

**AT-WILL EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF SANTA ROSA AND JEFFREY KOLIN**

**ACTING CITY MANAGER – TEMPORARY EXTRA HELP
(Pursuant to Gov. Code. § 21224)**

THIS **AGREEMENT** is between the CITY OF SANTA ROSA (“City”), and JEFFREY KOLIN (“Kolin”). The parties agree as follows:

RECITALS

A. Santa Rosa City Manager Sean McGlynn will be out of the office and unavailable for the period of May 29, 2021 to June 28, 2021;

B. City desires to provide continuity in critical City Manager services during that absence;

C. City is therefore seeking an individual with the knowledge, skills, and abilities to temporarily hold the position of Acting City Manager - Temporary Extra Help during Mr. McGlynn’s absence from May 29, 2021 through June 28, 2021;

D. Government Code section 21244 permits public entities to employ, subject to specified limitations, a CalPERS retired annuitant when the retired annuitant has specialized skills needed in performing work of limited duration;

E. Kolin is uniquely qualified and has the requisite specialized skills, training, and experience to serve as Acting City Manager - Temporary Extra Help for the City, including training and experience relating to expediting emergency response and recovery for the City;

F. City desires to employ the specialized services of Kolin as Acting City Manager – Temporary Extra Help pursuant to Government Code section 21224 and in consideration of and subject to the terms, conditions, and benefits set forth in this Agreement;

G. Kolin desires to accept temporary employment as Acting City Manager - Temporary Extra Help pursuant to Government Code section 21244 and in consideration of and subject to the terms, conditions and benefits set forth in this Agreement;

H. Kolin represents that he is a retired annuitant of the California Public Employees’ Retirement System (“CalPERS”) within the meaning of Government Code §21224 as of the effective date of this Agreement. Kolin represents that he retired from the CalPERS system at least 180 days prior to the effective date of this Agreement. Kolin acknowledges that, absent Governor Newsom’s Executive Order N-25-20 relating to ensuring adequate staffing to expedite emergency response and recovery, he would otherwise be restricted to working no more than a

combined 960 hours for City, a state agency, or other CalPERS contracting agencies (collectively “CalPERS Agencies”) during City’s 2020-2021 fiscal year, or for any additional or subsequent fiscal year, and that his compensation is statutorily limited as provided in Government Code §21224. Kolin represents that he has not received any unemployment compensation from any CalPERS Agencies during the 12-month period preceding the effective date of this Agreement, that he has not received a retirement incentive upon retirement with the meaning of Government Code §7522.56(g), and that he has attained normal retirement age within the meaning of Government Code §21220.5.

I. This Agreement was approved by the City Council at a regular meeting held on May 25, 2021.

OPERATIVE PROVISIONS

In consideration of the promises, representations and conditions contained herein, the parties agree as follows:

1. Appointment as Acting City Manager – Temporary Extra Help

The City hereby agrees to temporarily employ Kolin as Acting City Manager – Temporary Extra Help for the City subject to the terms, conditions and provisions of this Agreement. Kolin hereby accepts such employment.

2. Status and Term of Agreement

(a) This Agreement commences and is effective May 29, 2021 (“Commencement Date”). This Agreement shall expire at the earlier of: (i) midnight on June 28, 2021; or (ii) upon termination of the Agreement by either Kolin or City as provided in Section 4 of this Agreement.

(b) Kolin acknowledges that he is an at-will employee of City who shall serve at the pleasure of the City Council at all times during the period of his service. The terms of the City’s personnel rules, policies, procedures, ordinances, resolutions, or Municipal Code (collectively “Personnel Policies”) shall not apply to Kolin to the extent such Personnel policies conflict with this Agreement.

(c) Kolin shall serve for a definite term at the pleasure of the City Council and shall be considered an at-will employee of the City in the capacity of retired annuitant, commencing on May 29, 2021.

(d) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the employment of Kolin at any time for any lawful reason.

(e) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Kolin to resign at any time from his position with the City.

