CITY OF
OXNARD
CALIFORNIA

Meeting Date: 6 /12 /12

ACTION	TYPE OF ITEM
☐ Approved Recommendation	☒ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Karen R. Burnham, Interim City Manager Agenda Item No. I-3

Reviewed By: City Manager KRB City Attorney DK Finance JC Other *(Specify)*

DATE: June 5, 2012

TO: City Council

FROM: Karen R. Burnham, Interim City Manager

SUBJECT: **Approval of Contract for Interim City Manager**

RECOMMENDATION

That City Council approve and authorize the Mayor to execute a contract with Karen R. Burnham for Interim City Manager.

DISCUSSION

On February 7, 2012, the City Council appointed Karen R. Burnham Interim City Manager. The attached contract memorializes this action and sets forth the terms and conditions under which Ms. Burnham has served and will serve as Interim City Manager.

FINANCIAL IMPACT

The attached contract provides for a for a ten (10) percent increase in compensation for serving as Interim City Manager over the compensation Ms. Burnham receives as Assistant City Manager.

Attachment #1 - Contract

AGREEMENT BETWEEN CITY OF OXNARD AND KAREN R. BURNHAM REGARDING HER INTERIM APPOINTMENT TO THE POSITION OF CITY MANAGER

This agreement is entered into this 12th day of June, 2012, by and between KAREN R. BURNHAM (herein "Karen Burnham") and the CITY OF OXNARD (herein "City").

Recitals

A. On or about February 7th, 2012, the City Council appointed Karen Burnham to the position of Interim City Manager and Karen Burnham accepted this appointment. .

B. The parties agree to establish conditions of this appointment; specifically, as it applies to the appropriate compensation, benefits, terms and conditions for said appointment.

Agreement

The parties agree as follows:

Section 1. Duties: Exclusive Employment

Karen Burnham has been appointed to the position of Interim City Manager, the purpose of which is to perform the duties and functions of the "City Manager" as specified in the City of Oxnard Municipal Code, applicable City resolutions normally associated with the position of City Manager and within the meaning of California Government Code § 34851-34859. In this capacity, Karen Burnham will perform any other legally permissible and proper duties and functions as the City Council may from time-to-time assign. Karen Burnham shall, at all times during this Agreement, remain in the exclusive employ of the City and, to the best of her ability and experience, she shall devote her time, skills and attention to faithfully exercise and perform all of the duties and obligations required in her role as Interim City Manager

Section 2. Expected Length of Service

This Agreement shall be effective as of February 7th, 2012. Nothing in this agreement prohibits or prevents Karen Burnham from competing for the position of City Manager and nothing in this agreement prohibits or prevents the City Council from appointing Karen Burnham to the position of City Manager. This Agreement shall remain in effect for a period up until such time as a permanent City Manager is appointed and assumes that office. If Karen Burnham is not selected as City Manager, she will automatically return to her former position as Assistant City Manager and her compensation and benefit package will revert to that she had received prior to her appointment as Interim City Manager, including, but not limited to, her original anniversary date for evaluation purposes.

Section 3. Serves at Pleasure of Council

Karen Burnham serves in the capacity of Interim City Manager position in an acting capacity as an "at will" employee, serving solely at the pleasure of the City Council. Nothing in this agreement shall require any cause for the removal of Karen Burnham from the position of Interim City Manager, or prevent, limit or otherwise interfere with the right of the City Council to terminate the services of Karen Burnham as the Interim City Manager at any time. If City Council removes or terminates Karen Burnham as the Interim City Manager, the Council agrees that Karen Burnham will return to her prior position as Assistant City Manager for the City of Oxnard under the same terms and conditions that existed prior to her promotion to the position of Interim City Manager.

In addition, nothing in this agreement shall prevent, limit or otherwise interfere with the right of Karen Burnham to return to her prior position of Assistant City Manager at any time prior to when a City Manager is selected, so long as Karen Burnham provides the City Council fifteen (15) business days advance notice. The City Council agrees that the position of Assistant City Manager will not be filled with a permanent replacement during Karen Burnham's service as the Interim City Manager under this agreement and that at no time will the City Council authorize the removal of the position/classification of Assistant City Manager during the duration of Karen Burnham's Interim City Manager tenure or any time thereafter if she returns to her former capacity as Assistant City Manager.

Section 4. Interim Salary Adjustment.

