RESOLUTION 18-112

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CENTRO ESTABLISHING THE COMPENSATION AND EMPLOYMENT TERMS FOR THE FIRE CHIEF/DIRECTOR OF DISASTER SERVICES

WHEREAS, Kenneth Herbert ("the Employee") has been duly appointed to the position of Fire Chief/Director of Disaster Services; and

WHEREAS, currently, the Fire Chief/Director of Disaster Services is compensated pursuant to Resolution No. 16-29 adopted May 17, 2016; and

WHEREAS, the City Council of the City of El Centro, California ("the City Council") finds that the approval of this resolution will be in the best interests of the City of El Centro, California ("the City" or "the Employer") to establish the compensation provisions and employment terms for the Employee.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CENTRO, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. The foregoing is true and correct and adopted hereby.

2. That Resolution No. 16-29 is hereby repealed.


Effective July 3, 2018, the Employee shall receive a base salary of eleven thousand six hundred sixty-one dollars and thirty-seven cents ($11,661.37) per month for the administrative services rendered to the City of El Centro.

Effective July 7, 2020, the Employee shall receive a base salary of twelve thousand sixty-nine dollars and fifty-two cents ($12,069.52) per month for the administrative services rendered to the City of El Centro.

The Fire Chief has occasionally been required to commit to large-scale catastrophic events of mutual aid that may span multiple operational periods. These types of events could include floods, earthquakes, declared disasters, fires, and prolonged emergencies. Such services may be considered "extraordinary" and beyond the scope of his normal duties and would be determined by the City Manager. Pursuant to Resolution No. 15-72 and all applicable laws, the City of El Centro will compensate the Fire Chief on a straight time basis beginning at the time of initial dispatch from home base, to the time of return to home base; portal to portal for the balance of time owed from July 1, 2018 through March 1, 2019.

4. The Employee’s anniversary date shall be October 15, 2013. The Employee shall be evaluated by the City Manager on July 1st of each year. Any performance pay increase for any employee will be subject to the performance pay authorization adopted by resolution of the City Council when the City Council approves the budget.
5. Medical/Life Insurance.

a. Group Health Plan. From the date of employment, the Employee shall be eligible for the Employer’s comprehensive major medical, dental, life and vision care insurance program. The Employee may obtain coverage for his legal dependents under such program. The City will contribute on behalf of the employee the following amounts to the health insurance premiums:

   - Employee Only: Up to $672.28 per month
   - Employee & Spouse: Up to $997.34 per month
   - Employee & Child(ren): Up to $941.98 per month
   - Employee & Family: Up to $1,255.88 per month

   During the first week of December of each year, the parties agree to a briefing regarding the determination of any adjustments to the above-referenced premiums.

b. Life Insurance. The Employee shall be eligible for term life insurance provided by the City in the amount of two hundred thousand dollars ($200,000) up to the age of seventy (70). If employee has reached the age of seventy (70) the life insurance will be paid at the reduced benefit amount in accordance with the City’s contract with the Life Insurance Administrator.

c. Disability Insurance. The Employer shall continue to provide disability insurance to the Employee.

6. Retirement. The Employee shall be eligible to participate in the City’s retirement plan with the California Public Employee Retirement System ("CalPERS"). The City will contribute one hundred percent (100%) of the employer contribution amount as determined by CalPERS and the Employee shall contribute nine percent (9%) of the employee portion. The Employee’s contributions will be paid pre-tax under IRS section 414 (h) (2).

Upon retirement from the City, the Employee shall have the opportunity to participate in the same comprehensive major medical, dental, life and vision care insurance program.

If the sum of the Employee’s age (expressed in years and complete months) plus the “years of service credit with the City” (as reflected in the records of the CalPERS) totals seventy-five (75) or greater, the Employer shall pay six hundred nineteen dollars and one cent ($619.01) towards the cost of the Employee portion of said insurance until Employee reaches age sixty-five (65). During this time, insurance coverage will be available to the Employee’s dependents at the Employee’s expense. At age sixty-five (65), the Employee may elect to continue said insurance coverage as a Medicare Supplement Plan, including dependent coverage, at the Employee’s expense.

