



## City Council Agenda Item

**City Council Meeting Date:** September 19, 2023

**TO:** Dean Albro, City Manager

**FROM:** Gabriel Garcia, Human Resources Director  
g\_garcia@ci.lompoc.ca.us

**SUBJECT:** Adoption of Resolution No. 6604(23) Appointing an Interim Utility Director and Authorizing the City Manager to Sign an Employment Agreement with Bradford Wilkie as Interim Utility Director

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### **Recommendation:**

Staff recommends the City Council:

- 1) Adopt Resolution No. 6604(23) (attached), which will:
  - a. Determine an interim assignment to the vacant position of Utility Director is a necessity for the secure ongoing operations of the Utility Department and that the position requires specialized skills;
  - b. Appoint Mr. Bradford Wilkie as Interim Utility Director on a limited-term basis with the appointment to end no later than June 30, 2024, as in the best interest of the City and the Utility Department; and
- 2) Authorize the City Manager or designee to sign the employment agreement attached as Exhibit A to Resolution No. 6604(23) with Mr. Bradford Wilkie as Interim Utility Director.

### **Background:**

Charles J. Berry, the City's Utility Director, recently resigned from his position. Therefore, the City requires an interim Utility Director to provide direction to the Utility 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 has commenced and is currently ongoing.

The City has identified Mr. Bradford Wilkie, who meets the qualifications of the Utility Director, and is willing to serve in the position on an interim basis as the City recruits for

a permanent Utility Director. Mr. Wilkie has specialized skills, having previously served as Utility Director for various public entities, including the City. Mr. Wilkie is now retired 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 must approve the interim appointment. Failure to obtain authority, or any 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, Subsection 21221(h) of the Government Code 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 City staff to open positions within the City organization, Government Code subsection 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. Wilkie's retired annuitant status.

Mr. Wilkie's employment with the City will also be subject to the following, which are consistent with CalPERS retired annuitant hiring limitations:

- Compensation: \$99.81 per hour, which is the hourly rate equivalent of the top end of the Utility Director salary range.
- Benefits: No additional benefits will be paid.
- Limited Duration Appointment: The employment agreement will expire on June 30, 2024, or such time when a permanent Utility Director has been hired,

whichever occurs first. Additionally, Mr. Wilkie will be limited to working 960 hours per fiscal year to comply with CalPERS' retired annuitant hiring requirements.

- Employment Status: Mr. Wilkie will 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 employment agreement can be terminated by the City at any time, and would automatically terminate upon the City's appointment of a permanent Utility Director.

**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. Wilkie will be paid an hourly rate based on 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. Wilkie in a part-time 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 Director

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

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Dean Albro, City Manager

Attachment: Resolution No. 6604(23)