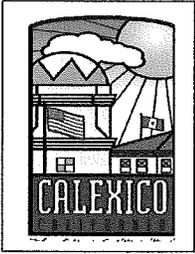


**AGENDA
ITEM**

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AGENDA STAFF REPORT

DATE: January 19, 2016

TO: Mayor and City Council

APPROVED BY: Nick Fenley, Acting City Manager 

PREPARED BY: Carlos Campos, Interim City Attorney

SUBJECT: Proposed Employment Agreement - Interim Chief of Police

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Recommendation:

Approval of Proposed Agreement to Employ Reynaldo "Reggie" T. Gomez as Interim Chief of Police.

Background/Discussion:

The City of Calexico desires to employ the services of Reynaldo "Reggie" T. Gomez as Interim Chief of Police. Mr. Gomez has previously served as a Chief of Police for the City of Calipatria, for a period of nine years. Most recently, Mr. Gomez served as contract investigator for Homeland Security.

The general terms of his proposed contract include:

- Salary of \$9,852.00.
- Reimbursement for reasonable and necessary travel and business expenses.
- The City will pay dues for a 12-month membership for Gomez in the California Police Chiefs' Association
- Termination at any time, with or without cause.
- Gomez shall give the City at least 90 days' notice if he voluntarily resigns his position with City.

Fiscal Impact:

Under the proposed Employment Agreement, the City will pay Mr. Gomez \$9,852.00.

Attachment:

1. Proposed Employment Agreement for Interim Chief of Police Between the City of Calexico and Reynaldo "Reggie" T. Gomez.



EMPLOYMENT AGREEMENT – INTERIM CHIEF OF POLICE

This Agreement is made and entered into on the latest date set forth by signature below by and between the City of Calexico, California (“City”) and Reynaldo “Reggie” T. Gomez (“Gomez”) both of whom understand and agree as follows:

WHEREAS, City desires to employ the services of Gomez as Interim Chief of Police and;

WHEREAS, it is the desire of the City to provide certain benefits, to establish certain conditions of employment and to set working conditions for Gomez; and

WHEREAS, Gomez desires to accept employment as Interim Chief of Police of Calexico; and

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1: Appointment and Duties

A. The City Manager hereby appoints Gomez as Interim Chief of Police of the City of Calexico, to perform functions and duties of the Interim Chief of Police as set forth in the City of Calexico Municipal Code, as it may be amended from time to time, in addition to any other functions and duties specified by state law, city ordinance or resolution, or other directive, and to perform other legally permissible and proper duties and functions as the City Manager shall from time to time assign, without additional compensation. Both parties acknowledge that the specific duties of the position may vary from time to time. As Interim Chief of Police, Gomez shall serve at the will and pleasure of the City Manager and is subject to termination at any time without right of appeal or so-called *Skelly* rights.

B. Gomez shall devote his full energy, skill, ability, and productive time to the performance of his duties under this Agreement.

C. Gomez shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of his duties under this Agreement.

D. Gomez shall not engage in any outside employment, activity, consulting service, or other enterprise for compensation, without the express written permission of the City Manager.

Section 2: Term of Agreement.

A. The City hereby agrees to employ Gomez, and Gomez agrees and does accept at will employment upon the terms and conditions set forth herein. The effective date of employment shall be November 30, 2015. The term of this Agreement shall be for one (1) year, unless sooner terminated or extended by the parties as set forth in this Agreement, or until a permanent Chief of Police is hired by the City, whichever occurs first.

B. Gomez understands and expressly agrees that he has no constitutionally-protected property or other interest in his employment as Interim Chief of Police. Gomez understands and expressly agrees that he serves at the will and pleasure of the City Manager and that he may be terminated or asked to resign at any time, by the City Manager, with or without cause.

C. Gomez shall give the City at least 90 days' notice if he voluntarily resigns his position with City.

Section 3: Duties and Obligations.

A. As of the date of this Agreement, the parties formalize the employment agreement and Gomez's job responsibilities as set forth in the relevant job description and as set forth in the City of Calexico Municipal Code, as it may be amended from time to time, in addition to any other functions and duties specified by state law, city ordinance or resolution, or other directive, and to perform other legally permissible and proper duties and functions as the City Manager shall from time to time assign, without additional compensation. It is expressly understood that the terms of this Agreement, including but not limited to those governing termination of employment, supersede any rights conferred by the City's employment policies and practices where in contradiction.

B. Gomez will focus his professional time, ability, and attention to City business during the term of this Agreement. Gomez shall not engage in any other business duties or pursuits whatsoever or, directly or indirectly, render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, without the prior written consent of the City Manager, except that:

(1) The expenditure of reasonable amounts of time not in conflict with the City's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Gomez from making passive personal investments or conducting private business affairs off-duty if those activities do not materially interfere with the services required under this Agreement.

