

**Town of Yountville**  
**Resolution Number 15-3293**

**Approving Revised Employment Agreement with Steven R. Rogers as Town Manager and Authorizing the Mayor to Execute the Agreement on Behalf of the Town of Yountville**

**Recitals**

- A. The Town Council adopted Resolution Number 2600-07 approving Employment Agreement 2007-195 with Steven Rogers for employment with the Town of Yountville as Town Manager on August 22, 2007.
- B. Steven Rogers commenced employment with the Town as Town Manager on October 8, 2007.
- C. The Town Council amended the Employment Agreement 2007-195 by approving a First Amendment to the Employment Agreement and memorializing such action by adopting Resolution Number 2728-08.
- D. The Town Council further amended the Employment Agreement 2007-195 by approving a Second Amendment to the Employment Agreement and memorializing such action by adopting Resolution Number 2869-10.
- E. The Town Council further amended the Employment Agreement 2007-195 by approving a Third Amendment to the Employment Agreement and memorializing such action by adopting Resolution Number 3039-12.
- F. The Town Council continues to desire to employ the services of Steven Rogers as the Town Manager.
- G. Both the Town Council and the Town Manager desire to revise the entire Agreement 2007-195 to continue the main provisions of the prior agreement in a revised format.
- H. Town Council appointed Mayor John Dunbar and Councilmember Marjorie Mohler to serve as its Labor Negotiators to discuss terms with Town Manager Steven R. Rogers.
- I. The Town Council and Steven R. Rogers have reached agreement on the terms for the revised Employment Agreement.

**Now therefore, the Town Council of the Town of Yountville does resolve as follows:**

- 1. Approve the revised Employment Agreement with Steven R. Rogers as Town Manager, a copy of which is attached hereto and made a part of this Resolution and set forth in Exhibit A; and
- 2. The Mayor is hereby authorized to execute the Employment Agreement; and
- 3. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

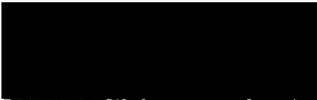
**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Yountville, State of California, held on this 6<sup>th</sup> day of October, 2015 by the following vote:

AYES: Mohler, Hall, Durham and Dunbar  
NOES: None  
ABSENT: Dorenbecher  
ABSTAIN: None



*John F. Dunbar*, Mayor

ATTEST:



Michelle Dahme  
Town Clerk

**EXHIBIT "A"**

EMPLOYMENT AGREEMENT  
BETWEEN THE  
TOWN OF YOUNTVILLE  
AND  
STEVEN R. ROGERS

RECITALS

The Town of Yountville and Steven R. Rogers initially entered into an agreement to employ Rogers as Town Manager effective as of October 8, 2007 (Resolution 2600- 07 approving Employment Agreement 2007-195) and subsequently amended three (3) times in the last eight (8) years by Resolution 2718-08 on November 18, 2008, Resolution 2869-10 on March 16, 2010 and Resolution 3039-12 on July 17, 2012; and

Now at this time the Town Council and Steven R. Rogers mutually would like to continue the relationship entered into with Employment Agreement 2007-195 but update and consolidate the Employment Agreement and Amendments into a more contemporary agreement.

AGREEMENT

1. **Employment:**

This Town Manager Employment Agreement (Agreement) is entered into by and between the TOWN OF YOUNTVILLE (Town) and STEVEN RAY ROGERS (Manager), collectively referred to as "the parties". Under this Agreement, the Town offers, and Manager accepts, to continue employment as Town Manager of the Town.

2. **Duties:**

Manager shall perform those duties and have those responsibilities as set forth in the Yountville Municipal Code, particularly Chapter 2.08, of and the applicable provisions of Government Code that are commonly assigned to a Town or City Manager of a town or city in California. The Town Council may from time to time assign, and Manager shall perform, such other legally permissible and proper duties, functions, and conditions consistent with the office of Town Manager, as the Town Municipal Code, and all other applicable law. Town Manager is an International City/County Management Association (ICMA) Full Member and is obligated to perform duties in manner consistent with the ICMA Code of Ethics.

**3. Devotion to Town Business:**

Manager's position is full-time. Manager shall not engage in any business, educational, professional, charitable, or other activities that would conflict or materially interfere with performance of his Town Manager duties, except as may be specifically authorized by the Town Council.

**4. Term:**

Manager's employment commenced October 8, 2007 and shall continue until termination by the parties in accordance with provisions in this Agreement.

**5. Town Council Commitments:**

A. Except for the purpose of inquiry, the Town Council and its members shall deal with all subordinate Town employees, officers, contractors, and consultants solely through the Manager or the Manager's designee, and neither the Town Council nor any member thereof shall give direction to any subordinate of the Manager, either publicly or privately. For purposes of this Agreement, "subordinate Town Employees, officers, contractors, and consultants" does not include the Town Attorney.

