

**TOWN MANAGER EMPLOYMENT AGREEMENT BETWEEN
THE TOWN OF ROSS AND JOSEPH J. CHINN**

This Employment Agreement (“Agreement”) is made and entered into as of 8/8, 2019, by and between the Town of Ross, a California municipal corporation (“Town” or “Employer”), and Joseph J. Chinn, an individual (“Employee”). The Town and the Town Manager are sometimes individually referred to as a “Party” and collectively as “Parties.”

RECITALS

A. Employee was appointed to the at-will position of Town Manager effective August 1, 2015. The Town desires to revise Town Manager’s compensation and benefit package as provided in this Agreement as an incentive to retain Town Manager’s continued services as Town Manager. Town Manager desires to continue to serve as Town Manager subject to the terms and conditions of this Agreement. This agreement shall be effective as of August 1, 2019.

B. Employee has the requisite specialized skills, training, certifications, licenses, and authorizations and is otherwise qualified to serve as Town Manager.

C. Town and Employee wish to enter into an employment agreement that sets forth the rights and obligations of the parties and that will supersede all prior negotiations, discussions, or agreements.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, Town and Employee agree as follows:

1. TERM.

A. Term. The term of this Agreement shall be for three (3) years, effective on August 1, 2019 and ending July 31, 2022, unless sooner terminated as provided in this Agreement.

B. Renewal Term. Either party may request discussion of an extension of this Agreement at least six (6) months prior to expiration of the term of this Agreement. Unless either party gives the other party written notice of non-renewal at least six (6) months prior to the end of the term of this Agreement (whether the initial term or a renewal term), this Agreement will automatically renew for a one-year renewal term on the terms and conditions that are in force at the time of the renewal. The Agreement will continue to be subject to earlier termination, as provided in this Agreement.

2. DUTIES AND AUTHORITY.

Employee shall exercise the full powers and perform the duties of the office of Town Manager as set forth in: the Ross Municipal Code; all applicable rules, regulations and procedures; the applicable job description and under state or federal law, as each of them currently or may in the future exist. At the option of Employer, Employee shall also serve on various Joint Power Authorities including serving as the Executive Officer of the Ross Valley Fire Department for a two-year term, when assigned; and any additional authority or agency

created by or staffed by Employer. Employee shall exercise such other powers and perform such other duties as the Town Council may assign, with no additional compensation.

3. EMPLOYEE'S OBLIGATIONS.

A. Full Energy and Skill. Employee shall faithfully, diligently, and to the best of Employee's abilities, perform all duties that may be required under this Agreement. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to Town. Employee shall devote the whole of Employee's skill, knowledge and ability exclusively to Town's business and affairs.

B. No Conflict. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Employee's duties under this Agreement. Further, Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the Town of Ross (except for stock ownership in any company whose capital stock is publicly held and regularly traded) without prior approval of the Town Council. For and during the term of this Agreement, Employee further agrees, except for a personal residence or residential property acquired or held for future use as Employee's personal residence, not to invest in any other real estate property improvements within the corporate limits of the Town without the prior consent of the Town Council.

C. Outside Activities. Town Manager shall not engage in consulting, expert witness testimony, speaking, or other non-Town connected business for which compensation is paid without express prior consent of the Town Council, which may be withheld in the sole discretion of the Town Council. Teaching a class, on a part-time basis, at a community college or institute of higher education would be the exception to this limitation of outside activities and consent will be granted provided the teaching does not conflict with Town Manager duties. Town Manager will take personal leave (i.e. vacation time) for all outside activities that occur during normal business hours.

4. SALARY AND BENEFITS.

A. Annual Salary.

(1) Annual Salary. Effective August 1, 2019, Town shall pay Employee an annual base salary of \$213,928.00. Effective July 1, 2020, Town shall pay Employee an annual base salary of \$220,346.00. Effective July 1, 2021, Town shall pay Employee an annual base salary of \$226,956.00. The annual base salary will be prorated and paid on Town's normal paydays, subject to legally permissible or required withholding. Employee's annual base salary is compensation for all hours worked and for all services under this Agreement, including those duties to staff JPAs, serving as an Executive Officer (as assigned) for the Ross Valley Fire Department or any other appointment associated with the Town. Employee shall be exempt from the overtime pay provisions of California law (if any) and federal law.

(2) Hours Worked. It is recognized that the Employee is an exempt employee and is expected to devote a great deal of time outside of normal office hours to business of

Employer. Town Hall operates on a standard five day per week schedule. Employee's salary and other compensation recognize this commitment by Employee. Employee and the Town Council may agree on a core schedule that will be appropriate to the needs of the Town while allowing Employee flexibility in setting his work schedule.

