

RESOLUTION NO. 16-055

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED SECOND AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN THE CITY AND THE CITY MANAGER PROVIDING FOR AN EXTENSION OF THE TERM UNDER THE SAME TERMS AND CONDITIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 14-175, the City Commission approved an Interim Employment Agreement between the City and James K. Scholl for the position of City Manager; and

WHEREAS, in Resolution No. 14-309, the City Commission approved the First Amendment to City Manager Employment Agreement; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Second Amendment to Employment Agreement between the City and the City Manager City Manager James K. Scholl is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the Presiding Officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 2nd day of February, 2016.

Authenticated by the Presiding Officer and Clerk of the Commission on 3rd day of February, 2016.

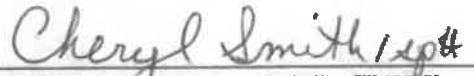
Filed with the Clerk on February 3, 2016.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Clayton Lopez	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>No</u>
Commissioner Jimmy Weekley	<u>Yes</u>



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

SECOND AMENDMENT TO EMPLOYMENT AGREEMENT

This Second Amendment to Employment Agreement is entered into this 2nd day of February, 2016, by and between the City of Key West, Florida, a municipal corporation, (hereinafter "CITY") and James K. Scholl, (hereinafter "SCHOLL").

WITNESSETH

WHEREAS, the CITY and SCHOLL entered into an ~~Interim~~ Employment Agreement on the 2nd day of July 2014, (hereinafter the "AGREEMENT"); and

WHEREAS, the CITY and SCHOLL entered into a FIRST AMENDMENT TO AGREEMENT on the 21st day of October, 2014, which extended the term of the AGREEMENT until July 2016; and

WHEREAS, the CITY and SCHOLL now desire to amend the AGREEMENT in order to modify the terms and conditions.

NOW, THEREFORE, in mutual consideration of the benefits conferred upon the parties by the terms of this Amendment, CITY and SCHOLL agree as follows:

Section 1: That the first sentence of paragraph 4(A) of the AGREEMENT is amended to provide as follows: A. Normal Term. The normal term of this Agreement will be for a period of ~~twelve (12) twenty-four (24)~~ sixty (60) calendar months, commencing at 8:00 A.M. on the third day of July 2014 and ending at 5:00 P.M. on the second day of July ~~2015 2016~~ 2019, unless extended or reduced as provided herein.

Section 2: Except as modified herein, the AGREEMENT as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have made this Second Amendment to Agreement on the date first written above.

CITY OF KEY WEST, FLORIDA



Cheryl Smith
CHERYL SMITH, CITY CLERK

By: [Signature]
CRAIG CATES, MAYOR

[Signature]
JAMES K. SCHOLL, CITY MANAGER

RESOLUTION NO. 14-309

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED FIRST AMENDMENT TO CITY MANAGER EMPLOYMENT AGREEMENT BETWEEN THE CITY OF KEY WEST AND JAMES K. SCHOLL; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on July 1, 2014, in Resolution No. 14-175, the City Commission selected James K. Scholl as Interim City Manager; and

WHEREAS, Scholl's performance as City Manager has stabilized the administration of City government and worked to instill confidence in its operations; and

WHEREAS, it is in the best interests of the community and the parties to remove the interim title and extend the contract for an additional year.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached First Amendment to City Manager Employment Agreement between the City of Key West and James K. Scholl is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by

the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 21st day of October, 2014.

Authenticated by the Presiding Officer and Clerk of the Commission on 22nd day of October, 2014.

Filed with the Clerk on October 22, 2014.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Absent</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Yes</u>



CRAIG GATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

FIRST AMENDMENT TO EMPLOYMENT AGREEMENT

This First Amendment to Employment Agreement is entered into this 21st day of October, 2014, by and between the City of Key West, Florida, a municipal corporation, (hereinafter "CITY") and James K. Scholl, (hereinafter "SCHOLL").

WITNESSETH

WHEREAS, CITY and SCHOLL entered into an Interim Employment Agreement on the 2nd day of July 2014, (hereinafter the "Agreement"); and

WHEREAS, the CITY and SCHOLL now desire to amend their Agreement in order to modify the terms and conditions.

NOW, THEREFORE, in mutual consideration of the benefits conferred upon the parties by the terms of this Amendment, CITY and SCHOLL agree as follows:

Section 1: That the first sentence of paragraph 4(A) of the Agreement is amended to provide as follows: A. Normal Term. The normal term of this Agreement will be for a period of ~~twelve (12)~~ twenty-four (24) calendar months, commencing at 8:00 A.M. on the 3rd day of July 2014 and ending at 5:00 P.M. on the 2nd day of July 2016~~5~~, unless extended or reduced as provided herein.