During Karen Burnham's tenure as Interim City Manager, the City shall pay to Karen Burnham, for all of her employment, work and services rendered to the City, a salary of $8804.49 per pay period payable in the normal payroll installments at the same time as other Management employees of the City are paid. Said salary increase is retroactive to the 7th of February, 2012. The City Council may increase the salary at any time during the term of this Agreement. Upon the end of her tenure, and if Karen Burnham returns to her former position, the City shall pay to her a salary as Assistant City Manager equal to what she had been earning immediately prior to the entering of this Agreement, as adjusted to include any merit increases beginning February 2012 made for her past performance as Assistant City Manager, and to be payable in the normal payroll installments.

Section 5. Benefits

Karen Burnham shall continue to receive the same executive benefits she received as Assistant City Manager. There shall be no change or alteration in her medical, dental, vision, disability insurance, life insurance, annual leave accrual, retirement, deferred compensation, automobile allowance, or any other benefit to which Karen Burnham has been receiving as Assistant City Manager.

All provisions of the City's rules and regulations relating to retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now

exist or hereafter may be amended, also shall apply to Karen Burnham as they would to other executive management employees of the City.

Section 6. Performance Goals and Expectations.

The City Council and Karen Burnham shall meet to formally develop goals and expectations for her performance as the Interim City Manager within the first thirty (30) days after the adoption of this Agreement.

Section 7. Hours of Work

Karen Burnham will engage in the hours of work that are necessary to fulfill the obligations of a City Manager and she must be reasonably available at all times. Karen Burnham recognizes that proper performance of the duties of Interim City Manager will require the performance of necessary services outside of normal business hours. However, the City intends that reasonable time off be permitted Karen Burnham, such as is customary for exempt employees. During any use of annual leave or during any extended time out of the City for City business, Karen Burnham may, per City Policy and Procedure, designate an Acting City Manager, to oversee operations of the City in her absence.

Section 8. Professional Development

A. Karen Burnham agrees to actively participate in such state, regional, and local organizations as necessary for the representation of the City and for the effective performance of her duties.

B. The City hereby agrees to budget for and to pay the travel and the City's normal per diem or subsistence expenses of Karen Burnham for official travel, meetings and occasions reasonably adequate to continue her professional development and to reasonably pursue necessary official and other functions of the City including, but not limited to, the annual conferences of the National League of Cities, the League of California Cities, International City Management Association, and such other national, regional, state and local governmental groups and committees, to which Karen Burnham may serve as a member.

C. The City agrees to budget and to pay for travel and the City's normal per diem or subsistence expenses for Karen Burnham to attend two to three day courses, institutes and seminars that are necessary for professional development and for the good of the City as determined by Karen Burnham.

D. The City further agrees to budget and pay professional dues and subscriptions on behalf of Karen Burnham which are reasonably necessary for a City Manager's continued participation in national, regional, state or local associations and organizations necessary for Karen Burnham's continued professional participation, growth and advancement or for the good of the City. Furthermore, the City shall

budget and pay for the professional dues and subscriptions to such additional organizations as approved by the City Council.

Section 9. Indemnification.

The City shall provide Karen Burnham the defenses and indemnities as provided by Government Code Section *825* for those claims or actions arising out of an act or omission occurring within the scope of her employment as the Interim City Manager. This covenant shall survive the termination of this Agreement.

Section 10. Bonding

The City shall bear the full cost of any fidelity or other bonds required of Karen Burnham under any law or ordinance.

Section 11. General Provisions

A. All of Karen Burnham's writings, reports and other documentation generated as the result of this Agreement are and shall be the property of the City.

B. This Agreement is for professional and unique services of Karen Burnham, which are personal to the City. This Agreement is not transferable or assignable by Karen Burnham.

C. The provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa.

D. In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

E. This Agreement and the rights and obligations of the parties shall be governed and interpreted in accordance with the laws of the State of California.

F. The text herein shall constitute the entire Agreement between the parties and supersedes any other Agreements either oral or in writing, between the parties hereto with respect to the rendering of these services, compensation or benefits. Any modifications of this agreement will be effective only if it is in writing and signed by the party to be charged.

G. If any provision or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable by a court of law, the remainder of this Agreement or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF OXNARD

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Alan Holmberg, City Attorney

KAREN R. BURNHAM

Karen R. Burnham