7. Uniforms and Equipment. For purposes of defraying the cost of purchasing and maintaining uniforms and clothing prescribed by the Employer, the Employee will receive a uniform allowance of one thousand five hundred dollars ($1,500) annually; to be paid bi-weekly in the amount of fifty-seven dollars and sixty-nine cents ($57.69).
The Employee shall furnish, upon the request of the Employer, copies of the receipts for the purchase or maintenance of uniforms or clothing prescribed by the Employer

8. **Car Allowance.** The Employee will be provided with a vehicle for City business.

9. **Vacation Leave.** Vacation leave is provided for the Employee for the purpose of rest and relaxation from duties and for attending to medical situations and personal business.

   a. **Accrual.** The Employee’s vacation leave shall accrue at a rate of six and fifteen one-hundredths (6.15) hours bi-weekly.

   b. **Accumulation.** Vacation leave shall not be accumulated for more than one and one-half (1.5) times the yearly allowance without prior written approval from the City Manager.

   c. **Scheduling.** The Employee’s requests to take vacation leave must have the prior approval of the City Manager. Such approval shall not be unreasonably withheld.

   d. **Payment of Vacation Leave at Termination.** Upon termination of employment, the Employee shall be paid for any accrued vacation leave at the Employee’s then-current rate of pay.

10. **Cash out of Vacation or Annual Leave Hours:** Employees covered by this MOU may sell back up to forty (40) vacation or annual leave hours for Fiscal Year 2018/2019. After Fiscal Year 2018/2019 and for the rest of the term of this MOU, employees may request to sell back up to twenty (20) hours of vacation or annual leave hours. Employees may not go below eighty (80) hours of accumulated vacation or annual leave. The request to sell back vacation/annual leave hours may be made only once per fiscal year in the month of November for payment on the first pay period in December. Employees shall send the request to sell back vacation or annual leave to the Human Resources Director and once approved, the request will be sent to payroll for processing.

11. **Sick Leave.** The Employee shall accrue sick leave.

   a. **Accrual.** Sick leave shall accrue at a rate of three and sixty-nine one hundredths (3.69) hours bi-weekly.

   b. **Accumulation.** Sick leave hours may be accumulated without restriction.

12. **Administrative Leave.** The Employer shall provide the Employee with eight (8) days of paid administrative leave per year effective July 1 of each year. Administrative leave shall not accumulate from year to year. Any Administrative leave time remaining in the Employee’s account as of June 1 of any year may be converted to cash, provided, however, that the total leave converted shall not exceed five (5) days. If administrative leave is not converted, any administrative leave time remaining as of June 30 shall be forfeited. Administrative leave provided pursuant to this section shall not be considered “vacation leave” within the meaning of Labor Code §227.3.
13. **Bereavement Leave.** In the event of a death in the Employee’s immediate family, the Employee shall be eligible for a leave of absence for up to three (3) regularly-scheduled days. If required travel exceeds five hundred (500) miles each way, the Employee may be granted an additional day (eight (8) hours) of bereavement leave. During such leave, the Employee shall be paid his regular salary; provided, however, that prior approval for the use of such leave is obtained from the Employee’s supervisor.

The Employee’s immediate family shall be defined as: spouse, child, mother, father, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandmother, grandfather or a grandchild.

Documentation of the date and location of the funeral and the date of burial shall be furnished by the Employee upon request of the City.

14. **Holidays.** The Employer shall provide the following paid holidays:

a. The first (1st) day of January – New Year’s Day
b. The third (3rd) Monday in January – Martin Luther King, Jr. Day
c. The third (3rd) Monday in February – Presidents’ Day
d. One-half (.5) day on the afternoon of the Friday before Easter (Good Friday)
e. The last Monday of May – Memorial Day
f. The fourth (4th) day of July – Independence Day
g. The first (1st) Monday of September – Labor Day
h. The eleventh (11th) day of November – Veterans Day
i. The fourth (4th) Thursday in November – Thanksgiving Day
j. The day following Thanksgiving Day
k. The twenty-fifth (25th) day of December – Christmas Day
l. One-half (.5) day on the afternoon of the twenty-fourth (24th) day of December (Christmas Eve)
m. One half (.5) day on the afternoon of the thirty-first (31st) day of December (New Year’s Eve)

n. The anniversary of the birth of the Employee (this holiday may be taken any time within the pay period that the holiday falls)

15. **Full-Time Commitment.** During the term of this resolution, the Employee shall dedicate his full time to fulfilling his responsibilities hereunder. The Employee shall not be involved in any outside activity that conflicts with the performance of his duties as Fire Chief/Director of Disaster Services.