(3) Management Salary Adjustments. Employee shall be subject to any wage or salary concession generally applicable to management employees of Town only if expressly applicable to Employee by action of the Town Council or as agreed to by Employee. Salary concessions include salary reductions, furloughs or any other wage concession generally applicable to management employees. Employee's base salary includes consideration for Employee's education level and employee shall not be eligible for any additional educational incentive allowance or pay (if any).

B. Employment Benefits.

(1) Fringe Benefit Package. In addition to base salary and except as expressly provided in this Agreement, Employee shall receive the same fringe benefits currently provided to other full-time management employees of Town as those benefits exist on the effective date of this Agreement. Such fringe benefits shall be subject to the terms and conditions of the applicable plan, policy or other controlling documents. In the event a benefit has different terms for executive management and any other group of management employees, the executive management benefit shall apply to Employee. Except as otherwise required by law or by contract with any benefit provider, changes in benefits shall not apply to Employee, unless and until so determined by action of the Town Council.

(2) PERS Employee Contributions. Contrary terms as applicable to other management employees notwithstanding, Employee shall pay the entire employee contribution under the Town's Public Employees' Retirement System (PERS) plan for miscellaneous employees.

(3) Vacation and Management Leave Terms and Accrual Rate. Employee shall accrue vacation leave from the beginning of employment at a rate equivalent to 20 days (160 hours) per year. Employee may accrue leave time not to exceed a cap of one-and-one-half of the annual accrual (240 hours). Once Employee reaches the accrual cap, Employee will accrue no additional vacation leave until Employee's vacation leave balance falls below the cap. Upon termination of employment (including retirement) Employee shall receive cash payment for all accrued and unused vacation, not to exceed the maximum accrual limit of one-and-one-half times the annual accrual. Employee shall be eligible for 6 days (48 hours) of management leave each calendar year. Management leave may not be carried over to subsequent years and has no cash-out value.

(4) Sick Leave Terms and Accrual Rate. Employee will accrue sick leave at a rate equivalent to twelve (12) days annually. Sick leave restrictions will be the same as currently in place for other Town employees relative to cash-out upon retirement.

(5) Vacation and Sick Leave Scheduling. Employee may schedule and use vacation time at his discretion, with due regard for the demands of his position and the needs of

the Town. Employee shall notify the Town Council in writing before taking more than three (3) consecutive working days of vacation time, pre-scheduled sick leave, or otherwise being voluntarily absent from work for such period.

(6) Term Life Insurance. At no cost to Employee, the Town will provide \$50,000.00 in term life insurance coverage.

(7) Expenses. Town recognizes that Employee may incur certain expenses of a non-personal and job-related nature. Town agrees to reimburse or to pay such business expenses, which are incurred and submitted according to Town's normal expense reimbursement procedures. To be eligible for reimbursement, all expenses must be supported by documentation meeting Town's normal requirements and must be submitted within time limits established by Town.

(8) Auto Allowance. Town shall provide Employee with an auto allowance in the amount of \$400.00 per month. The auto allowance may be prorated and paid on a periodic basis.

(9) Professional Development Expenses. Town will supply or reimburse Employee for all customary and reasonable professional expenses as deemed appropriate with proper documentation and in accordance with the Town's Budget. This will include appropriate memberships and annual attendance at the International City/County Managers Association (ICMA) Conference and the League of California Cities Conference and other approved conference attendance. This will include the registration fee and all related travel and meals for both in-state and out-of-state approved conferences. All conferences and related professional expenses will be approved through the Town's budget process. To be eligible for reimbursement, all expenses must be supported by documentation meeting Town's normal requirements and must be submitted within time limits established by Town.

(10) Technology Equipment. Town will supply Employee with a laptop computer and printer that will permit Employee to complete Town-related business remotely. Any equipment supplied will remain property of Town and must be returned to Town promptly upon request or at the conclusion of employment. Use of such equipment shall be subject to applicable Town policies, including policies addressing Town property and technology use.

(11) Cellular Phone. The Town will purchase and provide to Employee a cellular telephone and service plan for both personal and professional use. The cell phone and service plan may be changed in the future at the discretion of the Town. In-lieu of the above, at the option of Employee, the Town will reimburse Employee for cellular telephone expenses.

(12) Medical and Dental Plan. Employee will be covered by the Town's existing medical and dental plans for family coverage. Employee's participation in the medical and dental plans is subject to the same terms as applicable to other full-time management employees on the effective date of this Agreement.

(13) Long-Term Disability. Employee will be covered by the Town's existing long-term disability plan.

