeding. If the City agrees to Employee's request, the choice of such legal counsel shall be made by the Employee. The defense provided by the City for Employee shall continue until a final conclusion of the claim, action, suit or proceeding, including any appeals brought by any party.

b. The City shall indemnify Employee against any and all losses, damages (except punitive damages), judgments, interest, settlements, fines, court costs, and other reasonable costs and expenses of civil legal proceedings, including attorneys fees awarded against Employee, and any other liabilities incurred by, imposed upon, or suffered by Employee in connection with or resulting from any claim, action, suit or proceeding in which Employee is entitled to a defense by the City pursuant to subsection a, above. Any settlement of any such claim, action, suit or proceeding may only be made with prior approval of the City in order for indemnification, as provided in this section, to be available to Employee.

c. The City shall have no obligations of any kind to Employee under this Agreement as to any criminal matter in which Employee is a defendant.

9. Defense and Indemnification

Any notices given pursuant to this Agreement shall be given in writing, by deposit in the custody of the United States Postal Service, postage prepaid, address as follows:

To City: Mark Orme
City Manager
City of Chico
P.O. Box 3420
411 Main Street
Chico CA 95928
mark.orme@Chicoca.gov

To Employee: Chris Constantin
Assistant City Manager
City of Chico
P.O. Box 3420
411 Main Street
Chico CA 95928
chris.constantin@chicoca.gov

Copy to: Vincent C. Ewing
City Attorney
P.O. Box 3420
411 Main Street
Chico, CA 95928
vincent.ewing@Chicoca.gov



10. Other Terms and Conditions of Employment

The City, upon agreement with Employee, may establish other terms and conditions of employment, as may be determined from time to time, and relating to Employee's engagement as Assistant City Manager, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Charter or any other law.

11. Entire Agreement

This Agreement sets forth and establishes the entire understanding between the City and Employee relating to the employment of Employee as Assistant City Manager by the City. Any prior representations by either party to the other, and any prior discussion between the parties are merged into and rendered null and void by the Agreement. During the life of this Agreement, any provision of this Agreement may be amended by the parties by mutual written agreement. Such amendments shall be incorporated into and made a part of this Agreement.

12. Assignment

This Agreement is not assignable by Employee or the City.

13. Severability

The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. If 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 judicial expungement or modification of the invalid provisions.

14. Opportunity to Consult

Employee agrees and represents that prior to entering into this Agreement, he has had the opportunity to consult an attorney and other advisors of his choice concerning all terms and conditions of this Agreement.

//

//

//

//

//

//

//



15. Counterparts

This Agreement may be executed in counterparts each of which shall be deemed an original, but all of which together constitute one and the same document.

City



Mark Orme*
City Manager

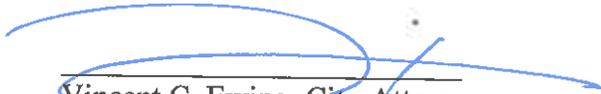
Employee



Chris Constantin
Assistant City Manager

*Authorized pursuant to CMC § 2R.04.490

APPROVED AS TO FORM AND CONTENT:



Vincent C. Ewing, City Attorney



EXHIBIT A

LEAVE

Employee shall be entitled to the following leave benefits:

Holidays - Employee shall be entitled to observe all legal holidays recognized by the City on the days that they are observed by the City.

Sick Leave – Sick leave shall accrue, without limitation at the amount of 8 hours per month. Sick leave may be used for actual personal sickness of or injury to Employee or Employee's family member, and for medical, dental and vision care appointments. "Family member" includes a spouse, children, step-children, parent, step-parents and parents-in-law. Time off work as a result of a proven job-related illness shall not be charged against accumulated sick leave.

Sick leave shall be deducted from accrued sick leave on an hour-for-hour basis when the total leave exceeds four hours. If Employee utilizes all of Employee's accrued sick leave and is still unable to return to work due to illness or injury, Employee shall automatically be placed on leave without pay, unless Employee advises the Finance Office to charge the additional sick time against accrued vacation leave.

