

LAST MINUTE AGENDA INFORMATION

07/17/13 Special Meeting

(Agenda Related Writings/Documents provided to a majority of the City Council after distribution of the Agenda Packet for the July 17, 2013 Regular meeting.)

ITEM NO. **DESCRIPTION**

2.9	RESOLUTION 2013-7367 AUTHORIZING MAYOR TO APPOINT AN INTERIM CITY MANAGER, IF NECESSARY, AND TO EXECUTE ANY REQUIRED DOCUMENTS TO IMPLEMENT SUCH APPOINTMENT. (0530-60) a. Staff Report
6.1	CONSIDERATION OF RESOLUTION NO. 2013-7368 APPOINTING THE NEW CITY MANAGER, APPROVING THE EMPLOYMENT AGREEMENT WITH THE CITY MANAGER, AND AUTHORIZING THE MAYOR TO EXECUTE THE EMPLOYMENT AGREEMENT. (0530-60) a. Staff Report



STAFF REPORT
CITY OF IMPERIAL BEACH

2013 JUL 15 PM 5:07

CITY MANAGER &
CITY CLERK OFFICES

TO: MEMBERS OF THE CITY COUNCIL

FROM: MAYOR JANNEY 

MEETING DATE: July 17, 2013

SUBJECT: RESOLUTION NO. 2013-7367 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AUTHORIZING THE MAYOR TO APPOINT AN INTERIM CITY MANAGER IF NECESSARY AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS RELATED TO THE APPOINTMENT OF AN INTERIM CITY MANAGER

DISCUSSION:

City Manager Gary Brown will retire on August 3, 2013. In response to Manager Brown's decision, the City Council conducted a recruitment process to hire a new City Manager. If the new City Manager cannot begin with the City before Manager Brown retires, the City may need an Interim City Manager for this short transition period. The Interim City Manager appointment will be of a limited duration.

The attached resolution, if approved by the City Council, authorizes the Mayor to appoint a qualified Interim City Manager, if necessary. If an Interim City Manager is necessary, the Mayor can negotiate with the appointee regarding the terms of the Interim City Manager appointment, and the appointee may receive a salary in an amount equivalent to Manager Brown's current salary during the limited time he or she serves as the Interim City Manager.

FISCAL IMPACT:

A brief and small financial saving will occur because the interim person will not receive his or her regular salary while receiving the salary equivalent to the current city manager.

MAYOR'S RECOMMENDATION:

Adopt Resolution No. 2013-7367 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AUTHORIZING THE MAYOR TO APPOINT AN INTERIM CITY MANAGER IF NECESSARY AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS RELATED TO THE APPOINTMENT OF AN INTERIM CITY MANAGER.

Attachment:

1. Resolution 2013-7367

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Date: 7/17/13 Item No. 2.9
Last Minute Agenda Information

RESOLUTION NO 2013-7367

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AUTHORIZING THE MAYOR TO APPOINT AN INTERIM CITY MANAGER IF NECESSARY, AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS RELATED TO THE APPOINTMENT OF AN INTERIM CITY MANAGER

WHEREAS, the City is organized under the Constitution and laws of the State of California as Council-Manager, general law city; and

WHEREAS, pursuant to the City's Municipal Code and State law the day-to-day management of the City is provided by a professional city manager; and

WHEREAS, City Manager Gary Brown announced his retirement to be effective August 3, 2013; and

WHEREAS, in response to Mr. Brown's announcement of retirement, the City Council began a recruitment process to hire a new City Manager; and

WHEREAS, if the new City Manager cannot begin with the City before Mr. Brown retires, the City may need an Interim City Manager for this transition period; and

WHEREAS, an Interim City Manager must have the knowledge, experience, and be qualified to perform the responsibilities of Interim City Manager; and

WHEREAS, the City Council desires to authorize the Mayor to appoint a qualified Interim City Manager, if necessary.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. The City Council authorizes the Mayor to appoint an Interim City Manager, if necessary.
3. The City Council approves and authorizes the Mayor to execute any and all necessary documents related to the appointment of an Interim City Manager.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Imperial Beach at its regular meeting held on the 17th day of July, 2013, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

