

## CITY MANAGER EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into at Vacaville, California, this 29th, day of April, 2020, by and between the CITY OF VACAVILLE, a municipal corporation, hereinafter referred to as the "EMPLOYER," and AARON M. BUSCH, an individual, hereinafter referred to as 'EMPLOYEE' or "CITY MANAGER."

### RECITALS

WHEREAS, EMPLOYER has utilized the services of EMPLOYEE as Assistant City Manager since May 16, 2017, and as Interim City Manager since March 25, 2020; and

WHEREAS, EMPLOYER, acting by and through its City Council, desires to employ the services of EMPLOYEE as City Manager of the City of Vacaville, and assure the continuous service of EMPLOYEE in such official capacity as provided for under the Municipal Code of the City of Vacaville by establishing herein certain salary and fringe benefits, and the other terms and conditions of employment; and

WHEREAS, EMPLOYEE desires to undertake employment as City Manager of the City of Vacaville under the terms and conditions of employment as set forth herein.

NOW, THEREFORE, in consideration of this Agreement, and the mutual promises, covenants and stipulations herein contained, the parties hereto agree as follows:

### AGREEMENT

1. **EMPLOYMENT:** EMPLOYER hereby appoints EMPLOYEE to the position of City Manager of and for the City of Vacaville under this Agreement and conferring upon and delegating to EMPLOYEE all of the duties, powers, and responsibilities of City Manager as the same are specifically prescribed and set forth in State Law, Chapter 2.08 of the Vacaville Municipal Code ("Municipal Code" or "VMC"), the ordinances, resolutions, policies, rules and regulations as from time to time existing thereunder, and such other duties and functions as EMPLOYER may from time to time assign.

EMPLOYEE accepts continued employment as City Manager of the City of Vacaville and agrees to loyally perform these duties to the best of EMPLOYEE's ability at all times.

2. **TERM; AT WILL EMPLOYMENT RELATIONSHIP; INVOLUNTARY TERMINATION:**
  - A. The term of employment shall run from April 29, 2020, until the date specified in a notice of termination given by either party to the other pursuant to the terms herein.
  - B. EMPLOYEE is appointed by, and serves at the pleasure of the City Council, as provided in California Government Code ("Govt. Code") section 36506. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of EMPLOYER, by a majority vote of the City Council, to terminate this Agreement and the employment of EMPLOYEE at any time, with or without cause and with or without advance notice, subject to subsection 2.C. below. Unless EMPLOYEE resigns as set forth in subsection 2.C.ii below, notice of termination shall be

provided to EMPLOYEE in writing. EMPLOYER shall pay EMPLOYEE for all services through the effective date of termination and EMPLOYEE shall have no right to additional compensation or payment, except as provided in Subsection 2.C below.

C. Termination Without Cause:

- i. If EMPLOYER terminates this Agreement without cause, EMPLOYER shall pay severance to EMPLOYEE in an amount equal to three (3) calendar months' salary, following the separation of EMPLOYEE from service to EMPLOYER ("Severance Pay"). Severance Pay pursuant to this Agreement is inclusive of, and not in addition to, any and all severance obligations in the Municipal Code.
- ii. If EMPLOYER terminates this Agreement without cause, EMPLOYER may offer EMPLOYEE the opportunity to resign in lieu of termination, with Severance Pay, subject to EMPLOYEE signing a release agreement and covenant not to sue.

D. EMPLOYEE shall not be entitled to Severance Pay in the event of EMPLOYEE'S death, permanent incapacity due to injury or illness, whether physical or mental; EMPLOYEE'S voluntary resignation or retirement as provided for in Section 3, below; or EMPLOYEE'S dismissal for cause. Dismissal for cause shall mean: (1) fraud, material dishonesty, gross negligence in EMPLOYEE'S performance of his duties as City Manager, or other willful misconduct in office; or (2) EMPLOYEE'S conviction of a felony or other crime involving moral turpitude.

E. All severance payments under this section and any legal criminal defense payments under section 10, below, if any, are subject to, and shall be interpreted to comply with, the limitations set forth in Govt. Code section 53260 concerning maximum cash settlement in an employment contract, and Govt. Code sections 53243 through 53243.4, limiting and/or restricting payment or continued retention of severance payments and/or legal criminal defense payments should EMPLOYEE be convicted of a crime involving an abuse of office or position. "Abuse of office or position" for purposes of this Agreement, shall be as defined in Govt. Code section 53243.4 which provides: "abuse of office or position" means either of the following: (a) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority. (b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67) or Title 7 (commencing with Section 92) of Part 1 of the Penal Code."