(14) PERS Retirement Plan. Employee will be covered by the Town's existing retirement plan under the 2% @ 60 formula for "classic" employees. As provided in this Agreement, Employee will pay the full share of Employee's cost (the full member contribution, as designated by statute). The parties acknowledge that reportable and non-reportable compensation for purposes of the PERS retirement plan are determined by PERS under the applicable statutes and regulations. The parties further acknowledge that employer contributions to deferred compensation and auto allowances are non-reportable, as provided by statute and regulation.

(15) Deferred Compensation Plan. Employee will be eligible to contribute to the ICMA Deferred Compensation Plan. In addition, the Town will contribute 6% of base salary each pay period to this plan.

(16) Social Security/Medicare Deduction. Employee will be covered by Social Security and responsible for the full Employee share of FICA including the Medicare portion based on IRS limits.

(17) Bonding. Town shall bear the full costs of any fidelity or other bonds required of Employee (if any) under any law or ordinance by virtue of his employment as Town Manager.

5. EVALUATIONS.

Employee shall report to and may be evaluated by the Town Council. Employee's performance shall be reviewed on the annual anniversary of Employee's date of hire. All annual reviews will be conducted in accordance with specific criteria developed jointly by the Town Council and Employee during strategic planning and goal setting sessions. Such criteria may be added to or deleted as the Town Council determines in consultation with Employee, with final approval reserved for the Town Council. Employee will request and schedule such reviews, as appropriate pursuant to Town agenda procedures or as otherwise directed by Town Council. Nothing in this paragraph is intended to limit additional interim evaluations or review or to limit the normal communications process between the Town Council and Employee. If requested by either the Town Council or the Employee, the Town will contract for the use of an outside facilitator to conduct the evaluation and goal setting session on an annual basis.

6. INDEMNIFICATION.

The Town shall defend, hold harmless and indemnify Employee, using legal counsel of Town's choosing, against any claim or action to the extent required by, and subject to the limitations contained in California Government Code Sections 825, 995, and 995.2 through 995.8. In the event independent counsel is required for Employee, Town, after consultation with Employee, may select and will pay the reasonable fees of such independent counsel, The Town may compromise and settle any claim or suit and pay the amount of any settlement or judgment rendered thereon. The Town will defend and pay any costs and judgments assessed against Employee arising out of an act or omission by Employee occurring in the course and scope of Employee's performance of his duties under this Agreement. In the event Employee shall serve as the Chief Executive Officer of other Town Controlled entities, then the Town agrees, for

purpose of indemnity and defense obligations under this section and Government Code Sections 825, 995 and 995.2 through 995.8, that any actions or omissions within the scope of those duties shall be treated as within the scope of the Town Manager's employment with the Town. Employer agrees to pay all reasonable litigation expenses of Employee through the pendency of any litigation to which the Employee is a party, witness or advisor to the Town, consistent with this section. Such expense payment shall continue beyond the Employee's service to the Town as long as the litigation is pending. However, in the event Town provides funds for legal criminal defense pursuant to this section and terms of the Government Code, Employee shall reimburse the Town for such legal criminal defense funds if Employee is convicted of a crime involving an abuse of office or position, as provided by Government Code Sections 53243 — 53243.4.

7. AT-WILL EMPLOYMENT RELATIONSHIP.

A. Consistent with Ross Municipal Code Section 2.05.010 and California Government Code Section 36506, Employee is appointed by and serves at the pleasure of the Town Council. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Town to terminate this Agreement and the employment of Employee, with or without cause. Town shall pay Employee for all services through the effective date of termination and Employee shall have no right to any additional compensation or payment, except for payment of benefits as provided under Section 4 accrued prior to the effective date of termination and severance payments as provided under Section 9 below.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign or retire from his employment with Town (terminating this Agreement), subject only to Employee providing sixty (60) calendar days prior written notice to Employer.

8. TERMINATION OF EMPLOYMENT.

A. No Property Interest. Employee understands and agrees that Employee has no constitutionally-protected property or other interest in Employee's employment as Town Manager. Employee understands and agrees that Employee works at the will and pleasure of the Town Council, and that Employee may be terminated, or asked to resign, at any time, with or without cause, by a majority vote of its members. Notice of termination shall be provided to the Town Manager in writing. "Termination," as used in this Agreement, shall also include 1) a request from a majority of the Town Council that the Town Manager resign; 2) a reduction in salary or other financial benefits of the Town Manager in a significant amount which is inconsistent with a reduction in salary or financial benefits for other management employees; 3) a material reduction in the powers and authority of the Town Manager (excluding placement on paid administrative leave); or 4) the elimination of the Town Manager's position. Any such notice of termination or act constituting termination shall be given at or effectuated at a duly noticed regular or special meeting of the Town Council.

