

ADOPTED BY  
MAYOR AND COUNCIL

August 6, 2019

ORDINANCE NO. 11673

RELATING TO THE TUCSON POLICE DEPARTMENT; APPROVING AMENDMENT NO. 1 TO THE EMPLOYMENT AGREEMENT WITH CHRISTOPHER J. MAGNUS AS THE CITY OF TUCSON CHIEF OF POLICE; AND DECLARING AN EMERGENCY.

WHEREAS, on or about November 7, 2015, the Mayor and Council approved Ordinance No. 11323, appointing Christopher J. Magnus as Chief of Police for the City of Tucson; and

WHEREAS, on or about May 22, 2108, the Mayor and Council adopted Ordinance No. 11553, approving the Employment Agreement relating to the terms and conditions of the Chief's employment; and

WHEREAS, the Mayor and Council now desire to amend one provision of the Employment Agreement:

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

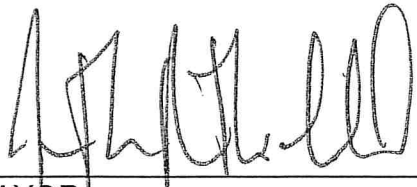
SECTION 1. The Mayor and Council approve the Amendment No. 1 to City of Tucson Chief of Police Employment Agreement with Christopher J. Magnus, Chief of Police for the City of Tucson, attached as Exhibit A.

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SECTION 2. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 3. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist and this ordinance shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED BY THE Mayor and Council of the City of Tucson, August 6, 2019.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED BY:

  
\_\_\_\_\_  
CITY ATTORNEY

REVIEWED BY:

  
\_\_\_\_\_  
CITY MANAGER

MR:dg

**AMENDMENT NO. 1 TO  
CITY OF TUCSON CHIEF OF POLICE EMPLOYMENT AGREEMENT**

This amendment no. 1 (“Amendment No. 1”) to the City of Tucson Chief of Police Employment Agreement (“Agreement”), is entered into by and between the City of Tucson, Arizona (“City”), a municipal corporation of the State of Arizona, acting by and through its Mayor and Council, and Christopher J. Magnus, Chief of Police of the City of Tucson. As used herein, “City” shall refer to the City of Tucson, and “Chief” shall refer to Christopher J. Magnus. The City and the Chief [collectively, “Parties”] agree as follows:

**RECITALS**

A. On or about November 17, 2015, the City’s Mayor and Council adopted Ordinance No. 11323 (“Ordinance”), appointing Christopher J. Magnus as Chief of Police for the City of Tucson (“Chief Magnus”). Ordinance No. 11323 established the Chief’s initial compensation, and the City’s annual employer contribution to the Chief’s deferred compensation account.

B. On or about May 22, 2018, the Mayor and Council adopted Ordinance No. 11553, approving the City of Tucson Chief of Police Employment Agreement (“Agreement”), which established terms and conditions under which Chief Magnus would perform the duties of Chief, including compensation and benefit provisions.

C. The City now desires through this Amendment No. 1 to amend one section of the Agreement [Section 6(B)] relating to the payment of unused accumulated sick leave to the Chief at the time of his separation from City employment.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged and in consideration of the foregoing Recitals, which are incorporated herein as the purpose and intent of the Parties in entering into this Agreement, and in consideration of the mutual covenants and obligations contained in the Agreement and this Amendment No. 1, the Parties agree as follows:

**AGREEMENT**

1. Section 6(B) of the Agreement is amended to read as follows:

**Section 6. Vacation and Sick Leave**

\* \* \*

B. Notwithstanding his actual years of continuous service, the Chief shall accrue sick leave per pay period at the highest rates established for permanent full time commissioned police employees as provided in Section 22-90(2) of the Code, which upon the effective date of this Agreement is 6 hours, 10 minutes per pay period [20 days, 20 minutes per year]. Sick leave will otherwise continue to accrue to the Chief in the manner provided to other City employees,

meaning that there will be no limit to the amount of sick leave the Chief may accrue. Except as provided under subsection 6(C) below, upon separating from City service, the Chief will be paid his accrued sick leave, on an hour per hour basis, as follows:

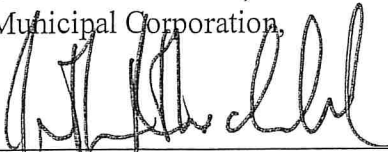
Date of Separation	Percentage of Sick Leave Paid
8/7/19 through 12/31/19	50%
1/1/20 through 12/31/20	75%
1/1/21 or later	100%

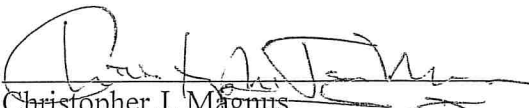
\* \* \*

2. Except as amended in paragraph 1 above, the terms and conditions of the Agreement shall remain in full force and effect, and are not altered or modified by this Amendment No. 1.