JACQUELINE M. HALD
CITY CLERK



AGENDA ITEM NO. 6.1

STAFF REPORT
CITY OF IMPERIAL BEACH

2013 JUL 15 PM 5:07

CITY MANAGER &
CITY CLERK OFFICES

TO: MEMBERS OF THE CITY COUNCIL

FROM: JIM JANNEY, MAYOR 

MEETING DATE: JULY 17, 2013

SUBJECT: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH APPOINTING GARY ANDREW ("ANDY") HALL AS THE CITY MANAGER AND AUTHORIZING THE MAYOR TO EXECUTE A CITY MANAGER EMPLOYMENT AGREEMENT

BACKGROUND:

City Manager Gary Brown announced his retirement after almost 10 years of employment with the City of Imperial Beach. He will retire in early August. In response to Mr. Brown's decision, the City Council began an extensive recruitment process to hire a new City Manager.

In April 2013, the City hired consultant Teri Black of Teri Black & Company, LLC, to assist with the recruitment for a new City Manager. The City solicited applications from mid-April through May 19, 2013. The City was successful in attracting a substantial number of candidates who offered outstanding experience and credentials. During the recruitment process, the City received approximately 67 applications for the City Manager position. The City Council was extremely pleased with the caliber of the top candidates they interviewed on June 24, 2013 and June 28, 2013, which made the decision a difficult one. After the interviews, the City Council narrowed the proposed selection to the best overall candidate.

DISCUSSION:

The action before the City Council is to vote on the appointment of Andy Hall as the new City Manager and authorize the Mayor to execute a City Manager employment agreement. Mr. Hall currently serves as the City Manager in Cathedral City, California. Mr. Hall was initially recruited to Cathedral City as the Community Development Director before being unanimously appointed City Manager following the retirement of Don Bradley. Prior to joining Cathedral City in 2009, Mr. Hall invested the majority of his career in Utah local government. Mr. Hall served as City Manager in Payson City for nearly a decade and Assistant City Manager in Draper City. His public sector experience also includes service in Summit County and with the Mountainland Association of Governments in Utah in addition to the City of Henderson, Nevada. He holds a Master of Public Administration degree from the University of Utah and a Bachelor of Science degree in Geography-Urban Studies from Arizona State University. Mr. Hall is also certified by the American Institute of Certified Planners.

ENVIRONMENTAL DETERMINATION:

Not a project as defined by CEQA.

Date: 7/17/13 Item No. 6.1
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FISCAL IMPACT:

Mr. Hall's annual base salary will be \$175,000.

MAYOR'S RECOMMENDATION:

Adopt Resolution No. 2013-7368 appointing Gary Andrew ("Andy") Hall as the City Manager and authorizing the Mayor to execute a City Manager employment agreement.

Attachments:

1. Resolution No. 2013-7368
2. City Manager Employment Agreement

RESOLUTION NO. 2013-7368

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPOINTING GARY ANDREW (“ANDY”) HALL AS THE CITY MANAGER AND AUTHORIZING THE MAYOR TO EXECUTE A CITY MANAGER EMPLOYMENT AGREEMENT

WHEREAS, the City is organized under the Constitution and laws of the State of California as Council-Manager, general law city; and

WHEREAS, pursuant to the City’s Municipal Code and State law the day-to-day management of the City is provided by a professional city manager that serves at the pleasure of the City Council; and

WHEREAS, in response to City Manager Gary Brown’s decision to retire from City service, the City Council began a recruitment process to hire a new City Manager; and

WHEREAS, after a recruitment process and interviews of the top candidates, the City Council narrowed the selection for the new City Manager to the best overall candidate; and

WHEREAS, Gary Andrew Hall has decades of experience in the public sector previously serving as the City Manager for Cathedral City, California, and Payson City, Utah; and

