



APPROVING THE HIRING OF JEFFREY BERK,
RETIRED ANNUITANT, AS A TEMPORARY
EMPLOYEE TO SERVE AS PART-TIME ACTING
CHIEF ASSISTANT CITY ATTORNEY FOR A
PERIOD OF LIMITED DURATION

City Council Meeting
February 14, 2023

Amy Reeve
Director of Human Resources

BACKGROUND

- Jeffrey Berk retired from his position as Chief Assistant City Attorney as of January 4, 2023.
- The City is currently conducting an open recruitment for his replacement. It is anticipated that the recruitment could take four to six months.
- There are critical issues and projects pending, which will need to be addressed while the recruitment for a permanent replacement is underway.
- Mr. Berk has the specialized knowledge and skills required to address those critical issues and projects.

BACKGROUND

- To ensure a smooth transition and uninterrupted City operations, it is recommended that Mr. Berk return as a Temporary Employee to serve in the position of part-time, Acting Chief Assistant City Attorney until February 20, 2024, or until a replacement is appointed.
- Mr. Berk is a CalPERS retired annuitant and his employment is therefore governed by CalPERS regulations.

CalPERS Regulations

- Government Code section 21221(h) allows a retired person to serve without reinstatement upon interim appointment by the Council to a vacant position during recruitment for a permanent appointment and deemed by the Council to require specialized skills or during an emergency to prevent stoppage of public business.
- Pursuant to Government Code section 7522.56(f)(1), retirees shall not be eligible to begin work for a period of 180 days following the date of retirement unless the Council certifies the nature of the employment and that the appointment is necessary to fill a critically needed position within that initial period.

CalPERS Regulations

- The appointment must be of limited duration.
- The appointment must have a beginning date and an end date.
- The retiree shall not work more than 960 hours each fiscal year for CalPERS employers, except as otherwise provided by Gubernatorial emergency declaration.
- Compensation must be within the existing hourly rate of the Chief Assistant City Attorney position.
- The retiree shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.

RECOMMENDATION

It is recommended by the City Attorney's Office and Human Resources Department that the Council, by resolution, approve Jeffrey Berk to be hired as a Temporary Employee to the position of part-time Acting Chief Assistant City Attorney for a limited period from February 21, 2023 through February 20, 2024, or until the permanent full-time position is filled, whichever is sooner, and certify the appointment is necessary to fill the critically needed Chief Assistant City Attorney position.

QUESTIONS?