C. All data, studies, reports and other documents prepared by Gomez while performing his duties pursuant to this Agreement shall be furnished to and become the property of the City, without restriction or limitation on their use.

D. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Gomez in connection with the performance of this Agreement shall be held confidential by Gomez unless disclosed within the scope of his or her duties. Such materials shall not, without the prior written consent of the City, be used by Gomez for any purposes other than the performance of his or her duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

Section 4: Compensation and Benefits.

A. City agrees to pay Gomez at a rate of nine thousand, eight hundred and fifty-two dollars (\$9,852.00) per month, for services rendered under this Agreement, payable on a pro rata basis at the same times, and in the same manner, as full time employees of the City are paid, and subject to all applicable taxes and withholdings.

B. City will pay dues for a 12-month membership for Gomez in the California Police Chiefs' Association.

C. Except as where otherwise provided within this Agreement or where required by law, Gomez shall not be entitled to any paid leave benefit such as vacation, administrative leave, executive, leave, etc.

D. The Parties acknowledge that the City will pay Social Security and make PERS contributions as is applicable given the wages at issue pursuant to the City's agreements with PERS. For the purpose of retirement and health benefits, Gomez shall be provided all those benefits for which he is eligible pursuant to policies and procedures governing City personnel, as may be amended by the City.

Section 5: Automobile Usage.

The Interim Chief of Police' duties require that he have the use of a personal automobile at all times during his employment with the City. In recognition of that fact, the City will provide an unmarked car for Gomez's use in performing his official duties under this Agreement.

Section 6: Hours of Work.

To the greatest extent possible, Gomez shall be at the Police Station or City Hall and available during the City's normal business hours. However, the parties recognize that Gomez's duties may require him to represent the City away from City Hall and outside of normal business hours. Gomez shall therefore have some flexibility to adjust his work schedule to account for those times when he is required to work outside of normal business hours, provided that it does not interfere with his duties or availability to the City Manager and other City personnel.

Section 7: Payment of Expenses of Employment.

The City shall pay the following usual and customary employment expenses.

A. The cost of any fidelity or other bonds required by law for the Interim Chief of Police.

B. The cost to defend and indemnify Gomez to the extent required by California law, as provided by the California Tort Claims Act (Government Code §810 et seq.) in Government Code sections 995 through 995.6, or otherwise.

Section 8: Uniforms and Equipment.

A. The City shall provide all necessary uniforms and safety equipment for Gomez's use in performing his official duties under this Agreement.

B. Gomez shall provide and maintain his own service weapon and shall be subject to all applicable POST requirements for range qualification with such weapon.

Section 9: Notice.

A. Notices under this Agreement shall be in writing and shall be deemed received at the earlier of either (a) actual receipt or (b) three (3) days following deposit in the U.S. Mail as provided below. Notices shall be directed to the addresses shown below, provided that a party may change addresses by giving written notice to the other party in accordance with this subsection.

City of Calexico
608 Heber Avenue
Calexico, CA 92231

Reynaldo "Reggie" T. Gomez
2571 W. Hamilton Avenue
El Centro, CA 92243

- B. Notices under this section shall be:
- i) served personally, or
 - ii) sent by facsimile (provided a hard copy is mailed within one (1) business day); or
 - iii) delivered by first-class U.S. Mail, certified, with postage prepaid and a return receipt requested; or
 - iv) sent by Federal Express or equivalent private mail delivery service.

Section 10: General Provisions.

A. The text herein shall constitute the entire Agreement between the parties.

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

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

D. If any legal action or proceeding is brought to enforce or interpret this Agreement, the prevailing party, as determined by the court, shall be entitled to recover from the other party all reasonable costs and attorney's fees, including such fees and costs as may be incurred in enforcing any judgment or order entered in any such action.

E. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

F. The parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.

G. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Gomez and City agree that venue for any dispute shall be in Imperial County, California, although nothing in this paragraph shall preclude the parties from agreeing to some form of alternative dispute resolution.

H. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

I. Gomez may not assign this Agreement in whole or in part. Any attempted assignment shall be null and void.

IN WITNESS WHEREOF, the City Manager of the City of Calexico has caused this agreement to be signed and executed on behalf of the City and Gomez has signed and executed this agreement on the day and year written below.

Date: _____
Nick Fenley
Interim City Manager
City of Calexico, California

Date: _____
Reynaldo "Reggie" T. Gomez

APPROVED AS TO FORM:

Interim City Attorney, City of Calexico