IN WITNESS WHEREOF, the fully authorized representatives of the Parties have executed this Agreement on this 6th day of August, 2019.

CITY OF TUCSON, an Arizona  
Municipal Corporation.


  
\_\_\_\_\_  
Jonathan Rothschild  
MAYOR

  
\_\_\_\_\_  
Christopher J. Magnus  
Chief of Police, City of Tucson

ATTEST:

  
\_\_\_\_\_  
CITY CLERK  
Roger W. Randolph

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY

Magnus

ADOPTED BY  
MAYOR AND COUNCIL

May 22, 2018

ORDINANCE NO. 11553

RELATING TO THE TUCSON POLICE DEPARTMENT; APPROVING THE EMPLOYMENT AGREEMENT WITH CHRISTOPHER J. MAGNUS AS THE CITY OF TUCSON CHIEF OF POLIC; AND DECLARING AN EMERGENCY.

WHEREAS, on or about November 7, 2015, the Mayor and Council approved Ordinance No. 11323, appointing Christopher J. Magnus as Chief of Police for the City of Tucson; and

WHEREAS, the Mayor and Council now desire to approve the attached Employment Agreement relating to the terms and conditions of the Chief's employment:

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

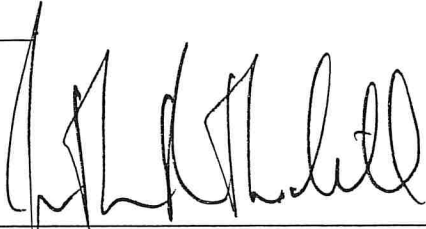
SECTION 1. The Mayor and Council approve the Employment Agreement with Christopher J. Magnus, Chief of Police for the City of Tucson, attached as Exhibit A.

SECTION 2. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

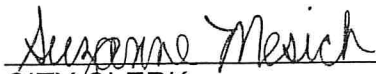
SECTION 3. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this ordinance become immediately

effective, an emergency is hereby declared to exist and this ordinance shall be effective immediately upon its passage and adoption.

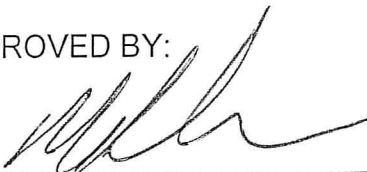
PASSED, ADOPTED, AND APPROVED BY THE Mayor and Council of the City of Tucson, May 22, 2018

  
\_\_\_\_\_  
MAYOR

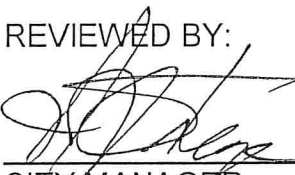
ATTEST:

*for*   
\_\_\_\_\_  
CITY CLERK

APPROVED BY:

  
\_\_\_\_\_  
CITY ATTORNEY

REVIEWED BY:

  
\_\_\_\_\_  
CITY MANAGER

MR:dg  
5/14/18

## CITY OF TUCSON CHIEF OF POLICE EMPLOYMENT AGREEMENT

This agreement ("Agreement"), is entered into by and between the City of Tucson, Arizona ("City"), a municipal corporation of the State of Arizona, acting by and through its Mayor and Council, and Christopher J. Magnus, Chief of Police of the City of Tucson. As used herein, "City" shall refer to the City of Tucson, and "Chief" shall refer to Christopher J. Magnus. The City and the Chief [collectively, "Parties"] agree as follows:

### RECITALS

- A. On or about November 17, 2015, the City's Mayor and Council adopted Ordinance No. 11323 ("Ordinance"), appointing Christopher J. Magnus as Chief of Police for the City of Tucson. Ordinance No. 11323 established the Chief's initial compensation, and the City's annual employer contribution to the Chief's deferred compensation account.
- B. By operation of Arizona statute, the Chief is a member of the Public Safety Personnel Retirement System ("PSPRS"). As a Tier 2 PSPRS member, the Chief will not vest in a PSPRS defined benefit pension unless and until the Chief accumulates fifteen (15) years of credited service in PSPRS. Given the nature and demands of the Chief's position with the City, the Chief has advised the City that he is not likely to remain with the City until he would vest in a Tier 2 PSPRS defined benefit pension and the City understands the Chief's likely tenure with the City.
- C. As a member of PSPRS, the Chief is ineligible to become a member of the Tucson Supplemental Retirement System ("TSRS").
- D. Pursuant to the Tucson Code ("Code") and the City's Leave Benefit Plan, City employees who are PSPRS members and who separate from the City by a method other than a PSPRS retirement are fully compensated for unused accumulated vacation hours at the employee's base rate of pay at the time of separation, but receive no compensation for unused accumulated sick leave; whereas PSPRS members who separate from the City by a PSPRS retirement are compensated for unused accumulated sick leave at a rate established in the Code. Because the Chief, as acknowledged by the Parties above, will likely never be in a position to retire under PSPRS, he will not be compensated for his unused accumulated sick leave upon his separation from the City unless the Parties agree otherwise.
- E. The Parties' purpose in executing this Agreement is to establish terms and conditions under which: (1) the City will fund alternative tax-qualified retirement benefits for the Chief, in recognition of the fact that the Chief is not likely to vest in a PSPRS retirement benefit; (2) the Parties define the conditions that apply to alternative retirement benefits to be funded by the City for the Chief; and (3) the City will make payment of unused accumulated sick leave to the Chief at the time of his separation from City employment.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged and in consideration of the foregoing Recitals, which are incorporated herein as the purpose and intent of the Parties in entering into this Agreement, and in