WHEREAS, the City desires to appoint Gary Andrew Hall as the City Manager of the City of Imperial Beach, and Gary Andrew Hall desires to accept employment as the City Manager of the City of Imperial Beach.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Imperial Beach as follows:

1. The above recitals are true and correct.
2. The City Council appoints Gary Andrew (“Andy”) Hall as the City Manager pursuant to the start date specified in the Employment Agreement.
3. The City Council approves and authorizes the Mayor to execute the City Manager Employment Agreement between the City of Imperial Beach and Gary Andrew (“Andy”) Hall.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Imperial Beach at its meeting held on the 17th day of July 2013, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

JAMES C. JANNEY, MAYOR

ATTEST:

**JACQUELINE M. HALD, MMC
CITY CLERK**

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CITY MANAGER EMPLOYMENT AGREEMENT
between
The City of Imperial Beach
and
Gary Andrew Hall

This Employment Agreement is entered into this 17th day of July 2013 (hereinafter "Effective Date"), by and between the City of Imperial Beach, California, a municipal corporation (hereinafter "City") and Gary Andrew Hall, an individual (hereinafter "Officer") (City and Officer referred to collectively as "Parties") with respect to the employment of Officer as the City Manager of the City.

RECITALS

WHEREAS, the City requires the services of a City Manager, and Officer has the necessary education, experience, skills and expertise to serve as the City's City Manager;

WHEREAS, the City Council of the City (the "City Council") desires to employ Officer to serve as the City Manager of the City;

WHEREAS, the general powers and duties of the City Manager are generally established by Title 2, Chapter 2.04 of the Imperial Beach Municipal Code and by other provisions of the City Code, other ordinances, resolutions, policies of the City Council and state statute;

WHEREAS, the Parties desire to execute this Agreement pursuant to the authority of and subject to the provisions of Government Code Section 53260 *et seq.*; and

WHEREAS, in consideration of these Recitals and the performance by the Parties of the promises, covenants, and conditions herein contained, the Parties desire to determine certain matters relating to the terms and conditions of the employment of Officer as the City Manager for the City as provided in this Agreement.

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

1. Employment

The City hereby employs the Officer as its City Manager effective August 3, 2013, or as soon thereafter as possible in consideration of Officer's current employment contract, but in no event later than August 31, 2013, and Officer hereby accepts such employment.

2. Commitments and Understandings

A. The Officer's Commitments

(1) Duties & Authority

(a) Officer shall be the chief executive officer of the City and be

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responsible to the City Council for the proper administration of all affairs of the City.

- (b) Officer shall be the Executive Director of the Imperial Beach Redevelopment Agency Successor Agency (the "Agency") and the Imperial Beach Housing Authority (the "Authority"). The City Council has designated and may designate the City Manager as the chief executive of other City-related legal entities. Such other legal entities include the City's financing authority and others.
- (c) Officer shall perform all of the duties of the City Manager as set forth in the Imperial Beach Municipal Code (the "Municipal Code"), the California Government Code, and City policies and procedures approved by the City Council, as may be provided from time to time.
- (d) To accomplish this, Officer shall have the power and be required to:
 - (i) Attend all meetings of the City Council, unless excused by the Mayor, and take part in the discussion of all matters before the City Council.
 - (ii) Review all agenda documents before preparing the agenda for any regular or special meetings of the City Council.
 - (iii) Direct the work of all appointive City officers and departments that are the concern and responsibility of the City Manager, except those that are directly appointed by or report directly to the City Council. As City Manager, Officer may undertake any study or investigation that is necessary or desirable, or as directed by the City Council. As City Manager, Officer shall endeavor to implement changes that Officer believes will result in greater efficiency, economy or improved public service in the administration of City affairs.
 - (iv) Recommend to the City Council adoption of such measures as the Officer may deem necessary or expedient for the health, safety, or welfare of the community or for the improvement of administrative services.
 - (v) Consolidate or combine offices, positions, departments, or units under the City Manager's jurisdiction. As City Manager, Officer may be the head of one or more City departments.

