

RESOLUTION NO. 2022-032

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FONTANA APPOINTING RICARDO SANDOVAL AS INTERIM DIRECTOR OF PUBLIC WORKS/CITY ENGINEER AND APPROVING EMPLOYMENT AGREEMENT

WHEREAS, Government Code sections 7522.56 and 21221(h) permit the City Council to appoint a California Public Employees' Retirement System ("CalPERS") retired annuitant to a vacant position requiring specialized skills during recruitment for a regular appointment, and provides that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it is a single appointment that does not exceed 960 hours in a fiscal year; and

WHEREAS, the position of Director of Public Works/City Engineer is currently vacant; and

WHEREAS, in order to retain efficient and uninterrupted operation and management of the Engineering and Public Works departments, the City Council desires to appoint Ricardo Sandoval to the vacant position of Director of Public Works/City Engineer on an interim basis pursuant to Government Code section 21221(h), effective May 11, 2022; and

WHEREAS, Ricardo Sandoval has over 35 years of experience serving in municipal government with an extensive history in management, including as the Director of Engineering for the City of Fontana; and

WHEREAS, in compliance with Government Code Section 7522.56(f), the City of Fontana must provide CalPERS this certification resolution when hiring a retiree before 180 days have passed since his or her retirement date; and

WHEREAS, Ricardo Sandoval retired from the City of Fontana in the position of Director of Engineering, effective April 30, 2022; and

WHEREAS, Government Code section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is October 27, 2022, without this certification resolution; and

WHEREAS, Section 7522.56 provides that this exception to the 180-day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the City Council, City of Fontana, and Ricardo Sandoval, certify that Ricardo Sandoval did not receive a Golden Handshake or any other retirement-related incentive; and

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

WHEREAS, information regarding this vacancy will be posted on the City's webpage for employment opportunities available at <https://www.fontana.org/jobs.aspx> no later than May 11, 2022; 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 replacement for the vacant position of Director of Public Works/City Engineer commences his or her employment or, if earlier, the date that this appointment is terminated by the City or Ricardo Sandoval; and

WHEREAS, it is understood by the City and Ricardo Sandoval that the combined total hours to be served by Ricardo Sandoval in any fiscal year, for all retired annuitant positions with any CalPERS employers, shall not exceed the 960-hour limitation set forth in California Government Code sections 7522.56(d) and 21221(h), unless an exception applies; 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 the Director of Public Works/City Engineer position is \$165,000 and the hourly equivalent is \$79.33, and the maximum base annual salary for this position is \$206,100 and the hourly equivalent is \$99.09; and

WHEREAS, the hourly rate to be paid to Ricardo Sandoval is \$88.44; and

WHEREAS, Ricardo Sandoval will not 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, matters, issues, terms, and/or conditions related to this employment and appointment must be approved as an action item and cannot be approved on the consent calendar; and

WHEREAS, pursuant to Government Code Section 7522.56(e)(1), Ricardo Sandoval must certify in writing to the City upon accepting an offer of employment that he 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, BE IT RESOLVED, declared, determined and ordered by the City Council of the City of Fontana, California, 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 certifies the nature of the employment of Ricardo Sandoval as described herein and detailed in the attached employment agreement and that this appointment is necessary to fill the critically needed position of Director of Public Works/City Engineer for the City of Fontana to ensure the ongoing efficient operation of the Engineering and Public Works departments.

Section 3. The City Council hereby waives the 180-day waiting period pursuant to Government Code section 7522.56(f)(1).

Section 4. The City Council hereby appoints Ricardo Sandoval as interim Director of Public Works/City Engineer, effective May 11, 2022 subject to the provisions set forth in an employment agreement, until the date immediately preceding the date on which the regular replacement for the vacant position of Director of Public Works/City Engineer commences his or her employment, unless earlier terminated, pursuant to the authority provided under Government Code sections 21221(h) and 7522.56, pending the recruitment, selection and employment of a regular Director of Public Works/City Engineer, to provide the specialized skills necessary to handle the day-to-day operations of the Engineering and Public Works departments.

Section 5. The employment agreement for Ricardo Sandoval, a copy of which is incorporated herein as **Exhibit A**, is approved by the City Council.

Section 6. The City Manager is authorized to execute said agreement on behalf of the City, with such technical amendments as may be deemed appropriate by the City Manager and City Attorney.

APPROVED AND ADOPTED this 10th day of May, 2022.

READ AND APPROVED AS TO LEGAL FORM:

City Attorney

I, Germaine McClellan Key, City Clerk of the City of Fontana, California, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing resolution is the actual resolution duly and regularly adopted by the City Council at a regular meeting thereof, held on the 10th day of May, by the following vote to wit:

AYES:

NOES:

ABSENT:

Resolution No. 2022-032

City Clerk of the City of Fontana

Mayor of the City of Fontana

ATTEST:

City Clerk