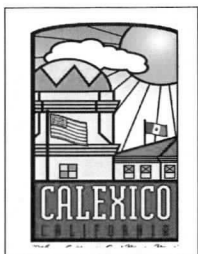


**AGENDA
ITEM**

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CITY COUNCIL AGENDA STAFF REPORT

DATE: April 20, 2022

TO: Mayor and City Council

PREPARED BY: Best Best & Krieger LLP, City Attorney

SUBJECT: Approval of Interim City Manager Employment Agreement
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Recommendation:

It is recommended that the City Council authorize the Mayor to execute the Interim City Manager Employment Agreement.

Background:

While conducting an executive search for a new City Manager, it is in the City's best interest to have the functions, duties and obligations of City Manager performed on an interim basis. The City Council has determined that Chief Diego Favila is the best qualified person to assume the Interim City Manager role. Chief Favila will continue to serve as the City's Fire Chief and is familiar with the City, its policies, procedures and staff.

Discussion:

The terms of the Interim City Manager Employment Agreement are summarized as follows:

- Chief Favila will continue to serve as the City's Fire Chief while serving as Interim City Manager.
- The starting of the agreement is April 9, 2022.
- Compensation will be \$13,333.00 per month.
- Either party may terminate the agreement on 30 days' notice.
- Once a City Manager is hired, Chief Favila will continue to serve as Fire Chief under the terms of his Employment Agreement with the City dated March 23, 2021.

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Fiscal Impact:

The Interim City Manager Employment Agreement provides for a monthly salary of \$13,333.00. This salary includes the salary paid to Chief Favila in his position as Fire Chief. Chief Favila will not receive any additional employee benefits based on his service as Interim City Manager. However, he will continue to receive all benefits currently provided to him as a result of his position as Fire Chief.

Attachment:

1. Interim City Manager Employment Agreement.

**AGREEMENT FOR
INTERIM CITY MANAGER SERVICES**

THIS AGREEMENT is made and entered into as of the 9th day of April, 2022 by and between the CITY OF Calexico, a California municipal corporation ("CITY") and Diego Favila, an individual ("EMPLOYEE").

RECITALS:

WHEREAS, CITY requires the temporary services of an Interim City Manager for an undetermined period of time;

WHEREAS, EMPLOYEE is ready, willing and able to supply such services;

WHEREAS, the City Council of CITY has determined that EMPLOYEE is best qualified for the position of Interim City Manager;

WHEREAS, CITY presently employs EMPLOYEE as Fire Chief; and

WHEREAS, EMPLOYEE will continue to serve as Fire Chief throughout the period EMPLOYEE serves as Interim City Manager and will continue to serve as Fire Chief upon the termination of this Agreement.

NOW, THEREFORE, CITY and EMPLOYEE agree as follows:

SECTION 1 APPOINTMENT AND DUTIES OF EMPLOYEE.

1.1 CITY hereby employs EMPLOYEE as Interim City Manager of the City, and EMPLOYEE hereby accepts such employment. EMPLOYEE shall serve as Interim City Manager at the will and pleasure of the City Council of CITY. As requested by, and under the direction of the City Council, EMPLOYEE shall provide city manager services to CITY.

1.2 EMPLOYEE agrees to perform faithfully and to the best of EMPLOYEE'S ability, experience, and talents, all of the duties that may be required by the express and implied terms of this Agreement, to the reasonable satisfaction of CITY. Such duties shall be provided at such place(s) as the needs, business, or opportunities of CITY may require from time to time.

1.3 In addition to the duties set forth in this Agreement, EMPLOYEE shall continue to serve as the Fire Chief and perform those functions to the best of his ability at the direction and to the satisfaction of CITY.

SECTION 2. CONDITIONS OF EMPLOYMENT.

2.1. The starting date for EMPLOYEE'S services shall be April 9, 2022.

2.2 During the term of this Agreement, EMPLOYEE shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of EMPLOYEE'S duties under this Agreement.

SECTION 3. TERM OF AGREEMENT. This Agreement shall be effective from April 9, 2022 until termination of this Agreement pursuant to Section 5.

SECTION 4. COMPENSATION.

4.1 For services rendered pursuant to this Agreement, EMPLOYEE shall be compensated at a monthly rate of \$13,333.00 for the combined duties of Fire Chief and Interim City Manager. EMPLOYEE'S compensation shall be subject to all applicable taxes, insurance and other required deductions.

For portions of any month, EMPLOYEE's compensation shall be prorated according to the following formula: by multiplying EMPLOYEE'S gross rate of compensation per month by a fraction where the numerator is the number of days during the month that EMPLOYEE performed the services under this Agreement and the denominator is "30".

4.2 CITY shall reimburse EMPLOYEE for reasonable "out of pocket" costs or expenses incurred in the performance of EMPLOYEE'S duties under this Agreement, in accordance with CITY'S reimbursement policies in effect at the time.

4.3 EMPLOYEE will continue to receive all the same benefits he was receiving as Fire Chief.

SECTION 5. TERMINATION.

5.1 Except as provided in Section 5.2 below, this Agreement may be terminated without cause at any time upon thirty (30) days advance written notice given by either party hereto. Notice of termination shall be given in writing and may be delivered personally or by mail.

5.2 Notwithstanding Section 5.1, upon any one of the following events, this Agreement shall terminate automatically, without notice to the other party.

- The commencement of duties of an individual appointed to the permanent position of City Manager by CITY;

- Any breach of the terms of this Agreement.

5.3 Upon Termination of this Agreement, EMPLOYEE will continue to serve as the FIRE CHIEF under the terms of his Employment Agreement with the City dated March 23, 2021 (“Fire Chief Agreement”).

SECTION 6. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreement between the parties except as provided in the Fire Chief Agreement.

SECTION 7. SEVERABILITY. If any provisions of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

SECTION 8. AMENDMENT. This Agreement may be modified or amended, if the amendment is made in writing and is signed by both parties.

SECTION 9. WAIVER. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

IN WITNESS WHEREOF, CITY and EMPLOYEE have caused this Agreement to be executed as of the day and date first above written.

CITY OF CALEXICO

By: _____ Date: _____, 2022
JAVIER MORENO, MAYOR

EMPLOYEE

By: _____ Dated: _____, 2022
DIEGO FAVILA