If Employee becomes eligible to retire on an ordinary disability retirement, pursuant to the City's contract with the Public Employees Retirement System, due to a non-job-related illness or injury, Employee shall be entitled to utilize all of Employee's accrued sick leave prior to the effective date of such retirement.

Upon termination of service, no compensation for accrued sick leave shall be made except that: 1) upon retirement or termination in good standing, Employee may, depending on years of City service, convert up to 60% of accrued sick leave to cash, in an amount not to exceed \$5,000 (see Attachment 1 for schedule); and 2) upon a service retirement, accumulated sick leave shall be credited to Employee's retirement account in accordance with the provisions of the retirement plan referenced herein, except that in the event of any election to convert such sick leave to cash, the retirement sick leave credit shall be reduced commensurately.

Birth or adoption of a child - In the event of the birth or adoption of a child, Employee shall be entitled to leave of absence with pay for a period of ten consecutive days. Such leave shall only be taken within 14 days after the date of such birth or adoption.

Bereavement leave - If any member of Employee's immediate family dies, Employee shall be entitled to a period of 5 work days of leave with pay. Such leave shall be taken within 7 days after the death of the family member or within 7 days of the date of the funeral or memorial service for the deceased. Immediate family shall include a spouse, child, step-child, parent, step-parent, sibling, parent-in-law, grandparent, spouse's grandparent or grandchild.

Vacation – As of the date of this Restated and Amended Employment Agreement, Employee

shall accrue vacation at the rate as set forth on Attachment 1 which sets forth the rate of accrual and maximum accrual balance based on Employee's total years of service with any governmental agency.

Floating Holiday - Employee shall be entitled to one day of floating holiday leave per calendar year. Floating holiday leave which is not used during a calendar year shall not carry over to the next year and any floating holiday leave not taken by December 31 of any year shall be removed, without compensation.

Management Leave - Employee shall be credited with 32 hours of management leave upon the commencement of this Agreement. Thereafter, Employee shall be entitled to 96 hours of management leave per calendar year in addition to the other leaves granted herein. Management leave which is not used during a calendar year shall not carry over to the next year and shall be removed without compensation.

INSURANCES

Life insurance - City agrees to provide Employee with term life insurance in the amount of \$1,000 per each whole \$1,000 in salary, and Employee's spouse and minor children with term life insurance in the amount of \$1,500.

Long-term disability insurance - City agrees to pay its long-term disability insurance carrier sixty percent (60%) of the monthly premium cost of the long-term disability insurance plan for Employee with a minimum contribution of one percent (1%) of Employee's salary. Employee agrees to pay the remaining 40% of such monthly premium. If the total rate for the plan is less than the one percent (1%) minimum contribution set forth above, the City's contribution shall be the actual premium amount and Employee shall not be required to make a contribution.

City shall structure the manner in which the premium is paid so that the long-term disability insurance premium is considered a post-tax employee-paid contribution so that benefits which might be received by Employee would be treated as such for tax purposes.

Vision insurance - City agrees to provide Employee with vision insurance which provides vision care benefits to Employee only. Employee may purchase vision insurance coverage for Employee's spouse and dependent children at Employee's sole cost and expense through a bi-weekly payroll deduction of the additional premium amount.

Medical and Dental Insurance - City agrees to provide a maximum contribution toward medical and dental insurance as set forth in Attachment 2.

Workers Compensation - City agrees to provide workers' compensation insurance in accordance with all applicable provisions of State law. It is recognized that, as a long standing City practice, City has provided its miscellaneous employees the same workers' compensation benefits as provided to safety employees under California Labor Code section 4850. City agrees to continue to provide such benefits to Employee provided that such Labor Code section remains applicable to City's safety employees.

FICA - Medicare Contribution

Contribution - The Federal Insurance Contributions Act (FICA) mandates that employees hired after April 1, 1986, be covered by and make payroll contributions for the Medicare portion of the Act at a rate of 1.45% of their salary. The City is also required to contribute 1.45% of salary for such coverage. City agrees to pay both the City and employee contributions. If, in the future, the Federal Government mandates that all City employees shall be covered by and make payroll contributions for the Medicare portion of FICA, Employee shall be required to make the employee contribution and City's payment thereof shall terminate.