B. Termination Immediately Before or Following Town Council Election. No action by the Town Council to terminate Employee, other than for cause, as defined in Section 9, Paragraph B, below, will be made within ninety (90) calendar days either before a Town general municipal election or immediately following a Town general municipal election. Nothing in this paragraph alters the "at-will" status of Employee's employment with Town. If notice of non-

renewal is given as provided in this Agreement, this paragraph will not extend the term of the Agreement or otherwise prevent termination of this Agreement and all employment during the 90-day period before or after a Town general municipal election pursuant to such notice of non-renewal.

C. Notice Required of Employee. Employee may voluntarily terminate employment at any time by giving not less than sixty (60) calendar days written notice.

9. SEVERANCE.

A. If Employer terminates this Agreement (thereby terminating Employee's Employment), without cause, Employer shall pay Employee a lump sum severance benefit equal to six (6) months of Employee's then applicable base salary. The applicable base salary shall be Employee's base salary in effect on the effective date of termination.

B. If Town terminates this Agreement (thereby terminating Employee's Employment) with cause, Employee shall not be entitled to any severance. As used in this Agreement, cause shall mean any of the following:

- (1) Conviction of a felony;
- (2) Conviction of a misdemeanor arising out of Employee's duties under this Agreement and involving a willful or intentional violation of law;
- (3) Willful abandonment of duties;
- (4) A pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted policy decisions of the Town Council made by the Town Council as a body, or persistent and willful violation of properly established rules and procedures following notification to Employee; and
- (5) Any grossly negligent action or inaction by Employee that materially and substantially impedes or disrupts the performance of Town or its organizational units, or is detrimental to employee safety or public safety.

C. Except as provided by Section 9, Paragraph A, above, if Employee resigns, retires, terminates this Agreement, or gives notice of his intent not to renew this Agreement (thereby terminating all of Employee's Employment), Employee shall not be entitled to any severance.

D. Any other term of this Agreement notwithstanding, the maximum severance that Employee may receive under this Agreement shall not exceed the limitations provided in Government Code Sections 53260 — 53264, or other applicable law. Further, in the event Employee is convicted of a crime involving an abuse of office or position, Employee shall reimburse Town for any paid leave or cash settlement (including severance), as provided by Government Code Sections 53243 — 53243.4.

10. INTEGRATION OF AGREEMENT.

This Agreement contains the entire agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between the parties concerning Employee's employment with Town. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or written, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

11. METHOD OF AMENDMENT.

No amendments to this Agreement may be made except by a writing signed and dated by Town and Employee.

12. NOTICES.

Any notice to Town under this Agreement shall be given in writing to Town, either by personal service or by registered or certified mail, postage prepaid, addressed to the Town Clerk at the Town's then principal place of business. A courtesy copy shall be given to the Town Attorney in a like manner. Any such notice to Employee shall be given in a like manner and, if mailed, shall be addressed to Employee at his home address then shown in Town's files. For the purpose of determining compliance with any time limit in this Agreement, a notice shall be deemed to have been duly given (a) on the date of delivery, if served personally on the party to whom notice is to be given, or (b) on the third calendar day after mailing, if mailed to the party to whom the notice is to be given in the manner provided in this Article.

13. GENERAL PROVISIONS.

A. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.

B. This Agreement sets forth the final, complete, and exclusive agreement between Town and Employee relating to the employment of Employee as Town Manager for the Town of Ross. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The foregoing notwithstanding, Employee acknowledges that, except as expressly provided in this Agreement, his employment is subject to Town's generally applicable rules and policies pertaining to employment matters, such as those addressing equal employment opportunity, sexual harassment, and violence in the workplace.

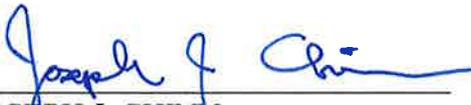
C. This Agreement shall be interpreted and construed pursuant to and in accordance with the laws of the State of California and all applicable Town of Ross Codes, Ordinances and Resolutions. The Parties agree that the venue shall be in Marin County, California.

D. Employee acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Employee acknowledges that he has made an independent judgment upon the financial and legal effects of this Agreement

and has not relied upon any representation for the Town of Ross, its officers, agents or employees other than those expressly set forth in this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and executed personally or on its behalf by its duly authorized representative.

EMPLOYEE



JOSEPH J. CHINN

TOWN OF ROSS

By: 

MAYOR,
TOWN OF ROSS

ATTEST:



Town Clerk (Seal)