3. Duties and Responsibilities

- (a) City agrees to employ Kolin as an Acting City Manager – Temporary Extra Help of the City to perform the functions and duties of the City Manager as those functions and duties are set forth in the Santa Rosa City Charter.
- (b) Kolin agrees to devote his productive time, ability and attention to the City's business during the term of this Agreement. Kolin shall not hold secondary employment, and shall be employed exclusively by the City, but shall be able to engage in occasional writing or consulting services performed on Kolin's time off, and with the advance approval of the City Council.
- (c) Kolin shall not engage in any activity which is or may become a conflict of interest, prohibited by contract, or which may create an incompatibility of office as defined under California law. Prior to performing any services under this Agreement and annually thereafter, Kolin must complete disclosure forms as required by law.

4. Resignation and Termination

- (a) Kolin may resign at any time with or without cause and agrees to give City at least thirty (30) days advance written notice of the effective date of his resignation unless parties mutually agree otherwise.
- (b) City may at any time terminate Kolin, with or without cause.

5. Salary and Benefits

- (a) City agrees to pay Kolin for his services rendered pursuant to this Agreement at the rate of \$106.82 per hour, which is equivalent to, and does not exceed, the maximum base salary paid to other employees performing comparable duties, as listed in the City's salary schedule. All salary payments to Kolin shall be payable in installments at the same time as other employees of the City are paid and subject to the customary withholding. The City shall not pay or provide to Kolin any other benefit, incentive, compensation in lieu of benefits, or other form of compensation.
- (b) Kolin will record and report to City all hours worked for City as may be required for purposes of payroll and CalPERS compliance. Additionally, Jeffrey Kolin shall keep City continually informed of any hours worked by him for other CalPERS Agencies during the term of this Agreement. Kolin shall not work more than 960 cumulative hours per fiscal year for all CalPERS Agencies combined, except as otherwise allowed under Governor Newsom's Executive Order N-25-20, dated March 12, 2020.
- (c) Pursuant to Government Code §21224 and related CalPERS regulations and policy statements, Jeffrey Kolin shall not receive from City any benefits City commonly provides to its employees, including without limitation health, dental, or vision

insurance coverage, life insurance, employee assistance programs, and similar benefits.

(d) City shall reimburse Kolin for any reasonable direct business expenses incurred in the course of his employment.

6. Notices

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

<p>TO CITY:</p> <p>Sue Gallagher, City Attorney City of Santa Rosa 100 Santa Rosa Avenue Santa Rosa, CA 95404</p>	<p>TO EMPLOYEE:</p> <p>Jeffrey Kolin</p>
---	--

7. Entire Agreement

This Agreement is the final expression of the complete agreement of the parties with respect to the matters specified herein and supersedes all prior oral and written understandings and agreements, and, except as prescribed herein, this Agreement cannot be modified except by written mutual agreement signed by the parties.

8. No Assignment, No Third-Party Beneficiaries

This Agreement is not assignable by either City or Kolin. Nothing in this Agreement shall be construed to create the parties do not intend to create any rights in third parties.

9. Severability, Applicable, Law, and Interpretation

In the event that any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the parties, the remainder of this Agreement shall remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of this Agreement. Any dispute concerning this Agreement shall be governed by the laws of the State of California. This Agreement shall be construed under the laws of the State of California in effect at the time of signing of this Agreement. The parties consent to the jurisdiction of the California courts with venue in Sonoma County.

10. Construction

To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulations, or law.

This Agreement has been negotiated between City and Kolin. City and Kolin acknowledge that they have each contributed to the making of this Agreement and that in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. City and Kolin acknowledge that they have each had an adequate opportunity to consult with their own legal counsel in the negotiation and preparation of this Agreement.

11. Counterparts

This Agreement shall be executed simultaneously in two counterparts, which shall be identified by number of each of which shall be deemed an original, but all of which together shall constitute one and the same.

JEFFREY KOLIN

CITY OF SANTA ROSA

Jeffrey Kolin

Chris Rogers, Mayor

APPROVED AS TO FORM:

City Attorney