



Legislation Details (With Text)

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**File created:** 4/25/2022      **In control:** City Council Meeting

**On agenda:** 5/10/2022      **Final action:**

**Title:** Adopt a Resolution Appointing Ricardo Sandoval as Interim Director of Public Works/City Engineer and Approving Employment Agreement

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. City of Fontana\_Interim Director of Engineering-City Engineer Employment Agreement (Ricardo Sandoval), 2. City of Fontana\_Resolution Appointing Ricardo Sandoval as Interim Director of Public Works\_City Engineer

Date	Ver.	Action By	Action	Result
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**FROM:**  
Human Resources

**SUBJECT:**  
Adopt a Resolution Appointing Ricardo Sandoval as Interim Director of Public Works/City Engineer and Approving Employment Agreement

**RECOMMENDATION:**  
Adopt **Resolution No. 2022-033**, 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.

**COUNCIL GOALS:**

- To operate in a businesslike manner by becoming more service oriented.

**DISCUSSION:**  
On May 10, 2022, the City Council is expected to approve the job specifications for the Director of Public Works/City Engineer position. This is a new position that will replace the former Director of Engineering position and reflects the reorganization in leadership over our Engineering and Public Works departments to facilitate a more efficient manner of operating these departments.

As the Director of Public Works/City Engineer position will be a new position, it will be vacant at the time of creation. Although the City will immediately commence recruitment for a regular appointment to the position, the recruitment will take some time. As such, it is prudent to appoint an interim Director of Public Works/City Engineer to ensure a smooth transition to this new leadership structure to our Engineering and Public Works departments.

The former Director of Engineering, Ricardo Sandoval, retired from City service effective April 30, 2022. As a long time employee of the City, with over 35 years of service, and almost 17 years as Director of Engineering, he is an ideal candidate for the interim appointment. Accordingly, staff recommends that the City Council appoint Mr. Sandoval as interim Director of Public Works/City Engineer effective May 11, 2022.

As a CalPERS retiree, the appointment of Mr. Sandoval as interim Director of Public Works/City Engineer is subject to the working after retirement rules codified at Government Code sections 7522.56 and 21221(h), including the 180 day waiting period which must be waived by the City Council.

The California Public Employees' Pension Reform Act of 2013 ("PEPRA") requires a 180-day waiting period before a retiree can return to work for a public agency; however, the 180-day waiting period is not applicable if the employer adopts a resolution establishing the critical need for the appointment as is the case here so long as the retiree did not retire with a retirement incentive such as the CalPERS golden parachute (i.e., 2 years additional service credit). In addition to the requirements of PEPRA, the appointment of a retiree to a vacant position must comply with Section 21221(h) of the Public Employees' Retirement Law ("PERL"). In accordance with PERL, the appointment is permissible if it is made during the recruitment for a regular appointment to the position and it is approved by the governing body of the employer in a public meeting and not on a consent calendar.

As a CalPERS retiree, Mr. Sandoval will only be authorized to work 960 hours in a fiscal year (July 1 to June 30) combined for any retired annuitant appointment during the fiscal year. Further, he cannot be paid more than what the City would otherwise pay a person filling the Director of Public Works/City Engineer position according to its published salary schedule. In addition, the City must initiate active recruitment efforts for a permanent appointment to the Director of Public Works/City Engineer position no later than the day that Mr. Sandoval begins his interim appointment. Staff has worked with the City Attorney's Office to ensure that additional requirements will be met.

Under applicable law, the City Council must pass a resolution that makes certain findings before it can employ a CalPERS retiree on an interim basis, including waiving the 180 day waiting period. The attached **Resolution No. 2022-032** provides for the appointment of Mr. Sandoval prior to the expiration of the 180 day waiting period in conformity with the requirements of Government Code sections 75422.56 and 21221(h), and authorizes the City Manager to enter into an employment agreement with Mr. Sandoval. A copy of the agreement is enclosed herein for the City Council's review and approval.

The attached proposed employment agreement reflects Mr. Sandoval's appointment as interim Director of Public Works/City Engineer, his hourly rate of \$88.44 (calculated pursuant to the requirements of Government Code section 21221(h)), and the term of the appointment. The appointment would be effective May 11, 2022 and would continue, unless terminated early by the City or Mr. Sandoval, until the regular appointment to the vacant position of Director of Public Works/City Engineer commences his or her employment.

**FISCAL IMPACT:**

Mr. Sandoval would be paid an hourly rate of \$88.44 per hour, which is not less or greater than the hourly equivalent of the salary for the Director of Public Works/City Engineer position as stated in the City's publicly available pay schedule. He would not be entitled to any benefits, vacation or holidays,

unless otherwise required by state or federal law.

With the approval, updated costs will be prepared by the Budget Office and if needed, adjustments will be included in the Quarter Budget Report.

**MOTION:**

Approve staff recommendation