3. **VOLUNTARY RESIGNATION OR RETIREMENT; NOTICE OF INTENTION TO SEEK OTHER EMPLOYMENT:** Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the EMPLOYEE to resign at any time from EMPLOYEE'S position as City Manager or to retire from public service. In the event that EMPLOYEE voluntarily resigns the position, or retires from public service, EMPLOYEE shall give EMPLOYER'S City Council not less than three (3) months prior written notice, unless the parties otherwise agree in writing. Further, should EMPLOYEE begin to actively seek

other employment, EMPLOYEE will notify EMPLOYER forthwith of EMPLOYEE'S intention to seek other employment.

4. **EXCLUSIVE EMPLOYMENT:** EMPLOYEE agrees to give full attention to EMPLOYEE'S duties and will not engage in any outside employment or business activities which might conflict with these duties. This limitation shall not include occasional teaching, writing, or consulting performed during the EMPLOYEE'S vacation or other time off.
5. **EVALUATION:** EMPLOYER shall conduct an annual performance and compensation evaluation ("Performance Evaluation") of EMPLOYEE each year on or before the anniversary of the Effective Date ("Anniversary Date") of this Agreement. At the time of EMPLOYEE's annual Performance Evaluation the City Council shall consider any merit and cost of living increases requested by EMPLOYEE. To the extent required by law, any such increases shall be subject to City Council approval at an open and public meeting. Merit and cost of living increases may be documented by a confirming letter from EMPLOYER to EMPLOYEE or other similar method, a copy of which shall be maintained by EMPLOYER with this AGREEMENT.
6. **SALARY:** The agreed upon beginning compensation shall be Two Hundred Fifty Five Thousand, Three Hundred and Thirteen Dollars (\$255,313.00) per year. This salary amount, along with any other adjustments which may be authorized in the future under this Agreement, constitutes EMPLOYEE'S total base salary. EMPLOYEE's salary range and base compensation shall be subject to a two percent (2%) cost of living adjustment effective November 1, 2020, consistent with cost of living adjustments previously negotiated by the Department Head group. Additionally, after completion of one year of employment as City Manager and receipt of a satisfactory performance evaluation from EMPLOYER, EMPLOYEE shall be entitled to a five percent (5%) base salary increase. Notwithstanding the date of the 2021 performance evaluation, the increase shall be effective on, or retroactive to, the first Anniversary Date (i.e. April 29, 2021), If EMPLOYER fails to conduct EMPLOYEE'S 2021 annual performance evaluation on or before June 15, 2021, due to no fault of EMPLOYEE, EMPLOYEE shall be deemed to have received a satisfactory Performance Evaluation and the increase shall be automatically applied.
7. **DEFERRED COMPENSATION:** EMPLOYER agrees to provide a contribution equal to three percent (3%) of EMPLOYEE's base salary to a Deferred Compensation Plan contingent upon EMPLOYEE's minimum contribution to the Deferred Compensation Plan of one (1%). Any additional EMPLOYER contribution shall be subject to mutual agreement between EMPLOYER and EMPLOYEE and may be considered at the time of the annual performance review or otherwise as part of any compensation or merit increase considered by the City Council.
8. **VACATION:** EMPLOYER agrees to provide EMPLOYEE twenty-five (25) paid vacation days per year. Up to Seven Hundred Twenty (720) hours of vacation may be accumulated by EMPLOYEE. EMPLOYEE, however shall have the right, at any time prior to or upon EMPLOYEE'S retirement, resignation or termination date, to redeem accumulated vacation hours in an amount determined by EMPLOYEE.
9. **PROFESSIONAL MEMBERSHIPS, TRAININGS, MEETINGS AND CONFERENCES:** EMPLOYER recognizes the responsibility of the EMPLOYEE to participate in

professional national, regional, state, and local associations, organizations, and continuing educational programs for the maintenance of EMPLOYEE'S professional growth and the direct benefit to the EMPLOYER therefrom. The EMPLOYER therefore agrees to budget and to pay for EMPLOYEE'S reasonable membership dues, and regular and customary expenses while attending such trainings, meetings, programs or conferences.

