

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA APPOINTING A CALPERS RETIREE AS CHIEF OF POLICE ON AN INTERIM BASIS SUBJECT TO THE IDENTIFICATION OF A SPECIFIED RETIREE BY THE CITY MANAGER IN ACCORDANCE WITH THE CITY CHARTER

WHEREAS, Government Code sections 7522.56 and 21221(h) permit the City of Pasadena (“City”) to appoint a California Public Employees’ Retirement System (“CalPERS”) retiree to a vacant position requiring specialized skills during recruitment for a permanent appointment, and provides that such appointment will not subject the retiree to reinstatement from retirement or loss of benefits so long as the applicable requirements are met; and

WHEREAS, the position of Chief of Police is expected to become vacant at close of business on January 7, 2022 with the departure of the incumbent Chief of Police, John Eduardo Perez; and

WHEREAS, although the Pasadena City Charter and Municipal Code provide that the City Manager shall appoint the Chief of Police and precludes the City Council from any involvement in personnel matters, including appointment, pertaining to City employees that are subordinate to the City Manager, Government Code section 21221(h) requires that the City Council approve the appointment of any CalPERS retiree to a vacant position subject to section 21221(h); and

WHEREAS, in order to ensure continuity in the operation and management of the Pasadena Police Department, it is critical for the City Manager to identify the successor to the vacancy prior to the departure of Chief Perez; and

WHEREAS, at this time, the City Manager has not identified a candidate for the Chief of Police vacancy and as such, it is presently unknown whether the interim appointment will be of a CalPERS retiree or non-retiree; and

WHEREAS, the last scheduled meeting of the City Council before it goes dark until January 10, 2022 is Monday, December 13, 2021; and

WHEREAS, the interim appointment will need to be made by the City Manager prior to January 10, 2022; and

WHEREAS, an appointment under Government Code section 21221(h) requires an active, publicly posted recruitment for a permanent replacement; and

WHEREAS, if the candidate selected by the City Manager is a CalPERS retiree, the announcement for the recruitment for the Chief of Police position shall be posted on the City’s

website located at <https://www.governmentjobs.com/careers/pasadena> prior to commencement of the interim appointment; and

WHEREAS, although Government Code section 7522.56(f) requires that post-retirement employment commence no earlier than 180 days after the retirement date, Government Code section 7522.56(f)(4) provides for an exception that allows for immediate employment of retirees in public safety positions; and

WHEREAS, the Chief of Police position is a public safety position and, therefore, the 180 day waiting period under Government Code section 7522.56(f) shall not apply even if a CalPERS retiree is appointed to the position on an interim basis; and

WHEREAS, although Government Code section 21220.5 and 2 California Code of Regulations (“CCR”) section 586.2 require a 60 day waiting period for any CalPERS retiree that is appointed to a position subject to the working after retirement rules if they have not yet attained normal retirement age, as defined in 2 CCR section 586.1, this requirement has been waived pursuant to Executive Order N-25-20 for any appointment made to ensure adequate staffing during the COVID-19 state of emergency; and

WHEREAS, the Chief of Police position is a critical position in the City’s efforts to address the challenges created by the COVID-19 pandemic and, as such, if a CalPERS retiree that is not normal retirement age is appointed to the Chief of Police position the 60 day waiting period will not apply pursuant to Executive Order N-25-20; and

WHEREAS, notwithstanding the foregoing exception, there shall be no predetermined agreement between the City and any CalPERS retiree that is not yet normal retirement age, entered into prior to his or her retirement, to serve in the Chief of Police position on an interim basis after his or her retirement; and

WHEREAS, this section 21221(h) appointment shall only be made once and therefore will end on the date immediately preceding the date on which the regular appointment for the vacant position of Chief of Police commences his or her employment or, if earlier, the date that this appointment is terminated by the City or the CalPERS retiree; and

WHEREAS, the 960 hour limitation set forth in California Government Code sections 7522.56(d) and 21221(h) shall not apply so long as the waiver to the 960 hour per fiscal year limitation under Executive Order N-25-20 remains in effect; and

WHEREAS, the compensation paid to retired annuitants cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal an hourly rate; and

WHEREAS, the minimum base annual salary for this position is \$227,829 and the hourly equivalent is \$109.53, and the maximum base annual salary for this position is \$284,786 and the hourly equivalent is \$136.92; and

WHEREAS, the hourly rate to be paid to a CalPERS retiree appointed as Chief of Police on an interim basis shall be no lower than \$109.53 and no higher than \$136.92; and

WHEREAS, a CalPERS retiree appointed pursuant to Government Code Section 21221(h) cannot receive any other benefits, incentives, compensation in lieu of benefit or any other form of compensation in addition to this hourly pay rate; and

WHEREAS, pursuant to Government Code section 7522.56(e)(1), a CalPERS retiree must certify in writing upon accepting an offer of employment that he or she has not received any unemployment insurance compensation arising out of prior employment with a public employer that is subject to Government Code section 7522.56 during the 12-month period preceding the effective date of this appointment.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PASADENA RESOLVES AS FOLLOWS:

SECTION 1. All facts set forth in the background section of this Resolution are true and correct.

SECTION 2. The City Council hereby appoints a CalPERS retiree as interim Chief of Police, subject to the identification of the specified retiree by the City Manager in accordance with the Pasadena City Charter, effective on the day following the separation of Chief Perez, until the date immediately preceding the date on which the regular replacement for the vacant position of Chief of Police commences his or her employment, unless earlier terminated, pursuant to the authority provided under Government Code sections 7522.56 and 21221(h), pending the recruitment, selection and employment of a regular Chief of Police, to provide the specialized skills necessary to manage the Pasadena Police Department.

SECTION 3. This Resolution shall be void if the City Manager does not appoint a CalPERS retiree as interim Chief of Police.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Pasadena, on this 13th day of December, 2021.

Adopted by the following vote at the meeting of the City Council on this ___ day of December, 2021:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mark Jomsky, City Clerk

Approved as to Form:


Michele Beal Bagneris, City Attorney