Section 2: That the word "interim" is deleted from any place in which it appears within the Agreement.

Section 3: Except as modified herein, the Agreement as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have made this First Amendment to Agreement on the date first written above.

CITY OF KEY WEST, FLORIDA



By: _____

CRAIG CATES, MAYOR

Myrl Smith

SMITH, CITY CLERK

J. K. Scholl

JAMES K. SCHOLL, CITY MANAGER

RESOLUTION NO. 14-175

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED INTERIM EMPLOYMENT AGREEMENT BETWEEN THE CITY OF KEY WEST AND JAMES K. SCHOLL FOR THE POSITION OF CITY MANAGER; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, at its special meeting of July 1, 2014, the City Commission selected James K. Scholl as Interim City Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

Section 1: That the attached Interim Employment Agreement between the City of Key West and James K. Scholl is hereby approved.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this 1st day of July, 2014.

Authenticated by the Presiding Officer and Clerk of the Commission on 2nd day of July, 2014.

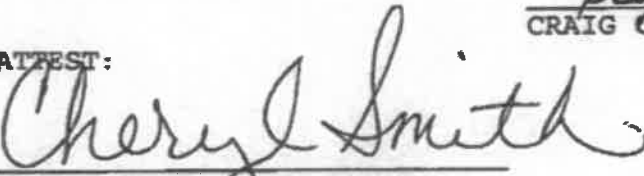
Filed with the Clerk on July 2, 2014.

Mayor Craig Cates	<u>Yes</u>
Vice Mayor Mark Rossi	<u>Yes</u>
Commissioner Teri Johnston	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Billy Wardlow	<u>Yes</u>
Commissioner Jimmy Weekley	<u>Yes</u>
Commissioner Tony Yaniz	<u>Absent</u>



CRAIG CATES, MAYOR

ATTEST:



CHERYL SMITH, CITY CLERK

INTERIM CITY MANAGER EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into on this 1st day of July, 2014 by and between the City of Key West, Florida, a local governmental agency operating under the laws of the State of Florida and the Charter of the City of Key West, Florida, ("City"), whose main business address is 3130 Flagler Avenue, Key West, Florida 33040, and JAMES K. SCHOLL ("Manager"), whose present residence address is 21384 Conch Drive, Cudjoe Key, Florida 33042; and City and Manager hereby agree as follows:

1. **Recitals.** City desires to employ an Interim City Manager for the City of Key West, who shall be the chief executive and the administrative officer of the City in accordance with the City Charter.

2. **Employment.** City hereby employs Manager as Interim City Manager and Manager accepts the employment pursuant to the terms and conditions below.

3. **Full Time Employment and Benefits.** City and Manager agree that the position of City Manager will be a full-time position. The parties recognize the hours worked by Manager will necessarily require time outside typical office hours. Manager will dedicate an average of at least forty (40) hours per week to the duties specified herein. Manager shall receive vacation leave at the rate of 20 days per year. Sick leave and vacation leave shall accrue in the same manner as for other City department heads. Manager specifically agrees to forego any dental, vision, prescription drug and similar health benefits typically provided to City employees. However, City shall pay up to seven hundred and fifty dollars (\$750.00) annually for a medical physical examination, if required.

4. **Term of Agreement; Termination; Resignation.**

A. **Normal Term.** The normal term of this Agreement will be for a period of twelve (12) calendar months, commencing at 8:00 A.M. on the 3rd day of July 2014 and ending at 5:00 P.M. on the 2nd day of July 2015, unless extended or reduced as provided herein.

B. **Extension of Term.** This Agreement will only be extended by subsequent vote of the City Commission.

C. **Termination of Agreement**

1. **By City for Cause.** The City Commission shall terminate the City Manager upon a finding of cause. "Cause" shall mean a substantial violation of the City's policies and procedures, or a violation of ordinance or law. Should City terminate this agreement for cause, Manager will not be entitled to any further compensation beyond the effective date of such termination.

2. By City Without Cause. Either party may cancel this Agreement without cause by providing the other party a minimum of sixty (60) days notice.

3. By Manager for Breach. This Agreement may be terminated by Manager upon a breach of this Agreement by City, provided the City has not cured the breach within thirty (30) days following receipt of the notice of the breach. If the breach has not been cured, termination will be effective on the thirty-first (31st) day following receipt of written notice from Manager by the City.