B. No member of the Town Council will order the appointment or removal of any person to any office or employment under the supervision and control of the Manager.

C. Neither the Town Council nor any of its members shall interfere with the execution of the powers and duties of the Manager, as specified in the Municipal Code, this Agreement, or any other lawfully adopted and authorized document.

**6. Termination of Employment and this Agreement; General Release; Severance:**

A. If Town terminates this Agreement (thereby terminating Manager's employment) without Cause, as determined by the affirmative votes of a majority of the members of the Town Council at a Regular Meeting of the Town Council, and if Manager signs, delivers to the Town Council, and does not revoke, the General Release Agreement ("Release Agreement") in the form attached hereto as Exhibit A, Town shall pay Manager a lump sum benefit equal to six (6) months of his Base Salary as of the date of termination, and shall provide six (6) months of health (medical, dental, and vision) benefits continuing under the benefit plans in which Manager and his dependents are then enrolled (the cash payment and continuing benefits, collectively "Severance").

B. If Town terminates this Agreement (thereby terminating Manager's employment) with Cause, as determined by the affirmative votes of a majority of the members of the Town Council at a Regular Meeting of the Town Council, Manager shall not be entitled to any additional compensation or payment, including Severance, but shall be entitled only to accrued Base Salary and vacation pay, and any other accrued and unused benefit allowances according to their terms ("Accrued Salary and Benefits"). As used in this Agreement, Cause shall only mean any of the following:

1. Conviction of, or plea of guilty or nolo contendere to, any crime or offense (other than minor traffic violations or similar offenses) involving moral turpitude, or which is likely to have a material adverse impact on the Town or on the Manager's reputation;
2. Proven failure of the Manager to observe or perform any of his duties and obligations, if that failure continues for a period of thirty (30) business days from the date of his receipt of notice from the Town Council specifying the acts or omissions deemed to amount to that failure;
3. Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4;
4. A proven claim of either sexual harassment or abuse of employees in violation of law or adopted Town policy;
5. Repeated failure to carry out a directive or directives of the Town Council made by the Town Council as a body at a Brown Act-compliant meeting; and
6. Any willful or grossly negligent action or inaction by Manager that materially and adversely: (a) impedes or disrupts the operations of Town or its organizational units; (b) is detrimental to employees or public safety; or (c) violates Town's properly-established rules or procedures.

C. In no event may Manager be terminated within ninety (90) days before or after any municipal election for the selection or recall of one or more of the members of the Town Council.

D. If, during the Term or any extended Term, Manager dies, Manager's estate shall receive Accrued Salary and Benefits, but shall not be entitled to any additional compensation or payment, including Severance.

E. In the event Manager is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, or mental incapacity for a period of three consecutive months beyond any provided sick leave, the Town may terminate Manager's employment and this Agreement.

F. Manager may resign from his employment at any time, upon giving a minimum of thirty (30) days written notice to the Town Council. Manager agrees not to resign from position during the months of May and June unless the new fiscal budget has been prepared and approved.

G. No provision of this Agreement or Town employment policy shall confer upon Manager a property right in his employment or a right to be discharged only upon cause. Manager is an at-will employee serving at the pleasure of the Town Council and may be dismissed at any time with or without cause, subject only to the provisions of this Agreement.

**7. Compensation and Annual Evaluation:**

A. Manager shall receive a salary of \$185,496.84 effective as of the most recent anniversary of employment. This is based upon Council's most recent performance review and marketplace comparison, during which the Council determined a merit based salary step increase in the amount of three percent (3%) is warranted. Said amount shall be payable in monthly or bi-weekly installments at the same time and in the same manner as other employees of the Town are paid. Increases in Manager's Base Salary may be effective at any time in the sole discretion of the Town Council. Manager is exempt from overtime pay.

B. Town, by the Town Council, and Manager may set mutually-agreed-upon objectives for each year under this Agreement. The Town Council shall evaluate Manager's performance at least once a year commencing not later May 31<sup>st</sup> each year.

C. The Town Council may, in its sole discretion, grant Manager a Performance Bonus based on the overall results of the Annual Evaluation performance review in the manner outlined below:

- a) \$7,500 if annual performance evaluation is "Exceeds Expectations" (rating of 4.0 or higher).
- b) \$4,000 if annual performance evaluation is "Meets Expectations" (rating of 3.0 or higher).
- c) No additional compensation if rating is below a 3.0.

- d) If Town Council fails to complete a timely performance evaluation, the Town Manager's shall be deemed to Meet Expectations until such time as the Town Council completes an evaluation.
- e) This additional salary compensation shall be paid annually on a "one-time" basis the first payroll period of June. This additional compensation shall be paid as salary but shall not build upon or increase the base salary amount.
- f) The Town Manager at his option may refuse all or a portion of this additional salary compensation if Town Manager determines the fiscal state of the Town warrants said action.

