

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF CHOWCHILLA AND DAVE RIVIERE
FOR POLICE CHIEF SERVICES**

THIS AGREEMENT for Police Chief services is entered into by and between the City of Chowchilla, a municipal corporation in the State of California (hereinafter referred to as "City") and Dave Riviere ("Police Chief") as of September 8, 2015, (the "Effective Date").

WHEREAS, the City of Chowchilla City Council desires to appoint and employ Dave Riviere (hereinafter referred to as "Police Chief") as Police Chief for the City of Chowchilla; and

WHEREAS, Police Chief desires to accept the appointment as the Police Chief of the City; and

WHEREAS, it is the desire of the City and the Police Chief to set forth certain compensation, benefits, establish certain conditions of employment, and to set certain working conditions on the Police Chief in this Agreement.

NOW, THEREFORE, the above named parties hereby mutually agree and promise as follows:

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Police Chief shall perform the following duties:

- 1.1 Police Chief shall perform the duties and responsibilities established for the Chief of Police as set forth and enumerated in the laws of the State of California including, but not limited to Government Code Sections 38630 and 41601 *et seq.* and other applicable ordinances, resolutions policies and position descriptions as may be adopted by the City Council.
- 1.2 Police Chief shall perform such public safety duties as may be established by the City Administrator.
- 1.3 City may supplement or amend these duties relating to the performance by Police Chief provided such terms and conditions are not inconsistent with or conflict with the provisions of this Agreement, the Chowchilla Municipal Code, or any other law.
- 1.4 Police Chief knows and understands that in his position he will obtain or have access to confidential information, and agrees that he will not disclose such information to anyone, other than the City agents or authorized employees, unless otherwise directed by the City Administrator. Police Chief agrees that upon termination of this Agreement he will return all confidential and proprietary

information of the City to the City, and maintain the confidentiality of such information to the fullest extent permitted by law. This provision survives termination of the Police Chief from his employment with the City.

Section 2. OUTSIDE EMPLOYMENT

- 2.1 Police Chief shall not engage in any employment, consulting service, other enterprise or activity for compensation which is actually or potentially in conflict with, inimical to, or interferes with the performance of his duties and responsibilities described herein.

Section 3. COMPENSATION AND BENEFITS

- 3.1 City hereby agrees to pay Police Chief the following amounts during the term of this Agreement: (1) compensation of \$9,276.59 per month, to be prorated as necessary for partially worked months. This represents Police Chief appointment to Level "B" on the City's compensation scale for this position; (2) a uniform allowance of \$750 annually; (3) expense reimbursements for business meals, and business travel required outside the County of Madera, not including travel to and from Police Chief's home to the City, and (4) membership in the California Police Chiefs Association and California Peace Officers Association inclusive of a membership subscription to the Legal Services Program (LSP) (no deductible). Police Chief shall be paid on the same schedule as other employees, minus required withholdings. Police Chief is classified as an exempt employee under State law and no overtime is authorized by this Agreement and no compensation for overtime services will be paid to Police Chief. Police Chief waives any claims for additional compensation for any and all hours worked beyond the amount anticipated by this Agreement.
- 3.2 In addition to that required under state and local law, the City shall defend, hold harmless and indemnify Police Chief 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 Police Chief's duties, except for those acts described in paragraph 3.3.
- 3.3 Police Chief shall to the fullest extent allowed by law, with respect to all services performed in connection with this Agreement, defend with counsel acceptable to the City, and indemnify and hold the City and its officials, officers, employees, agents, and volunteers harmless from and against any and all losses that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Police Chief ("Claims"). Police Chief will bear all losses, costs, damages, expense and liability of every kind, nature and description, including attorneys' fees and costs, that arise out of, pertain to, or relate to such Claims, whether directly or indirectly ("Liability"). Such obligations to defend, hold harmless and indemnify the City shall not apply to the extent that such Liability is caused by

the sole negligence, active negligence, or willful misconduct of the City. In accordance with California Civil Code Section 1668, nothing in this Agreement shall be construed to exempt the City from its own fraud, willful injury to the person or property of another, or violation of law.

