

1 **EMPLOYMENT AGREEMENT BETWEEN CITY OF CALISTOGA AND**
2 **MITCHELL CELAYA FOR CHIEF OF POLICE**

3
4 THIS AGREEMENT between the CITY OF CALISTOGA ("City") and MITCHELL
5 CELAYA ("Employee") is deemed effective December 4th, 2018 ("Effective Date").
6

7 **RECITALS**

8
9 WHEREAS, Employee currently serves as Chief of Police and has served in that
10 capacity for more than five years; and

11
12 WHEREAS, City desires to retain the services of Employee to serve as the Chief
13 of Police; and

14
15 WHEREAS, Employee desires to continue to serve as Chief of Police of the City
16 of Calistoga.

17
18 WHEREAS, the City Manager, has appointing power in accordance with
19 Resolution 2016-05 approved by the City Council on January 5, 2016, and Employee
20 desire to agree in writing to the terms and conditions of Employee's employment as
21 Chief of Police.

22
23 **AGREEMENT**

24
25 NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

26
27 **1. DUTIES.**

28
29 (a) City agrees to employ Employee as Chief of Police of the City of
30 Calistoga to perform the functions and duties specified in the ordinances and
31 resolutions of City and to perform other legally permissible and proper duties and
32 functions as the City Council may from time to time assign.

33
34 (b) Employee shall perform his duties to the best of his ability in
35 accordance with the highest professional and ethical standards of the profession and
36 shall comply with all general rules and regulations established by City.

37
38 (c) Employee shall not engage in any activity which is or may become
39 a conflict of interest, prohibited contract, or which may create an incompatibility of office
40 as defined under California law. Prior to performing any services under this Agreement
41 and annually thereafter, Employee must complete disclosure forms required by law.

42
43 **2. TERM.**

44
45 (a) The term of this Agreement shall be from the Effective Date until
46 June 30, 2019. This Agreement may be terminated by either party in accordance with
47 the provisions set forth in Paragraph 3 or by the event of the death or permanent
48 disability of Employee.

49
50 (b) Employee agrees to remain in the exclusive employ of City during
51 the term of this Agreement and not to be otherwise employed during the term of this
52 Agreement.
53

54 **3. RESIGNATION AND TERMINATION.**
55

56 (a) Nothing in this Agreement shall prevent, limit or otherwise interfere
57 with the right of Employee to resign at any time from his position as Chief of Police of
58 City. Employee may terminate this Agreement by submitting written notice of his
59 resignation to City. Employee shall give the City thirty (30) days written notice of his
60 intention to resign.
61

62 (b) Employee is an "at-will" employee who serves at the pleasure of the
63 City and nothing herein shall be taken to prevent, limit or otherwise interfere with the
64 right of the City to terminate the services of Employee as Chief of Police with or without
65 cause at any time. There is no express or implied promise made to Employee for any
66 form of continued employment as the Chief of Police. Further, nothing in this
67 Agreement is intended to, or does, confer upon Employee any due process right to a
68 hearing or other administrative process pertaining to termination, before or after a
69 decision by the City to terminate his employment, unless Employee is entitled to a name
70 clearing hearing under California or federal law.
71

72 (c) In the event the City requests Employee to resign from his position
73 as Chief of Police for reasons other than cause, Employee shall be entitled to four
74 months' severance pay at Employees then current rate of pay. Employee may choose
75 to take payment at the time of separation or on January 15th of the following year from
76 separation.
77

78 (d) Pursuant to Government Code section 53243, et seq., if Employee
79 is convicted of a crime involving an abuse of his office or position, all of the
80 following shall apply upon final conviction: (1) if Employee is provided with
81 administrative leave pay pending an investigation, Employee shall be required to
82 fully reimburse such amounts paid; (2) if the City, in its discretion, pays for the
83 criminal legal defense of Employee, Employee shall be required to fully
84 reimburse such amounts paid; and (3) if Employee is provided with any
85 severance pay and/or settlement pay, Employee shall be required to reimburse
86 such pay. For purposes of this Section, "abuse of office or position" shall be as
87 defined under California Government Code section 53243.4.
88

89 **4. COMPENSATION AND BENEFITS.**
90

91 (a) As part of the implementation of the 2018 Total Compensation
92 Study by Koff & Associates, City agrees to place Employee as Chief of Police at Range
93 60, Step 5, for an annual salary of one hundred eighty-two thousand one hundred sixty
94 five dollars (\$182,165) payable in installments at the same time as other employees of

95 the City are paid. Upon satisfactory annual evaluations Employee will be eligible for
96 Step and/or Range increases as approved by the City Manager.

97
98 (b) For the purposes of eligibility for Step increases Employee's
99 anniversary date is reset to December 4th but for purposes of determining longevity
100 Employee's original date of hire will be the determinant.

101
102 (c) In addition to any Step and/or Range increases employee may be
103 entitled to, and consistent with other department directors, Employee shall be provided
104 any other salary or COLA adjustments provided to other department directors within the
105 City.

106
107 (d) City will provide Employee with the same holidays; sick leave; long
108 term disability benefits; retirement benefits; insurance benefits including but not limited
109 to life, health and dental coverage, and vacation in the same manner provided to other
110 Department Directors and consistent with the State's retirement system

111
112 (e) Employee shall be granted forty (40) hours of administrative leave
113 on January 1 and July 1 of each year.