16. **Residency.** As part of this appointment to the position of Fire Chief for the City of El Centro, Employee is being required, and he has agreed to within three (3) months after starting employment with the City to establish his residency and live in El Centro or within a twenty (20) mile radius.

17. **At-Will Employment Status.** It is understood and agreed to by and between the parties that the Employee’s employment is at-will and that the employee service is at the pleasure of the City Manager. The Employee acknowledges and agrees that as a condition of employment as Fire Chief/Director of Disaster Services, and in exchange
for the salary and benefits described herein, he waives any property interest in any positions that he previously held with the City and has no right of reinstatement to any former position upon termination of his employment as Fire Chief/Director of Disaster Services.

18. **Exemption from The City’s Personnel System.** It is further understood by the parties that the Employee cannot contest discipline or a separation from employment under the City’s Personnel Rules and Regulations. The Employee understands that he is exempt from the City’s Personnel System and has no property right in his employment or civil service protection.

19. **The City’s Personnel Rules and Regulations Applicable to Employee.** It is also understood that the Employee must, however, abide by the City’s policies and procedures related to safety, discrimination, harassment, drug-free workplace, etc.

20. **Employment Termination/Severance Pay.** The employment of the Employee shall terminate upon written notice by either party. However, should such termination be instigated by the City, then the Employee shall receive severance pay in an amount equal to employee’s base monthly salary at the last date employee is at work (and not on leave status) with the City times four (4) months. Entitlement to all other benefits cease with the Employee’s termination from employment with the City.

21. **Severability.** If any of the provisions of this resolution are held to be illegal, invalid or unenforceable in any respect, the remainder of the resolution and all other provisions hereunder shall not be affected thereby, and such provision shall be deemed to be modified to the extent necessary to permit its enforcement to the maximum extent permitted by applicable law.

22. **Assignment.** This resolution shall be binding upon and inure to the benefits of the Employer, its successors it assigns and to the benefit of the Employee, his heirs, and legal representatives, except that the Employee’s duties to perform future services and the right to receive payment therefore are hereby expressly agreed to be non-assignable and non-transferable.

23. **Governing Law.** This resolution shall be governed by the laws of the State of California, and any litigation concerning this resolution shall be filed and maintained in the State of California.

24. **Attorneys’ Fees/Costs.** Each party shall bear its own attorneys’ fees and costs associated with litigation concerning this resolution.

25. **Reimbursement of Cash Settlement Upon Conviction of a Crime Involving Office or Position.** Regardless of the term of this resolution, if this resolution is terminated, any cash settlement related to the termination that the Employee may receive from the City shall be fully reimbursed to the City if the Employee is convicted of a crime involving an abuse of his office or position.

26. **Complete Agreement.** This document between the parties constitutes the complete agreement and supersedes all previous agreements and understandings.
PASSED AND ADOPTED at a regular meeting of the City Council of the City of El Centro, California on the 20th day of Nov., 2018.

CITY OF EL CENTRO

Cheryl Viegas-Walker, Mayor

ATTEST:

By L. Diane Caldwell, City Clerk

APPROVED AS TO FORM

Office of the City Attorney

By Elizabeth L. Martyn

Elizabeth L. Martyn, City Attorney

STATE OF CALIFORNIA  )
COUNTY OF IMPERIAL  ) ss
CITY OF EL CENTRO   )

I, L. Diane Caldwell, City Clerk, of the City of El Centro, California, do hereby certify that the foregoing Resolution No. 18-112 was duly and regularly adopted at a regular meeting of the Council of the City of El Centro, California, held on the 20th day of Nov., 2018 by the following vote:

AYES: Cardenas, Jackson, Viegas-Walker, Garcia, Silva
NOES: None
ABSENT: None
ABSTAINED: None

By L. Diane Caldwell, City Clerk

I agree to the foregoing:

Kenneth Herbert

Date 11/27/18