D. Whenever a cost of living adjustment or other non-merit based salary increase is provided to other management employees, the Town Council shall grant a similar increase to the Town Manager's Base Salary upon the written request of the Town Manager.

E. Manager's Base Salary increases approved in future by the Town Council from time to time pursuant to this Agreement shall not require an amendment to this Agreement to be effective. Such may be set forth in an annual salary resolution or minute action approved by the Town Council and ratified by resolution.

F. If the Town reduces the Base Salary or any other financial benefit of the Manager in a percentage that is greater than the average reduction of all department heads, such action shall constitute a termination of this Agreement without Cause under Section 6.A. of this Agreement, and Manager shall be entitled to Severance.

**8. Deferred Compensation:**

As part of Manager's annual compensation, Town agrees to provide a Section 457 deferred compensation program which will be administered by the International Town Management Association – Retirement Corporation (ICMA-RC), and to pay into such program for Manager's benefit the maximum annual contribution on a bi-weekly basis as permitted under the Internal Revenue Code.

**9. Pension:**

A. Town agrees to enroll Manager as a member of the Public Employees Retirement System (PERS) in the PERS (2.7% at 55) plan. Effective as of July 1, 2012 and continuing, Manager shall contribute 8% employee share of retirement contribution to the Public Employees Retirement System as contracted by the Town with the State of California.

B. Town shall also provide Manager with the same PERS and ICMA-RHS retiree health coverage as set forth in Town Resolutions affecting other management employees.

**10. Health and Medical Benefits Insurance:**

Town shall provide Manager with the same health plans (medical, dental, and vision) which are provided to other Town employees, and shall pay that portion of the employee and dependent rate or premium as is determined by the Town Council for all management employees consistent with terms and provisions with his October 8, 2007 date of hire.

**11. Life Insurance:**

The Town agrees to pay for a term life insurance policy in the same manner which is provided to other management employees. Manager shall designate the beneficiaries of the policy. Manager shall also be entitled to participate in any group life or disability insurance programs approved by the Town Council for all employees. Manager is also provided with \$100 per month towards additional life insurance coverage purchased directly by the Manager.

**12. Car Allowance:**

Manager's duties require him to be available and to respond to the demands of Town business at all times and outside of regular business hours, including weekends. Town shall pay Manager Six Hundred Dollars (\$600.00) monthly in compensation for the use and maintenance of his personal vehicle on Town business.

**13. Technology Stipends:**

A. Town shall pay Manager Seventy-Five Dollars (\$75.00) monthly as a cellular telephone stipend. Manager may receive increased amount as may be provided to other management employees in future.

B. Manager is eligible to participate in Town's Technology Stipend Program to support paperless agendas in same manner as Town Council Members and other Management Team members.

{Historical Note: Current Stipend amount is \$1,800 per three (3) year time period. Manager shall pay for the purchase, installation, and maintenance of compatible computer equipment (hardware, software and internet access).}

**14. Business and Professional Expenses:**

A. Town recognizes that Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to Manager's service to Town. Town agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to Town's normal expense reimbursement procedures or such other procedure as may be designated by the Town Council. 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.

B. Town agrees to pay the professional dues and subscriptions on behalf of Manager which are necessary for Manager's continuation or full participation in international, national, regional, state, or local associations and organizations necessary and desirable for Manager's continued professional participation, growth and advancement, or for the good of the Town., in an amount up to Three Thousand Five Hundred Dollars (\$3,500.00) per year.

C. Town agrees to pay Manager's travel and subsistence expenses for official travel, meetings, and occasions reasonably necessary to continue Manager's professional development, and for Manager's reasonable participation in necessary official and other functions for the Town; including, but not limited to, national, regional, state, and local conferences, and governmental groups and committees on which Manager serves as a member. Notwithstanding the above, the number of conferences or meetings Town will pay for each year, and attendance at out-of-state conferences and meetings, shall be at the discretion of the Town Council as set forth in the Town's budget.

**15. Vacation, Sick Leave and Administrative Leave:**

A. Vacation Leave: Manager shall accrue vacation leave at the rate of twenty-five (25) paid days each year subject to the same rules and conditions that govern other management employees regarding accumulation of vacation leave time and payment for unused vacation time at separation. During the Term of this Agreement Manager may accumulate vacation leave up to a maximum of 360 hours of vacation leave in manner applicable to other employees.