- 3.4 Except as stated in this Agreement, all other forms of compensation and/or benefits shall be governed by the terms of the Memorandum of Understanding Between the City of Chowchilla and the Chowchilla Mid-Management Confidential Association dated January 1, 2014 through December 31, 2015, and applicable State or local laws.

Section 4. Term of Services.

- 4.1 The term of this Agreement shall begin on September 8, 2015 and shall end on September 7, 2017, at which time it may be renewed by City Council for an additional two years, to end on September 7, 2019. The Agreement may otherwise be terminated pursuant to Section 5 or on a date mutually agreed upon in a writing signed by the parties.

Section 5. TERMINATION AND MODIFICATION

- 5.1 Police Chief expressly understands and agrees that Police Chief serves as an at-will employee of the City, and the City may cancel this Agreement at any time and without cause upon written notification to Police Chief.
- 5.2 Police Chief may cancel this Agreement upon 30 days written notice to City and shall include in such notice the reasons for cancellation.
- 5.3 In the event of termination, Police Chief shall be entitled to compensation for services performed to the effective date of termination. City, however, may condition payment of such compensation upon Police Chief delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Police Chief or prepared by or for Police Chief or the City in connection with this Agreement.
- 5.4 All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Police Chief shall survive the termination of this Agreement.
- 5.5 If Police Chief materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to the following:
- 5.5.1 Immediately terminate the Agreement;

- 5.5.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Police Chief pursuant to this Agreement; and/or
- 5.5.3 Retain a different Police Chief to complete the work described in this Agreement.

Section 6. LEGAL REQUIREMENTS.

- 6.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 6.2 **Compliance with Applicable Laws.** Police Chief and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 6.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Police Chief and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 6.4 **Nondiscrimination and Equal Opportunity.** Police Chief shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Police Chief under this Agreement. Police Chief shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement.

Section 7 MISCELLANEOUS PROVISIONS.

- 7.1 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Madera in the United States District Court for the Eastern District of California.
- 7.2 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 7.3 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

- 7.4 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 7.5 **Solicitation.** City Administrator agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 7.6 **Notices.**

Any written notice to Police Chief shall be sent to:

Dave Riviere
122 Trinity Avenue
Chowchilla, CA. 93610

Any written notice to City shall be sent to:

City of Chowchilla
Attn: Brian Haddix, City Administrator
130 S. Second Street
Chowchilla, CA 93610

With copy to:

David G. Ritchie
Cota Cole LLP
2261 Lava Ridge Court
Roseville, CA 95661
dritchier@cotalawfirm.com

- 7.7 **Integration.** This Agreement represents the entire and integrated agreement between City and Police Chief and supersedes all prior negotiations, representations, or agreements, either written or oral.
- 7.8 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 7.9 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 7.10 **Assignment and Subcontracting.** City and Police Chief recognize and agree that this Agreement contemplates personal performance by Police Chief and is based upon a determination of Police Chief's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City

for entering into this Agreement was and is the professional reputation and competence of Police Chief. Police Chief may not assign this Agreement or any interest therein without the City's prior written approval. Police Chief shall not subcontract any portion of the performance contemplated and provided for herein without the City's prior written approval.

7.11 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Police Chief shall survive the termination of this Agreement.

7.12 **Authorized Signature.** Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and that the party will be bound by such signature.

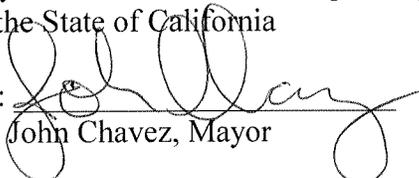
The parties have executed this Agreement as of the Effective Date.

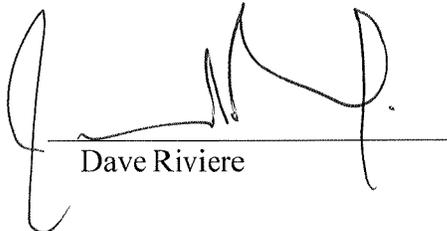
CITY

POLICE CHIEF

City of Chowchilla, a municipal corporation
of the State of California

By:


John Chavez, Mayor


Dave Riviere