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- (vi) Conduct research in administrative practices in order to bring about greater efficiency and economy in City government, and develop and recommend to the City Council long-range plans to improve City operations and prepare for future City growth and development.
- (vii) Provide management training and develop leadership qualities among department directors and staff as necessary to build a City management team that can plan for and meet future challenges.
- (viii) Exercise control of City government in emergencies as authorized by the Municipal Code and California law.

(2) Hours of Work

- (a) Officer is exempt from the provisions of the Fair Labor Standards Act.
- (b) Although Officer is an exempt employee without set hours of work, he is expected to be available at all times and to engage in those hours of work that are necessary to fulfill the obligations of the City Manager's position.
- (c) Officer shall spend sufficient hours on site to perform the City Manager's duties; however, Officer has discretion over his work schedule and work location.

B. City Commitments

- (1) The City shall provide Officer with the compensation, incentives and benefits specified elsewhere in this Agreement.
- (2) The City shall provide Officer with office space, staff, equipment, and supplies for the performance of the City Manager's duties.
- (3) The City shall pay for or reimburse Officer for all actual business expenses.
- (4) The City agrees to pay the professional dues and subscriptions on behalf of Officer for participation in national, regional, state, or local associations and organizations, as necessary and desirable for the good of the City, and for Officer's continued professional participation and advancement.
- (5) Within budget limitations, the City agrees to pay the travel and subsistence expenses of the Officer for purposes such as official functions, meetings, occasions, short courses, institutes and seminars that are necessary for the good of the City and for the professional development of Officer and continued AICP certification.

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- (6) The City agrees to pay Officer's membership dues for local civic organizations that are necessary for the good of the City and for the professional development of Officer.
- (7) The City agrees to provide Officer with the following relocation assistance:
 - (a) An interim housing supplement not to exceed one thousand dollars (\$1,000) per month for either a maximum of six (6) months or until Officer is permanently relocated, whichever is less.
 - (b) Reimbursement payments to Officer for the reasonable cost of moving Officer's household goods and personal effects to Officer's permanent location of residence in San Diego County.
- (8) Although not a requirement of the Agreement, it is understood that the City Council believes that residence by Officer in the City of Imperial Beach would be of benefit to the City and enhance Officer's performance as City Manager. Therefore, in the event Officer decides to take up his permanent primary residence in the City of Imperial Beach, the Parties agree to negotiate in good faith for the City to provide home purchasing assistance in the form of a below market rate loan. Officer shall exercise this term within 18 months of his first date of employment, unless such time is extended by the City Council. The loan agreement and all other required documents are subject to the review and approval of the City Council.

C. Mutual Commitments

(1) Performance Evaluation

The City Council recognizes that for Officer to respond to its needs and to grow in the performance of the City Manager's job, Officer needs to know how the City Council members evaluate his performance. To assure that Officer gets this feedback, the City Council shall conduct a formal evaluation of the Officer's performance at least once each year to coincide with the close of the fiscal year. Within six (6) months of Officer's first date of employment and thereafter when it deems necessary to discuss any concerns or direction in performance, the Council will also conduct informal performance evaluations.

(2) Goals

The City Council and Officer shall jointly define goals and performance objectives they deem necessary for the proper operation of the City in the attainment of the City Council's policy objectives and shall establish relative priority among the various goals and objectives.

(3) ICMA Code of Ethics

The Parties acknowledge that Officer is committed to the ideals of the

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International City Management Association ("ICMA"). The Parties mutually desire that Officer be subject to and comply with the ICMA Code of Ethics (Attachment A). The Officer commits to comply with the ICMA Code of Ethics.

