

RESOLUTION 22-119

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, Joseph Bernal (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. 20-92 adopted September 15, 2020; and

WHEREAS, 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. Recitals. The foregoing is true and correct and adopted hereby.
2. Term. That Resolution No. 20-92 hereby is repealed. The term of this Resolution is from its adoption through June 30, 2025.
3. Base Salary.

Effective November 1, 2022, the Employee shall receive a base salary of twelve thousand five hundred dollars (\$12,500) per month for the administrative services rendered to the City of El Centro.

Effective July 1, 2023, the Employee shall receive a base salary of twelve thousand eight hundred seventy-five dollars (\$12,875) per month for the administrative services rendered to the City of El Centro. This increase is to compensate for CalPERS contribution increases.

Effective July 1, 2024, the Employee shall receive a base salary of thirteen thousand one hundred thirty-three dollars (\$13,133) per month contingent upon a satisfactory performance evaluation.

The Fire Chief occasionally has been required to commit to large-scale catastrophic events of or mutual aid events 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 November 1, 2022 through October 31, 2024.

4. The Employee's anniversary date shall be November 1, 2022. The Employee shall be evaluated by the City Manager on July 1<sup>st</sup> of each year.
5. Medical/Life Insurance.
  - A. Group Health Plan. Employee shall be eligible for the Employer's comprehensive major medical, dental, life and vision care insurance program on the same terms and conditions as other employees with the same contribution by the City. Employee may obtain coverage for his legal dependents under such program.
  - 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 an 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. Effective July 1, 2023, Employee shall pay the employee portion of twelve percent (12%). 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.
  - e. Cash Out: Cash Out. For the fiscal year beginning July 1, 2022, or following Council approval, whichever occurs later, the Employee shall be allowed to cash out only the amount of the denied vacation leave hours, up to the maximum of eighty (80) hours when:
    1. He has taken a minimum of one (1) week of vacation leave during the current fiscal year;
    2. He thereafter is denied a request to take additional vacation leave in that fiscal year because of department or City workload or reasons beyond the control of either party to this MOU; and
    3. He for such reason is unable to take said vacation leave by the end of that fiscal year without triggering overtime which would be paid by the City.
      - a. One-Time Payment. Such a cash out shall be a one-time payment that is not compensable under PERS and is not part of the regular rate of pay.
      - b. Hardship. Effective July 1, 2022, or upon approval of the City Council, whichever occurs later, employees may cash-out vacation leave only in the event of a financial emergency where: (i) the employee can demonstrate that they have a real financial emergency caused by an event beyond their control, (ii) it would result in serious financial hardship if the cash payment were not made, and (iii) the amount of the cash payment is limited to the amount necessary to meet the emergency. The City Manager or designee will determine, at their sole discretion, whether an emergency exists and the extent of the financial need.

10. 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.
11. 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.
12. 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.

13. Holidays. The Employee shall be entitled to the same paid holidays as other employees.
14. 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.
15. 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 establish his residency and live in El Centro or within a twenty (20) mile radius.
16. 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.

17. Exemption from the City's Personnel System. It is further understood by the parties that the Employee cannot contest discipline or a separation without cause from employment under the City's Personnel Rules and Regulations. Employee understands that he has no property right in his employment and cannot contest discipline or termination for cause except as otherwise provided in Section 19 and any applicable provisions of State law.
18. City Personnel Rules Applicable to Employee. Employee otherwise shall comply with all provisions of the City Personnel Rules and Regulations as those may be amended from time to time ("Personnel Rules") except as set out in Section 17 above and Section 19, below.
19. Employment Termination/Severance Pay. The employment of the Employee shall terminate upon written notice by either Party to the other. Entitlement to all benefits ceases with the Employee's termination from employment with the City except as Employee otherwise may be eligible for retiree medical coverage under Section 6 above.
  - a. Should such termination be initiated by the City without cause, then the Employee shall receive severance pay in an amount equal to the 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.
  - b. Notwithstanding, the City may determine to terminate Employee for cause as cause is defined in the Personnel Rules. In that event, City shall proceed with termination as set out under the Personnel Rules. If Employee is so terminated, he shall not be entitled to severance.
  - c. Entitlement to all other benefits ceases upon the Employee's termination from employment with the City.
20. Professional Education. The City also agrees to budget for and to pay for travel and subsistence expenses of the Employee for short courses, institutes and seminars that are necessary for the Employee's professional development and for the good of the Employer.
21. Dues and Subscriptions. The City agrees to budget and to pay the professional dues and subscriptions of the Employee necessary for his continuation and full participation in national, state and local associations and organizations necessary and desirable to keep the Employee up-to-date with regard to matters of importance to the City, as a Fire Chief.
22. 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.
23. 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.

24. 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.
25. Attorneys' Fees/Costs. Each party shall bear its own attorneys' fees and costs associated with litigation concerning this resolution.
26. 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.
27. 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 1<sup>st</sup> day of November, 2022.


CITY OF EL CENTRO

By   
Tomas Oliva, Mayor

ATTEST:

By   
Norma Wyles, City Clerk

APPROVED AS TO FORM  
Office of the City Attorney

By   
Elizabeth L. Martyn, City Attorney

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

I, Norma Wyles, City Clerk, of the City of El Centro, California, do hereby certify that the foregoing Resolution No. 22-119 was duly and regularly adopted at a regular meeting of the Council of the City of El Centro, California, held on the 1<sup>st</sup> day of November, 2022 by the following vote:

AYES: Garcia, Viegas-Walker, Oliva, Cardenas-Singh, Marroquin  
NOES: None  
ABSENT: None  
ABSTAINED: None

By   
Norma Wyles, City Clerk

I agree to the foregoing:

 11/1/22  
Joseph Bernal Date