4. By Normal Expiration. This Agreement is terminated upon its normal expiration date as stated in Section 4.A.

D. Resignation by Manager. To effect such resignation, Manager shall deliver written Notice of Resignation to the City through the City Clerk. Unless otherwise agreed or waived by the City, Manager shall provide Notice at least sixty (60) days prior to the effective date of such resignation. Such resignation shall be accepted by the City without prejudice and without recourse to any administrative or civil proceedings, and the resignation shall be effective as of the date given in the written notice.

5. Conflict of Interest Prohibition. The City Manager shall not without the express prior approval of the City Commission, individually, as a partner, joint venturer, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City, except for the purchase of real property and stock ownership in any company whose capital stock is publicly held and regularly traded. The City Manager shall abide by the provisions of Chapter 112, Florida Statutes, and the Code of Ethics pertaining to public employees.

6. Base Salary. The City will pay to Manager, as and for a base salary, the sum of ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$180,000.00) per annum. For purposes of this Agreement, "per annum" will be defined for the first year as the twelve month period commencing on the date specified in paragraph 4A above. Payments shall be made in accordance with the City's standard payroll procedure.

7. Transportation. City agrees to provide City Manager with a full size automobile for exclusive use while conducting official city business. The City will pay all operations and maintenance costs.

8. Travel Reimbursement. City agrees to pay to or reimburse Manager for the costs of meals, other expenses and lodging incurred by Manager that may be necessary, required, or appropriate in fulfilling Managers duties and responsibilities under this Agreement. Meals, other expenses and lodging will be paid for or reimbursed at the rates specified in Section 112.061, Florida Statutes, or as permitted under City Ordinance, whichever is greater.

9. City Retirement System. City agrees that Manager will be a member of the General Employees Retirement Plan of the City. City and Manager will contribute such amounts at such times in accordance with standard City policy and procedure.

10. Duties and Responsibilities.

A. General. Manager will have those responsibilities and perform those duties which are listed in the City Charter, the City Code of Ordinances, state and federal law. The City Manager shall also perform such other legally permissible and proper duties and functions as the City Commission shall from time to time assign.

B. Availability. City Manager will be reasonably available to City Commissioners and key City staff twenty-four (24) hours per day. Such availability will be by telephone or electronic messaging, or in person.

C. Outside Activities. City Manager shall be allowed to teach, train and/or consult with other municipalities or private sector entities so long as it does not interfere with City business.

11. Professional Development and Memberships. The City agrees to annually budget and to pay the travel and subsistence expenses of the City Manager for professional and official travel, meetings, seminars and other occasions, adequate to continue his professional development and to pursue official and other functions of the City.


12. Personal Leave. The City and Manager agree that, due the variety of hours worked and requirements of the position of City Manager, interference with Manager's family life is to be expected and it is recognized that Manager may from to time absent himself during normal business hours for personal or family time; provided, however, that Manager remains reasonably available to City Commissioners and key City staff by telephone or other electronic means. Such personal time or family time will not be considered or debited against vacation time.


13. Indemnification. The City will defend, hold harmless, and indemnify Manager against any tort, professional liability, or other legal demand, claim, or action which is related directly or indirectly to Manager's lawful actions in his capacity as City Manager.

14. Miscellaneous Provisions. This agreement is made in the State of Florida and is governed by Florida law. This is the entire agreement between the parties and may not be modified or amended except by a written document signed by the party against whom enforcement is sought. This agreement may be signed in more than one counterpart, in which case each counterpart will constitute an original of this agreement. Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this agreement. Wherever used herein, the singular will include the plural, the plural will include the singular, and pronouns will be read as masculine, feminine or neuter as the context requires. If any provision of this agreement is held invalid or unenforceable, the remainder of the agreement shall remain in full force

and effect, and the offending provision shall be amended to the nearest legally permissible term as permitted by law so as to effectuate the intent of the parties. This Agreement is a joint result of the parties' negotiations and shall not to be construed against any party on the basis of authorship. The prevailing party in any litigation, arbitration or mediation relating to this agreement will be entitled to recover its reasonable attorneys' fees from the other party for all matters, including, but not limited to, appeals. Venue for any litigation involving this agreement shall be Monroe County, Florida.

IN WITNESS WHEREOF the parties have executed this Agreement on this 2 day of July 2014.


CRAIG CATES,
MAYOR CITY OF KEY WEST


JAMES K. SCHOLL
Interim CITY MANAGER




RYLEE SMITH, CITY CLERK