

DATE SUBMITTED June 29, 2023  
 SUBMITTED BY City Attorney  
 DATE ACTION REQUIRED July 5, 2023

COUNCIL ACTION (X)  
 PUBLIC HEARING REQUIRED ( )  
 RESOLUTION (X)  
 ORDINANCE 1<sup>ST</sup> READING ( )  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS aa

**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT: DISCUSSION/ACTION: Agreement a  Adopt resolution approving Agreement between City of Imperial and Dennis H. Morita to serve as City Manager for a Term of Three (3) Years.	
BACKGROUND/SUMMARY:  As set forth in City of Imperial Code 2-37, the City Manager is the administrative head of the city government, under the direction and control of the City Council. The City Manager is responsible for the efficient administration of all the affairs of the city which are under his control. Dennis H. Morita was hired by the City Council on July 1, 2020 and served for a term of three years. The attached resolution and contract are to enter into continued employment of Dennis H. Morita as the City Manager until June 30, 2026.	
FISCAL IMPACT: Base salary of \$190,000 with COLA and merit in line with unrepresented employees and all benefits in line with unrepresented employees.	FINANCE INITIALS <u>PP</u>
STAFF RECOMMENDATION:  City Attorney approves the Resolution and Agreement as to form.	DEPT. INITIALS <u>ab</u>
MANAGER'S RECOMMENDATION:	CITY MANAGER'S INITIALS _____
MOTION:  SECONDED: _____ AYES: _____ NAYES: _____	
APPROVED ( ) DISAPPROVED ( )	REJECTED ( ) DEFERRED ( )

ABSENT:

REFERRED TO:

**RESOLUTION 2023-28**

**RESOLUTION OF THE CITY COUNCIL APPROVING CONTRACT  
FOR DENNIS H. MORITA AS THE CITY MANAGER FOR THE TERM  
OF THREE YEARS**

**WHEREAS**, pursuant to City of Imperial Code 2-36, the City Manager shall receive such compensation and expense allowances as the City Council authorizes through resolution; and

**WHEREAS**, the City Council desires to have Dennis H. Morita continue to serve as the City Manager for a term of three years as set forth in the attached Agreement and Dennis H. Morita has agreed to the terms of the attached Agreement; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF IMPERIAL DOES RESOLVE, DETERMINE, AND ORDERS AS FOLLOWS:**

**SECTION 1.** That the above recitals are all true and correct.

**SECTION 2.** That the City Council approves the attached Agreement and hires Dennis H. Morita to serve as the City Manager for the City of Imperial subject to the Agreement; and

**SECTION 3.** The City Clerk shall certify as to the adoption of this resolution.

**PASSED AND ADOPTED** by the City Council of the City of Imperial on the 5<sup>th</sup> day of July, 2023.

\_\_\_\_\_  
KATHERINE BURNWORTH,  
Mayor

ATTEST:

\_\_\_\_\_  
KRISTINA M. SHIELDS,  
City Clerk

**CERTIFICATION**

I, Kristina M. Shields, City Clerk of the City of Imperial, California, hereby certify that the foregoing resolution was duly adopted at a meeting of the City Council of said City at its meeting held on the 5<sup>th</sup> of July, 2023, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the City of Imperial, California, this \_\_\_\_\_ day of July, 2023.

**CITY OF IMPERIAL CITY MANAGER  
EMPLOYMENT AGREEMENT  
(DENNIS MORITA)**

THIS AGREEMENT, made and entered into this 5th day of July, 2023, by and between the City of Imperial, a municipal corporation of the State of California, hereinafter called "Employer," and Dennis Morita, hereinafter called "Employee."

**WITNESSETH:**

**WHEREAS**, Employer desires to continue to employ the services of Employee as City Manager of the City of Imperial, California, as provided by Chapter 2 of the Imperial Municipal Code through a new contract as set forth herein for a period of three years; and

**WHEREAS**, it is the desire of the Employer to provide certain benefits, to establish certain conditions of employment, and to set working conditions of said Employee; and

**WHEREAS**, Employee desires to accept employment as City Manager of the City of Imperial.

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

**Section 1: Duties**

Employer hereby agrees to employ Employee as City Manager of said City of Imperial to perform the functions and duties specified in said Imperial Municipal Code and to perform other legally permissible and proper duties and functions as the Council shall from time to time assign employee shall devote his full-time, attention and energies to his duties.

**Section 2: Term**

Employee agrees to remain in the exclusive employ of Employer commencing July 1, 2023, and continuing until June 30, 2026, unless terminated by either party in accordance with the provisions of paragraphs 3 or 4 of this agreement. Employee shall not accept other employment nor engage in any occupation other than as set forth herein during the term of this Agreement. There is no gap in service between the initial appointment and this appointment as City Manager.

**Section 3: Termination and Severance Pay**

Employee is at-will and serves at the pleasure of Employer. Employer may terminate Employee at any time, subject to the terms and conditions of the Imperial Municipal Code which by this reference is incorporated as if set forth in full.

In the event Employee is terminated by the Employer during such time that Employee is willing and able to perform his duties under this agreement, Employer agrees to pay Employee as severance a lump sum cash payment, subject to Employee's execution of a general release of claims, of six (6) month base salary.