10. **INDEMNIFICATION:** EMPLOYER shall defend, hold harmless, and indemnify the EMPLOYEE against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the EMPLOYEE'S duties in accordance with the provisions of Govt. Code sections 825 and 995. EMPLOYER may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom. This provision shall survive any termination or resignation of EMPLOYEE. This section is not intended to provide any rights in excess of those rights provided by state law.
11. **GENERAL BENEFITS AND WORKING CONDITIONS:** Unless otherwise specified herein, all other working conditions and benefits currently in existence or as may be adjusted by the City Council for all other non-safety Department Head employees shall apply to the EMPLOYEE. This provision does not apply to cost of living or other merit or salary adjustments or adjustments to EMPLOYER contributions to deferred compensation which shall be determined by mutual agreement between EMPLOYER and EMPLOYEE independent from Department Head or other employee negotiations.
12. **RETIREMENT:** EMPLOYER agrees to continue participation in the Public Employees Retirement System (PERS) under the "2.0% at 55" defined benefit formula. The EMPLOYEE shall pay 7% EMPLOYEE contribution plus 1% of the EMPLOYER cost for a total of 8%.
13. **HEALTH INSURANCE AND OTHER BENEFITS:**
  - A. Health Insurance: EMPLOYER agrees to contribute an amount toward medical insurance in accordance with the contribution made for other City Department Heads, as such contribution may be modified from time to time.
  - B. Other Benefits: EMPLOYER agrees to contribute an amount in accordance with the contribution made for other City Department Heads for dental, vision, basic life insurance, and long term disability insurance as such contributions may be modified from time to time.
  - C. Salary and Benefits Upon Death or Disability: In addition to continuation of health, dental and vision insurance, EMPLOYER agrees to pay four (4) calendar months of salary in the event of EMPLOYEE'S non self-inflicted death or disability which renders EMPLOYEE incapable of performing the duties required by this Agreement.
14. **AUTOMOBILE ALLOWANCE:** EMPLOYER shall provide to EMPLOYEE an automobile allowance in the amount of four hundred dollars (\$400) per month.
15. **MOVING EXPENSES:** EMPLOYER recognizes that in order to faithfully fulfill the obligations of the City Manager position the City Manager should live within close proximity to the City and that the City benefits from City Manager's proximity. Because

EMPLOYEE has agreed to move to and maintain a residence in the City of Vacaville at significant personal expense, within thirty (30) days of execution of the Effective Date of this Agreement, EMPLOYER shall pay EMPLOYEE a lump sum of Five Thousand Dollars to compensate EMPLOYEE for moving expenses related to EMPLOYEE's relocation to the Vacaville area.


16. **CHANGES IN TERMS AND CONDITIONS OF EMPLOYMENT:** EMPLOYER, in consultation with EMPLOYEE, may fix such other terms and conditions of employment as it deems appropriate and timely, provided that said terms and conditions are not inconsistent or in conflict with the provisions of this Agreement, the Municipal Code, or any other law. No such terms and conditions shall be binding upon the parties to the Agreement unless and until they are reduced to writing and signed by both parties.


17. **NOTICES:** Notices pursuant to this Agreement shall be in writing and may be effected either by personal delivery or mail. Mailed notices shall be addressed to the parties as set forth below, but each party may change their address by written notice given in accordance with the Section. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of three (3) calendar days following the date of mailing.

**CITY/EMPLOYER:**  
City of Vacaville  
Attention: Mayor  
650 Merchant Street  
Vacaville, CA 95688

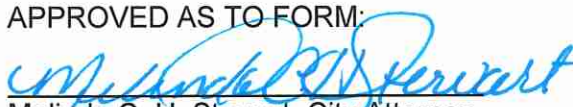
**EMPLOYEE**  
Aaron Busch  
(Home address on file with  
the Administrative Services  
Department)

**IN WITNESS WHEREOF**, the EMPLOYER has caused this Agreement to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk, and EMPLOYEE has signed and executed this Agreement, the day and year first above written.

  
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EMPLOYER  
Ron Rowlett  
Mayor, City of Vacaville

  
\_\_\_\_\_  
EMPLOYEE  
Aaron Busch  
City Manager

ATTEST:  
  
\_\_\_\_\_  
Michelle Thornburgh  
City Clerk  
City of Vacaville

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Melinda C. H. Stewart, City Attorney