3. Compensation

The City agrees to provide the following compensation to Officer during the term of the agreement:

A. Compensation and Required Employer Costs

(1) Base Salary

- (a) The annual base salary for the position of City Manager shall be \$175,000.
- (b) Officer shall be paid at the same intervals and in the same manner as regular City employees.
- (c) Any merit increase to this annual base salary shall be effective only when approved by the City Council upon completion of a performance evaluation required by this Agreement.
- (d) The City may reduce the annual base salary, compensation or other financial benefits of Officer during the term of this Agreement as part of a general salary reduction in pay among management employees.
- (e) After the City Council performs the annual performance evaluation to assess Officer's first year of employment with the City, the City Council may consider providing Officer a retention incentive stipend for continued employment with the City in an amount not to exceed 6% of Officer's annual base salary as a taxable lump sum payment only if Officer receives a superior performance rating on the evaluation. Council will also consider providing a retention incentive stipend under the same terms as above after Officer's second annual evaluation.

(2) Required Employer Costs

- (a) City will pay the employer contribution of Federal Insurance Contributions Act (FICA) if applicable, including Medicare and Social Security. The City will pay the employee contribution to Social Security on behalf of Officer.
- (b) Unemployment Compensation.
- (c) Public Employees Retirement System (PERS)

The City contracts with PERS for retirement benefits. Officer is

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entitled to participate in the California Public Employees' Retirement System (CalPERS) in the 2% @ 60 retirement program with the use of the average of Officer's highest three years of salary. Officer will be responsible to pay the entire cost of the employee portion of the CalPERS retirement contribution.

- (d) The cost of any fidelity or other bonds required by law for the City Manager.
- (e) The cost to defend and indemnify the City Manager as provided in Section 5.C. below.
- (f) Workers Compensation.

B. Basic Benefits

(1) Holidays

Officer is entitled to those paid holidays in accordance with the provisions of the City's Personnel Rules and Regulations for management employees.

(2) Leave Allowance

- (a) Officer shall accrue vacation leave at a rate of 7.7 hours per pay period, which shall accrue on a prorata basis from Officer's first date of employment with the City. Officer may accrue up to a maximum of three times his annual vacation accrual. Once Officer has accrued the maximum allowable vacation leave, Officer will earn no additional vacation leave until Officer uses vacation leave sufficient to bring Officer below the maximum accrual. Upon Officer's first date of employment with the City, Officer shall be advanced 100 hours of vacation leave credit and the prorata accrual during the first twelve months of the Agreement shall be adjusted accordingly. Officer acknowledges and agrees that should this Agreement be terminated for any reason prior to the full accrual of the advanced vacation leave, any advanced vacation leave Officer used but has not yet earned shall be deducted from Officer's final paycheck. Upon termination of this Agreement, Officer will not receive payment for any unused advanced vacation leave not yet earned, and shall receive pay only for accrued vested vacation leave. Officer shall comply with the vacation leave provisions contained in the City's Personnel Rules and Regulations and any other City policies and procedures regarding vacation leave not in conflict with the provisions stated herein.
- (b) Officer shall accrue sick leave at the same rate as other management employees of the City. Upon Officer's first date of employment with the City, Officer shall be advanced 40 hours of sick leave credit and the prorata accrual shall be adjusted

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accordingly. Officer acknowledges and agrees that should this Agreement be terminated for any reason prior to the full accrual of the advanced sick leave, any unused advanced sick leave not yet earned shall be forfeited and will not be eligible to be cashed out or converted to vacation leave or CalPERS service credit. Any unused accrued sick leave shall be forfeited upon termination of this Agreement, and unused accrued sick leave cannot be converted to CalPERS service credit. Officer shall comply with the sick leave provisions contained in the City's Personnel Rules and Regulations and any other City policies and procedures regarding sick leave.

- (c) Officer shall be provided with 80 hours of administrative leave credit upon Officer's first date of employment with the City. On July 1 of each subsequent year of this Agreement, Officer shall be provided 80 hours of administrative leave credit, with a maximum accrual of 80 hours of administrative leave. Officer shall comply with the administrative leave requirements and policies applicable to other management employees. Once Officer has accrued the maximum allowable administrative leave, Officer will earn no additional administrative leave until Officer uses administrative leave sufficient to bring Officer below the maximum accrual.
- (d) Vacation Sell-back. Officer shall have the option to sell back accumulated vacation at a maximum of 178 hours per calendar year contingent on a minimum of 80 hours of vacation being maintained by Officer as of the pay period designated for the sell back.