consideration of the mutual covenants and obligations contained in this Agreement, the Parties agree as follows:

## **AGREEMENT**

### **Section 1. Scope and Purpose**

The purpose of this Agreement is to set forth the basic terms and conditions under which Christopher J. Magnus shall continue to perform the duties of Chief for and on behalf of the City as set forth in the Ordinance, including the compensation and fringe benefit provisions relating to his position as Chief. Any provision of the Ordinance which is not specifically modified pursuant to this Agreement shall remain in full force and effect.

### **Section 2. Term**

This Agreement shall commence on June 1, 2018 (the "Effective Date"), and shall be a continuing agreement by and between the City and the Chief which shall remain in full force and effect while the Chief remains employed by the City in his current position. This Agreement does not affect or modify the effective date of the appointment of the Chief as provided under Section 1 of the Ordinance.

### **Section 3. Salary**

The Chief's base compensation shall be \$210,000.00 per year, payable in bi-weekly installments at the same time as other City employees. The Chief shall receive any cost of labor adjustment granted to other full time City employees who are exempt commissioned police officers.

### **Section 4. Benefits; Deferred Compensation; ICMA-RC**

#### **A. Health, Medical, Dental, Disability and Life Insurance Benefits**

City shall provide the Chief with such group health, medical, dental, disability, life insurance and other coverages in the same manner and under the same terms as are available to other City public safety employees.

#### **B. Deferred Compensation**

Commencing with the 2018 calendar year and continuing during the term of this Agreement, the City will contribute, as deferred compensation on behalf of the Chief and in lieu of the annual deferred compensation awarded pursuant to the Ordinance, the following amounts to the City's ICMA-RC 401(a) Plan [Plan #107425, hereafter "401(a) Plan"]:

Annual employer contributions equal to the Internal Revenue Code ("IRC") Section 457(b)(2)(A) annual dollar limitation plus the IRC Section 414(v)(2) annual dollar limitation on age 50 catch up contributions, both as adjusted for cost of living increases (at time of Effective Date, this amount is \$24,500 for calendar year 2018).



All deferred compensation amounts identified in this Section will be calculated on a calendar year basis and will be contributed by the City to the 401(a) Plan in prorated bi-weekly installments beginning as soon as practicable after the Effective Date and each January 1 thereafter. All deferred compensation contribution obligations called for pursuant to this Section 4(B) shall terminate as of the bi-weekly payroll period which includes the earlier of (1) the Chief's termination from his current position with the City; or (2) the effective date of the Chief's separation from service with the City, regardless of the reason for the termination of the Chief's services to the City. As a result of the foregoing termination provision, the Parties agree that the City's deferred compensation contributions made during the final calendar year of the Chief's employment with the City in his current position may not equal the maximum annual contribution amounts described above.

All deferred compensation contributions described in this Section shall be subject to compliance with applicable IRC contribution limitations.

**Section 5. Automobile**

The City shall provide a 24-hour vehicle assignment to the Chief as provided in Administrative Directive 6.01-7 or an executive vehicle as provided in Administrative Directive 6.02-1.

**Section 6. Vacation and Sick Leave**

A. All provisions of the City Charter and Code, and regulations and rules of the City relating to vacation and sick leave, holidays and other paid leave periods shall apply to the Chief as they apply to other City public safety employees, except as provided in subsections 6(B) and 6(C) below.