Employee shall also be compensated for all earned vacation and sick time accrued, but not taken as of the effective date of termination. In the event Employee is terminated for cause or for conviction, Employer shall have no obligation to pay the six (6) month severance designated herein.

Pursuant to California Government Code Section 53243.2, regardless of the term of this Agreement, if it is terminated, any cash settlement related to the termination shall be fully reimbursed to Employer if Employee is convicted of a crime involving an abuse of his office or position.

#### **Section 4: Resignation**

In the event Employee voluntarily resigns his position with Employer before expiration of the aforesaid term of his employment, then Employee shall give Employer forty-five (45) day notice unless the parties agree otherwise. Employee shall also be compensated for all earned vacation and sick time accrued, but not taken as of the effective date of resignation.

#### **Section 5: Disability**

If Employee is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, Employer shall have the option to terminate this agreement, subject to the severance pay requirements of Section 3 and applicable law.

#### **Section 6: Salary**

- A. Base Salary. Employer agrees to pay Employee for his services rendered pursuant hereto an annual base salary of one hundred ninety thousand dollars (\$190,000.00) payable in installments at the same time as other management employees of the Employer are paid.
- B. Performance Based Increases. The Employee's base salary may be increased by no less than 5% after each year of employment following a satisfactory performance evaluation provided for in Section 7 of this agreement. In the event that the performance evaluation is issued after July 1 of each year, such increase shall be paid from July 1 of each year.
- C. Cost of Living Increases. Employee shall receive cost of living increases at the same time and in an amount received by unrepresented management employees. This cost of living shall include 10% for 2023, 2.5% for 2024 and 2.5% for 2025 unless otherwise agreed to by the City Council.

#### **Section 7: Performance Evaluation**

The Council shall review and evaluate the performance of the Employee at least once annually in advance of the adoption of the annual operating budget. Annually, the Council and Employee shall define such goals and performance objectives that they determine necessary for the proper operation of the City of Imperial and in the attainment of the Council's policy objectives. and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

**Section 8: Hours of Work**

It is recognized that Employee must devote a great deal of time outside the normal office hours to business of the Employer, and to that end Employee will be allowed to take up to ten (10) days administrative leave per fiscal year as he shall deem appropriate during said normal office hours. Such time, if not taken, shall not carry over from year to year. As consistent with unrepresented management employees, such administrative leave shall expire each year at the same time as other unrepresented employees.

**Section 9: Automobile**

Employee shall be paid a car allowance of five hundred dollars (\$500.00) per month for the operation of a motor vehicle in the performance of his duties with the City. Employee shall at all times maintain liability insurance for any vehicle operated by Employee while on city business. Employee shall provide Employer with a certificate of insurance to this effect showing the City as an additional insured on his insurance policy, and including an endorsement prohibiting the cancellation or termination of said insurance without at least ten (10) days prior written notice to the employer.

**Section 10: Benefits**

Employee shall receive health insurance, retirement and other benefits afforded Employer unrepresented management employees.

**Section 11: Dues and Subscriptions**

Employer agrees to pay for professional dues and subscriptions of Employee necessary for his continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for his continued professional participation, growth, and advancement and for the good of the Employer. Such payment is subject to budget and prior approval of Employer.

**Section 12: Professional Development**

- A. Employer agrees to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, the League of California Cities, and such other national, regional, state, and local governmental groups and committees thereof which Employee serves as a member. Such payment is subject to budget and prior approval of Employer.
- B. Employer also agrees to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for his professional development and for the good of the Employer. Such payment is subject to budget and prior approval of Employer.

**Section 13: Civic Club Membership**

Employer recognizes the desirability of representation in and before local civic and other organizations, and Employee is authorized to become a member of such civic clubs or organizations, for which Employer shall pay annual membership dues related to not more than two such organizations. Fines and other contributions to the organization shall be at Employee's expense. Reimbursement for meals associated with such membership shall be in accordance with

city policy relating to reimbursement for actual cost of meals on city business. Such memberships are subject to budget and prior approval of Employer.

**Section 14: Indemnification**

Employer shall defend, save harmless, and indemnify Employee as required under the laws of the State of California.

**Section 15: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

**Section 16: No Reduction of Benefits**

Employer shall not at any time during the term of this agreement reduce the salary, compensation or other financial benefits of Employee, except to the degree of such a reduction across-the-board for all employees of the Employer.

**Section 18: Notices**

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

**Employer:**

City of Imperial  
420 South Imperial Avenue  
Imperial, California 92251

**Employee:**

Dennis H. Morita  
642 West Brewer Road #111  
Imperial, California 92251

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

**Section 19: 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 at law and executors of Employee.
- C. This Agreement shall become effective on the date noted above.
- D. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- E. This Agreement shall be governed by the laws of the State of California.

**IN WITNESS WHEREOF**, the City of Imperial has caused this agreement to be signed and



executed on its behalf by its Mayor and duly attested by its City Clerk, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

EMPLOYER:

EMPLOYEE:

\_\_\_\_\_  
Katherine Burnworth, Mayor

\_\_\_\_\_  
Dennis H. Morita

ATTEST:

\_\_\_\_\_  
Kristina Shields, City Clerk