(3) Automobile Allowance

Officer shall be provided a monthly automobile allowance of \$500.00 in exchange for making a vehicle available for the Officer's own use and for City-related business and/or functions during, before, and after normal work hours. Employee is responsible for all liability for personal injury and property damages, and for operation, maintenance, and repair of the automobile arising out of Officer's use of the automobile. Officer is also responsible for paying all income tax liability, whether federal or state, arising out of Officer's receipt of the automobile allowance. Officer shall submit proof to the City of a valid driver's license and insurance for the automobile. By Officer making his personal vehicle for use, Officer is not precluded from using City vehicles for City business during, before, and after normal workday on occasion, when appropriate.

(4) Mobile Technology Allowance

Officer shall receive as compensation the sum of \$150.00 per month for use as an allowance for his mobile technology needs including cellular telephone service and computer tablet needs. Officer is responsible for all operation, maintenance, and repair of the cell phone or any other mobile technology devices. Officer is also responsible for paying all

income tax liability, whether federal or state, arising out of Officer's receipt of any mobile technology allowance.

(5) Deferred Compensation

The City will make, in equal proportionate amounts each pay period, an annual contribution of \$9,150.00 into a qualified Section 457 Plan from one of the City approved plans as selected by Officer. Amounts contributed under this Section shall be to the benefit of Officer in accordance with the Deferred Compensation Plan participation agreement. All aspects of this contribution are subject to the provisions and limitations of the Internal Revenue Code and its related regulations as amended from time to time. No requirement of this Section shall be effective if it would violate any provisions of the Internal Revenue Code or its related regulations. As of February 1, 2014, at Officer's sole election, the contribution made by the City to the Section 457 Plan may, instead, be paid to Officer as salary.

(6) Insurance

(a) City shall pay the full cost for Officer and Officer's family to participate in the City's medical, dental, and vision insurances in the plan of Officer's choice. If Officer elects not to be covered under the City's health plan, he may cash out as a taxable cash benefit a maximum amount equivalent to the amount that Department Head employees are allowed to cash-out.

(b) The City will provide term life insurance in the amount of three times Officer's annual base salary up to a maximum of \$600,000. Officer shall be responsible for any tax liabilities associated with this benefit.

(7) Annual Physical Examination

Officer shall receive payment for an annual physical examination by the City's selected health care provider or up to \$420.00 that would otherwise qualify under IRS regulations for Flexible Spending Accounts or for approved health club membership fees and/or dues.

(8) Benefits that Accrue to Other Employees

Officer shall be entitled to all benefits, rights, and privileges accorded to Department Head employees according to the City's management compensation plan as may be established from time to time by City Council, except as otherwise provided in this Agreement. If there is any conflict between this Agreement and any resolution fixing compensation and benefits for Department Head employees, this Agreement shall control.

4. Separation

A. Resignation/Retirement

Officer may resign and/or retire from City service at any time and agrees to give the City at least 60 days advance written notice of the effective date of Officer's resignation, unless the Parties otherwise agree in writing. Upon notice of resignation or retirement and to the extent permitted by law, Officer shall facilitate the least disruptive transition in order to timely complete City projects currently in progress and assist a new city manager in assuming office.

B. Termination & Removal

- (1) Officer is an at-will employee serving at the pleasure of the City Council as provided in Government Code Section 36506.
- (2) Notwithstanding Imperial Beach Municipal Code section 2.04.100, the City Council may remove Officer at any time, either with or without cause, by a majority vote of its members. Notice of termination shall be provided to Officer in writing. The City is not required to follow the procedures of Imperial Beach Municipal Code section 2.04.100 prior to any removal.
- (3) Officer shall not be terminated, other than for misconduct in office, during the 180-day period next succeeding any general municipal election held in the City at which election a member of the City Council is elected. The 180-day period will start running once a new councilmember is sworn into office.