B. Notwithstanding his actual years of continuous service, the Chief shall accrue sick leave per pay period at the highest rates established for permanent full time commissioned police employees as provided in Section 22-90(2) of the Code, which upon the effective date of this Agreement is 6 hours, 10 minutes per pay period [20 days, 20 minutes per year]. Sick leave will otherwise continue to accrue to the Chief in the manner provided to other City employees, meaning that there will be no limit to the amount of sick leave the Chief may accrue. Except as provided under subsection 6(C) below, upon separating from City service, the Chief will be paid his accrued sick leave, on an hour per hour basis, as follows:

Date of Separation	Percentage of Sick Leave Paid
6/1/18 through 12/31/18	0%
1/1/19 through 12/31/21	50%
1/1/22 through 12/31/23	75%
1/1/24 or later	100%

C. The City's payment to the Chief of unused accumulated sick leave as provided in subsection 6(B) above shall not apply in either of the following circumstances, notwithstanding any provisions of Code Sec. 22-90(3) to the contrary: (1) if the Chief is removed from his position as Chief by the City Manager for just cause, in which instance the City will not pay to the Chief any

accumulated sick leave; and/or (2) if the Chief retires from City service after earning a vested PSPRS defined benefit pension, in which instance the City will not pay to the Chief any accumulated sick leave.

### **Section 7. Indemnification**

City shall defend, save harmless, and indemnify the Chief 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 Chief's duties as Chief, and will pay the amount of any settlement or judgment arising therefrom, all as provided in Administrative Directive 2.02-23.

### **Section 8. Termination of Employment**

The Chief is an "at-will" employee of the City, in the unclassified service, and serves at the pleasure and will of the City Manager as provided in Chapter V, Section 7 of the Tucson City Charter. No provision of the Agreement, either expressed or implied, shall be construed in opposition with this at-will status or in opposition with the provisions of the Charter relating to the appointment and removal of the Chief. As provided in the Charter, none of the civil service provisions of the Charter apply to the Chief, except that removal or reduction in rank of the Chief is subject to the advisory and appeal provisions of Section 3(c) of Chapter XXII of the Charter.

Nothing in the Agreement limits or otherwise interferes with the right of the City Manager to remove the Chief and terminate the services of the Chief at any time. The Chief acknowledges that the City Manager may remove him and terminate his services as Chief with or without just cause. The Parties recognize the provisions of the Charter relative to the removal of the Chief without cause. In the event the Chief is terminated by the City Manager without just cause, and the Chief is willing and able to perform his duties under this Agreement, the City shall pay the Chief his accrued sick leave in the manner and subject to the conditions provided in subsections 6(B) and 6(C) of this Agreement.

### **Section 9. Other Terms and Conditions of Employment**

A. Residency – The Chief shall maintain his residency within the corporate limits of the City throughout his employment as the Chief as a continuing condition of employment.

B. The City Manager shall fix any such other terms and conditions of employment as the City Manager may determine from time to time, relating to the performance of the Chief, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter or any other law.

C. The City agrees that the Chief will receive all other benefits not specified in the Agreement that are afforded to all other City employees.

D. If during the term of this Agreement any amendments to the City Charter are approved by the voters of the City that require a revision of any terms of this Agreement in order to avoid any

conflict between this Agreement and the Charter, the Parties shall meet and confer in good faith to negotiate such revisions and amend this Agreement.

**Section 10. Performance Evaluation**

The City Manager shall review the performance of the Chief at least once annually, unless the Parties agree otherwise. Nothing in this Section shall preclude the ability of the City Manager to provide a performance evaluation of the Chief at any time.

**Section 11. General Provisions**

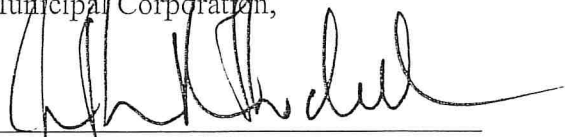
A. This Agreement sets forth and constitutes the entire agreement between the Parties relating to the employment of the Chief by the City. Any prior discussions or representations by or between the Parties are merged into and rendered null and void by this Agreement, except as provided in Section 1 above.

B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Chief.

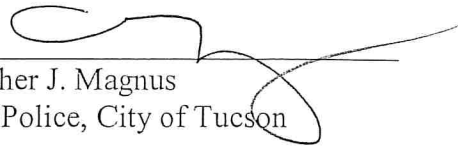
C. If any provision of this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, the fully authorized representatives of the parties have executed this Agreement on this 22nd day of May, 2018.

CITY OF TUCSON, an Arizona  
Municipal Corporation,

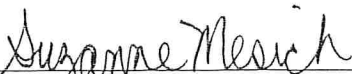


Jonathan Rothschild  
MAYOR



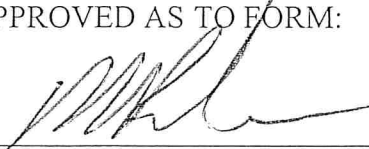
Christopher J. Magnus  
Chief of Police, City of Tucson

ATTEST:



CITY CLERK, Roger W. Randolph

APPROVED AS TO FORM:



CITY ATTORNEY