RETIREMENT PLAN

PERS- City will provide Employee with the retirement benefits set forth in that certain "Contract Between the Board of Administration, Public Employees' Retirement System and the City Council of the City of Chico" which was in effect as of the date of this contract, and as subsequently amended.

City shall pay the required City contribution rate and Employee shall pay the Employee contribution rate as established by that contract.

VEHICLE ALLOWANCE

City shall pay Employee a vehicle allowance of \$400 per month in lieu of any other mileage reimbursement for the purpose of owning, maintaining and insuring a personal vehicle. Employee must maintain in full force and effect, a liability insurance policy covering such vehicle and Employee's use thereof, with liability limits of at least \$500,000 combined single limits. The payment of this vehicle allowance shall be for full months of employment during which the requirement for maintenance of a vehicle and insurance are met.



VACATION ACCRUAL

Employee shall accrue vacation leave in accordance with the following schedule:

Length of Service	Bi-weekly accrual rate	Annual accrual rate	Maximum accrual balance
7th through 144	5.85	152.10	320
157th through 168th month	6.47	168.22	420
169th through 180th month	6.78	176.28	440
181th through 192th month	7.09	184.34	460
193th through 204th month	7.39	192.14	480
205th month and forward	7.69	199.94	500

SICK LEAVE CONVERSION UPON TERMINATION

Employees may convert accrued sick leave to cash in accordance with the following schedule:

<u>Years of City Service</u>	<u>Maximum Conversion %/Maximum \$ Amount</u>
0-5 years	0
5-10 years	15% / \$1,500
10-15 years	30% / \$3,000
Over 15 years	60% / \$5,000

②

MEDICAL AND DENTAL INSURANCE CARRIERS AND CONTRIBUTIONS

City shall provide Employee with medical and dental insurance through the carrier or carriers with which City contracts to supply such insurance benefits for City employees.

City Contributions - The City and Employee shall each contribute to the City's cost of the health insurance premiums as set forth below.

January 1, 2014					
MEDICAL					
City Contribution					
	EPO	PPO 90/10	PPO 80/20	HDHP	HSA*
Single	501.00	327.29	371.18	374.00	78.14
Double	1080.00	692.21	787.94	797.00	125.02
Family	1385.13	901.03	1023.12	1026.00	156.27
Employee Contribution					
	EPO	PPO 90/10	PPO 80/20	HDHP	HSA
Single	79.00	252.71	163.82	0.00	-
Double	154.00	540.79	349.06	0.00	-
Family	203.87	686.97	442.88	0.00	-
DENTAL					
	City Contribution		Employee Contribution		
Single, Double Family	62.03		20.67		
VISION					
	City Contribution		Employee Contribution		
Single	5.40		0.00		
Double	5.40		5.41		
Family	5.40		8.75		

Subsequent Premium Increases

In the event that the City's premium rates increase in the future, City and Employee shall negotiate regarding the amount of the City and Employee share of those increased premiums. In the event an agreement as to such contribution rates is not reached prior to increased rates becoming effective, the dollar amount of the City's share shall remain as set forth above and the Employee shall pay the increased amount until a different agreement is reached.

Employee not Required to Participate in City's Insurance Plan

If Employee has alternative group medical insurance coverage Employee is not required to participate in City's medical insurance plan. In order to opt out of coverage under the City's medical insurance plan, Employee is required to provide verification of such alternative coverage to the Human Resources Office during an enrollment period and must continue to provide verification of coverage under another plan during the open enrollment period in all subsequent years that Employees choose to opt out of City's medical insurance plan. At any time during



which Employee opts out of City's medical insurance plan, Employee shall receive a payment of \$200.00 per month:

1. Into Employee's Medical Flexible Spending Account established with the City's Section 125 Plan; or
2. Into Employee's City deferred compensation account; or
3. As cash to the Employee.

If Employee ceases to be covered by alternative coverage at any time, Employee shall be required to immediately enroll in City's medical insurance plan.