C. Severance Pay

- (1) In the event Officer is terminated by the City Council during such time that the Officer is willing and able to perform the City Manager's duties under this Agreement, then in that event the City agrees to pay Officer a lump sum cash payment equal to 180 days of the then current annual base salary. Severance pay shall also include payment for six months worth of health insurance and car allowance.
- (2) All payments required under this Section are subject to and shall be interpreted to comply with the limitations set forth in Government Code Sections 53260 and 53261.
- (3) The Parties agree that the severance benefits due upon termination, if any, and other benefits due upon termination as provided by this Agreement, shall be the only compensation payable to the Officer and are intended to compensate the Officer for any damages, which could include, among other losses: the loss of the opportunity to transition employment, the loss of alternate employment opportunities, the loss of income, the loss of opportunities for retraining or further education, the erosion of personal investments and savings, the loss of retirement benefits, physical displacement or the loss of a residence, the loss of insurance and medical benefits, expenses for professional counseling,

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the loss of standard of living including educational opportunities for children, and the resultant emotional distress to the Officer and the Officer's family.

- (4) In the event Officer resigns or retires from his position with the City, then the Officer shall not be entitled to severance pay but will receive all benefits that have already accrued as is typically paid out to other City employees upon resignation.

D. Separation for Cause

- (1) Notwithstanding the provisions of Sections 4.B. and 4.C., Officer may be terminated for cause. As used in this Section, "cause" shall mean only one or more of the following:
 - (a) Conviction of, or no contest plea to, a felony;
 - (b) Conviction of, or no contest plea to, any illegal act involving moral turpitude or personal gain;
 - (c) Continued abuse of non-prescription drugs or alcohol that materially affects the performance of the Manager's duties;
 - (d) Any act constituting a knowing and intentional violation of the City's conflict of interest code or adopted City Council Policies; or
 - (e) Repeated and protracted unexcused absences from the City Manager's office and/or duties.
- (2) In the event the City terminates Officer for cause, then the City may terminate this Agreement immediately and the City is not required to follow the procedures of Imperial Beach Municipal Code section 2.04.100. Officer shall be entitled to only the compensation accrued up to the date of termination and such other termination benefits and payments as may be required by law. Officer shall not be entitled to any severance benefits provided by Section 4.C.

5. **MISCELLANEOUS PROVISIONS**

A. Amendments

This Agreement may be amended at any time by mutual agreement of the City and the Officer. Any amendments are to be negotiated, put in writing, and adopted by the City Council.

B. Conflict of Interest

- (1) Officer shall not engage in any business or transaction or have a financial or other personal interest or association, direct or indirect, which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

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- (2) Officer shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to Officer's City employment.
- (3) Officer is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.

C. Abuse of Office

Any payment Officer may receive as paid leave pending an administrative investigation, as funds for the legal criminal defense of Officer, or as any cash settlement related to the termination of Officer shall be fully reimbursed to the City if Officer is convicted of a crime involving an abuse of his office or position. "Abuse of office or position" means either of the following:

- (1) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority.
- (2) A crime against public justice, including, but not limited to, a crime described in Title 7 (commencing with Section 92) of Part 1 of the Penal Code.
- (3) Nothing in this Section entitles Officer to any of the above listed payments described in this Section. This Section shall be interpreted to comply with the requirements set forth in Government Code Sections 52343-52343.4.