114
115 (f) Employee shall be entitled to 20 days of vacation leave annually as
116 per City Policy. Employee shall also be entitled to eight (8) hours of sick leave per
117 month, per City Policy.

118
119 (g) City shall compensate Employee 100% of all unused vacation and
120 administrative leave at Employee's current rate of pay at the time of separation.
121 Employee shall be compensated for 25% of unused sick leave balance at Employee's
122 current rate of pay at the time of separation.

123
124 (h) In the event Employee is assigned temporary duties as Acting City
125 Manager for more than three consecutive days Employee shall receive a 10% salary
126 increase for out of class pay.

127
128 **5. SUPPLEMENTAL BENEFITS.**

129
130 Employee has the option of being assigned a City vehicle or being
131 compensated an amount not less than three hundred and fifty dollars (\$350) monthly
132 car allowance, or other amount as approved by the City Manager.

133
134 **6. INDEMNIFICATION.**

135
136 Except as otherwise provided in Section 3(d) of this Agreement, City shall
137 defend, save harmless, and indemnify Employee against any tort, professional liability
138 claim or demand or other legal action, whether groundless or otherwise, arising out of
139 an alleged act or omission occurring in the performance of Employee's duties as Chief
140 of Police. City will compromise and settle any such claim or suit and the amount of any
141 settlement or judgment rendered thereon. Said indemnification shall extend beyond

142 termination of employment, and the otherwise expiration of this Agreement, to provide
143 full and complete protection to Employee as described herein, for any acts undertaken
144 or committed in his capacity as Chief of Police, regardless of whether the notice of filing
145 of a lawsuit for such tort, claim, demand, or other legal action occurs during or following
146 Employee's employment with City as Chief of Police. Further, following employment
147 with City, City agrees to pay Employee reasonable consulting fees and travel expenses
148 in the event Employee serves as a witness, advisor and or consultant to City regarding
149 any pending litigation involving City.

150 **7. CONFLICT OF INTEREST PROHIBITION.**

151
152 It is further understood and agreed that because of the duties of the Chief
153 of Police within and on behalf of the City of Calistoga, and its citizenry, the Employee
154 shall not, during the term of this Agreement, individually, as a partner, joint venturer,
155 officer or shareholder, invest or participate in any business venture conduction business
156 in the corporate limits of the City of Calistoga except for stock ownership in any
157 company whose capital stock is publicly held and regularly traded, without prior
158 approval of the City. For and during the term of this Agreement, Employee further
159 agrees, except for a personal residence or residential property acquired or held for
160 future use as his personal residence, not to invest in any other real estate property
161 improvements within the corporate limits of the City of Calistoga, without the prior
162 consent of the City Council.

163
164 **8. OTHER TERMS AND CONDITION OF EMPLOYMENT.**

165
166 (a) The City Council, by resolution, shall fix any other terms and
167 conditions of employment, as it may determine from time to time, relating to the
168 performance of Employee, provided such terms and conditions are not inconsistent with
169 provisions of this Agreement or law.

170
171 (b) Both parties understand that due to public health, safety, and
172 wellbeing Employee's work schedule is subject to 24/7/365 duties. Accordingly, City
173 acknowledges that Employee may from time to time not be available during established
174 normal hours of City operation (M-F 8AM – 4:30 PM). Conversely, Employee agrees to
175 be available via cell phone or radio at all times. The Employee is eligible to
176 telecommute as City and Department demands and works schedule can accommodate
177 subject to approval by the City Manager.

178
179 **9. GENERAL EXPENSES.**

180
181 City encourages professional development and engagement with
182 Employees peers and professional associations and recognizes and agrees to pay the
183 job-related expenses incurred by Employee in the course of his duties as approved by
184 the City Manager.

185
186 **10. NOTICES.**

187

188 Any notices required by this Agreement shall be in writing and either given
189 in person or by first class mail with postage prepaid and addressed as follows:

190
191 TO CITY: City Manager
192 City of Calistoga
193 1232 Washington Street
194 Calistoga, CA 94515

195
196 TO EMPLOYEE: Mitchell Celaya
197 Address on file with Human Resources

198
199 **11. ATTORNEY'S FEES.**

200
201 In the event of any mediation, arbitration or litigation to enforce any of the
202 provisions of this Agreement, each party shall bear its own attorney's fees and costs.
203

204 **12. ENTIRE AGREEMENT.**

205
206 This Agreement is the final expression of the complete agreement of the
207 parties with respect to the matters specified herein and supersedes all prior oral or
208 written understandings. Except as prescribed herein, this Agreement cannot be
209 modified except by written mutual agreement signed by the parties.
210

211 **13. ASSIGNMENT.**

212
213 This Agreement is not assignable by either City or Employee.
214

215 **14. SEVERABILITY.**

216
217 In the event that any provision of this Agreement is finally held or
218 determined to be illegal or void by a court having jurisdiction over the parties, the
219 remainder of the Agreement shall remain in full force and effect unless the parts found
220 to be void are wholly inseparable from the remaining portion of the Agreement.
221

222 **15. EFFECTIVE DATE.**

223
224 This Agreement shall be deemed effective on the Effective Date.
225

226 IN WITNESS WHEREOF, the City has caused this Agreement to be signed and
227 executed on its behalf by its Mayor. It has also been executed by the Employee on the
228 date first above written.
229

CITY OF CALISTOGA

EMPLOYEE

By: _____
City Manager

By: _____
Mitchell Celaya