



## City Council Agenda Item

**City Council Meeting Date:** December 17, 2019

**TO:** Jim Throop, City Manager

**FROM:** Gabriel Garcia, Human Resources Manager  
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**SUBJECT:** Appointment of Interim Utility Director

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### **Recommendation:**

Staff recommends the City Council:

- 1) Determine an interim assignment to the vacant position of Utility Director is a necessity for the secure ongoing operations of the Utility Department and the position requires specialized skills;
- 2) Appoint George Morrow as Interim Utility Director on a limited-term basis with the appointment to begin on December 31, 2019 and end no later than December 31, 2020, as in the best interest of the City and the Utility Department; and
- 3) Authorize the City Manager or designee to enter into an employment agreement (attached) with George Morrow as interim Utility Director.

### **Background:**

Brad Wilkie, the City's Utility Director, recently retired and the Utility Department requires an interim Utility Director to lead the Department and perform select duties of that position for a limited term while the City completes open recruitment for a permanent Utility Director. That recruitment is currently ongoing.

Staff has identified George Morrow, who: (i) is qualified with a Master's Degree in electrical engineering, (ii) is willing to serve in the position on an interim basis as the City recruits for a permanent Utility Director, and (iii) has specialized skills having previously served as Utility Director for various public entities. Mr. Morrow is a current retiree and is

considered a California Public Employees' Retirement System (CalPERS) retired annuitant.

California Government Code section 21221(h) allows public agencies to hire CalPERS retirees for vacant positions subject to certain limitations. The limitations mandate that the employee be paid compensation equivalent to an hourly rate within the salary range for the vacant position, that no benefits be provided or paid, and that the appointment be of limited duration. CalPERS retirees may only work a maximum of 960 hours per fiscal year.

Additionally, CalPERS regulations stipulate the governing body (City Council) must approve the interim appointment. Failure to obtain this authority, or other violation of retired annuitant hiring requirements, may subject the retired annuitant to severe penalties, up to, and including, reinstatement to employment and the forfeiture of earned retirement benefits paid during the period of unlawful employment.

**Discussion:**

CalPERS rules generally prohibit hiring retired annuitants into permanent or regular staff positions without reinstatement from retirement. However, Government Code subdivision 21221(h) provides a limited exception to allow a retiree to serve without reinstatement from retirement for a single interim appointment to a vacant managerial, executive or other unique position.

Although the City Manager is authorized to appoint staff to open positions within the City organization, Government Code subdivision 21221(h) and CalPERS require the City Council to make such interim appointments of annuitants. The action requested is to satisfy that law and the CalPERS regulations, which will protect Mr. Morrow's retired annuitant status.

Mr. Morrow's employment with the City would also be subject to the following retired annuitant hiring limitations consistent with CalPERS:

- Compensation: \$83.61 per hour, which is the hourly rate equivalent of the top end of the Utility Director salary range (\$14,492 per month / 173.333).
- No benefits would be paid.
- Limited duration appointment: the agreement would expire at the end of the 2020 calendar year on December 31, 2020, or such time when a permanent Utility Director has been hired. Additionally, Mr. Morrow would be limited to working 960 hours per fiscal year to comply with CalPERS retired annuitant hiring requirements.

- Employment status: Mr. Morrow would be an at-will employee working under the direction of the City Manager on a part-time basis (i.e. generally 30 hours per week). The agreement could be terminated by the City at any time, and would automatically terminate upon the City's appointment of a permanent Utility Director.

The above employment terms are reflected in the attached employment agreement.

**Fiscal Impact:**

There is no adverse fiscal impact as funding for this interim appointment will be covered by salary savings due to the vacancy of the permanent Utility Director position. Consistent with CalPERS rules and the above-cited state law, Mr. Morrow will be paid an hourly rate based upon the published salary range for the Utility Director and will receive no other compensation or benefits for his services. As the City is prohibited from providing benefits to CalPERS retired annuitants, the City will accrue financial benefits for the duration of the appointment.

**Conclusion:**

The interim assignment to the vacant position of Utility Director is a necessity for the secure ongoing operations of the Utility Department. The interim appointment of Mr. Morrow in a Part-Time General capacity during the open recruitment period for a permanent Utility Director is in the best interest of the City and the Utility Department.

Respectfully submitted,

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Gabriel Garcia, Human Resources Manager

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Jim Throop, City Manager

Attachment: Interim Utility Director Employment Agreement