B. Administrative Leave: Manager shall devote his full time to this position and shall not be eligible for any overtime compensation. In lieu of any overtime compensation, Manager shall be provided with eighty (80) hours of administrative leave per year annually with first pay period

in July as partial reimbursement for attending evening and weekend meetings, activities, and other events requiring Manager's attention. Annually, by June 30 of each year, the Town may buy back fifty percent (50%) of Manager's accrued unused leave time up to a maximum of 40 hours. Any balance shall be applied to Town Manager's accrued administrative leave balance. Upon separation, all accrued leave balance shall be paid to Manager

C. Sick Leave: Manager shall accrue sick leave at a rate of twelve (12) paid days each calendar year. Accumulated sick leave has no value upon termination or separation except for in the case of a retirement from the PERS system where the Manager may convert the equivalent amount of sick leave to retirement credit in accordance with PERS rules and regulations in the same manner as other employees.

**16. Abuse of Office or Position:**

If Manager is convicted of a crime involving an abuse of his office or position, all of the following shall apply: (a) if Manager is provided with administrative leave pay pending an investigation, Manager shall be required to fully reimburse Town such amounts paid; (b) if Town pays for the criminal legal defense of Manager (which would be in its sole discretion, as it is generally not obligated to pay for a criminal defense), Manager shall be required to fully reimburse Town such amounts paid; and (c) if this Agreement is terminated, Manager shall be required to fully reimburse Town for any Severance Pay and Severance Benefits related to the termination that Manager may receive from Town or such payments shall be void if not yet paid to Manager. For purposes of this Section, abuse of office or position means either: (x) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (y) a crime against public justice.

**17. Enforcement of this Agreement:**

The prevailing party in any action brought to enforce this Agreement or to resolve any dispute or controversy arising under its terms and conditions, shall be entitled to payment of hisits reasonable attorneys' fees and costs.

**18. Communications Upon Manager's Separation:**

In the event the Town terminates the Manager for any reason or no reason, the Town and the Manager agree that no member of the Town Council, the Town Management staff, nor the Manager, shall make any written, oral or electronic statement to any member of the public, the press, or any Town employee concerning the Manager's termination except in the form of a

joint press release or statement, the content of which is mutually agreeable to the Town and the Manager. The joint press release or statement shall not contain any text or information that is disparaging to either party. Either party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

**19. Indemnification:**

Consistent with the California Government Code, Town shall defend, hold harmless, and indemnify Manager using legal counsel of Town's choosing, against expense or legal liability for acts or omissions by Manager occurring within the course and scope of Manager's employment under this Agreement as required by Government Code Sections 825 and 995. Legal representation, provided by Town for Town Manager, shall extend until a final determination of the issues including any and all losses, damages, judgments, interest, settlements, fines, court costs, and the reasonable costs and expenses of legal proceedings, including appeals, and including attorneys' fees, and expert witness fees and all other trial and appellate costs, and other liabilities incurred, imposed upon, or suffered by Manager in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened. In the event there is a conflict of interest between Town and Manager such that independent counsel is required for Manager, Manager may engage his own legal counsel, in which event Town shall indemnify Manager, including direct payment of all such reasonable costs related thereto.

**20. Notices:**

Any notices to be given hereunder by either party to the other in writing may be effected either by personal delivery, mail, or email. Mailed notices shall be addressed to the parties as set forth below, but each party may change his/her/its address by written notice given in accordance with this Section. Notices delivered personally or by email 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.

TOWN:           Town of Yountville  
                    Attention: Mayor  
                    6550 Yount Street  
                    Yountville, CA 94599

MANAGER: Steven Ray Rogers  
P.O. Box 3475  
Yountville, CA 94599

With a courtesy copy to:

Michael R. Cobden, Esq.  
Yountville Town Attorney  
420 Sierra College Drive, Ste. 140  
Grass Valley, CA 95945-5091

**21. Conflict with Town Municipal Code:**

The Town personnel ordinances, resolutions, rules and policies shall apply to Manager in the same manner as applied to other management employees, provided, however, in the event of a conflict between the provisions of this Agreement and the Municipal Code, the Municipal Code shall prevail over this Agreement.

**22. Entire Agreement:**

This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Manager by Town, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein, and that no other employment agreement, statement, or promise not contained in this Agreement shall be valid or binding upon either party.

**23. Modifications:**

Any modifications to this Agreement shall be effective only if in writing and signed by both of the parties hereto.

**24. Effect of Waiver:**

The failure of either party to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

**25. Partial Invalidity:**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

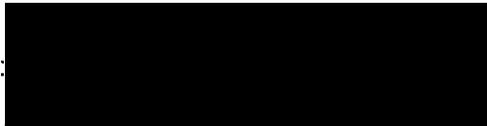
**26. Governing Law:**

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

This Agreement is entered into this 8th day of October, 2015.

TOWN OF YOUNTVILLE

By:



John F. Dunbar, Mayor



Steven R. Rogers, Manager

Attest:



Michelle Dahme, Town Clerk

Approved as to Form:



Michael R. Cobden, Town Attorney