D. Indemnification

- (1) To the full extent of the law, the City shall defend and indemnify Officer, in his capacity as City Manager, and as the chief executive of other City-related legal entities as provided in Section 2.A(1)(b) above, against and for all losses sustained by Officer in direct consequences of the discharge of the City Manager's duties on the City's behalf for the period of the Officer's employment, save and except those losses sustained as a result of the willful act or omission of Officer.
- (2) The City shall defend, save harmless and indemnify the Officer 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 Officer's duties as City Manager. The City may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.
- (3) Whenever Officer shall be sued for damages arising out of the performance of the City Manager's duties, and as the chief executive of other City-related legal entities as provided in Section 2.A(1)(b) above, the City shall provide defense counsel for Officer in such suit and indemnify Officer from any judgment rendered against Officer; provided that such indemnity shall not extend to any judgment for damages arising out of any willful wrongdoing. This indemnification shall extend beyond

termination of employment and the otherwise expiration of this Agreement to provide protection for any such acts undertaken or committed in Officer's capacity as City Manager, regardless of whether the notice of filing of a lawsuit occurs during or following employment with the City. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies that Officer may have under the law.

- (4) This Agreement is binding upon and inures to the benefit of the heirs and personal representatives of Officer.

E. Severability

If any clause, sentence, part, section, or portion of this Agreement is found by a court of competent jurisdiction to be illegal or unenforceable, such clause, sentence, part, section, or portion so found shall be regarded as though it were not part of this Agreement and the remaining parts of this Agreement shall be fully binding and enforceable by the Parties hereto.

F. Laws Affecting Title

In addition to those laws affecting a City Manager, Officer shall have the same powers, rights and responsibilities as a Chief Executive Officer, City Administrative Officer, Administrator, and/or City Administrator as those terms are used in local, state or federal laws.

G. Jurisdiction and Venue

This Agreement shall be construed in accordance with the laws of the State of California, and the Parties agree that venue shall be in San Diego County, California.

H. Entire Agreement

This Agreement represents the sole and complete agreement of the Parties, and no representations have been made or relied upon except as set forth herein. Although the state and local laws referenced in the Agreement are subject to change and are binding upon the Parties without any written amendment to this Agreement, any other terms of this Agreement may be amended or modified only by a written, fully executed agreement of the Parties.

I. Term

This Agreement shall be effective July 17, 2013, and shall have no defined term.

J. Provisions that Survive Termination

Many sections of this Agreement are intended by their terms to survive the City Manager's termination of employment with the City, including but not limited to Section 5.D. This section, and the others so intended, shall survive termination of employment and termination of this Agreement.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the day and year first above written.

CITY OF IMPERIAL BEACH

OFFICER

By: _____
Jim Janney, Mayor

By: _____
Gary Andrew Hall

ATTEST:

By: _____
Jacque Hald, City Clerk

APPROVED AS TO FORM:

By: _____
Jennifer M. Lyon, City Attorney

ICMA Code of Ethics

The principles outlined in the ICMA Code of Ethics and enforced by the Rules of Procedure govern the conduct of every member of ICMA.

Adopted in 1924, the ICMA Code of Ethics defined the principles that today serve as the foundation for the local government management profession and set the standard for excellence. Leadership in a management structure committed to equity, transparency, integrity, stewardship of public resources, political neutrality, and respect for the rights and responsibility of elected officials and residents strengthens democratic local governance. ICMA members pledge to uphold these principles in their conduct and decisions in order to merit the trust of the public, elected officials, and staff they serve. As a condition of membership, ICMA members agree to submit to a peer-to-peer review under established enforcement procedures should there be an allegation of unethical conduct.

ICMA's Code of Ethics, most recently amended by the membership in 1998 to reflect changes in the profession, includes Guidelines to assist members in applying the principles outlined in the Code. The Guidelines were adopted by the ICMA Executive Board in 1972 and most recently revised in July 2004. Individuals seeking advice on ethics issues or enforcement are encouraged to contact Martha Perego, ICMA's director of ethics at 202/962-3668 or email mperego@icma.org.

Here is the full version of the ICMA Code of Ethics (with Guidelines).

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

Tenet 1

Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.

Tenet 2

Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant

Tenet 3

Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.

Tenet 4

Recognize that the chief function of local government at all times is to serve the best interests of all people.

Tenet 5

Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.

Tenet 6

Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.

Tenet 7

Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

Tenet 8

Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

Tenet 9

Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

Tenet 10

Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

Tenet 11

Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

Tenet 12

Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.