

RESOLUTION NO. 2021-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COACHELLA, CALIFORNIA APPOINTING WILLIAM PATTISON AS CITY MANAGER ON AN INTERIM BASIS AND APPROVING EMPLOYMENT CONTRACT

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 permanent 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 City Manager became vacant at close of business on, December 30, 2020; and

WHEREAS, in order to ensure continuity in operation and management of the City Manager's Office, the City Council desires to appoint William Pattison to the vacant position of City Manager on an interim basis pursuant to Government Code section 21221(h), effective January 1, 2021; and

WHEREAS, William Pattison retired from the City of Coachella in the position of City Manager on December 31, 2020; and

WHEREAS, William Pattison has extensive experience in managing, directing and overseeing operation of the City Manager's Office given his former employment as City Manager for the City of Coachella; and

WHEREAS, section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is June 29, 2021 for William Pattison, unless an exception applies; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-2020, as subsequently clarified by Executive Order N-35-20 issued on March 21, 2020, which, among other things, suspended the 180 day waiting period for retired annuitants that are hired to ensure adequate staffing to appropriately respond to the COVID-19 pandemic; and

WHEREAS, Government Code section 21220.5 provides that a retired person who has not attained the normal retirement age shall have a bona fide separation in service before working after retirement; and

WHEREAS, section 586.1 of Title 2 of the California Code of Regulations ("CCR") defines "normal retirement age" as the *later of* the age when a member is first eligible to retire, or the highest specified age applicable to the member pursuant to any retirement formula under which the member accrued service credit; and

WHEREAS, section 586.2 of Title 2 of the CCR defines a bona fide separation in service, as applied after the retirement of the retired person, as a separation in service of at least 60 calendar days between the date of retirement and the first day of work for the employer as a retired person; and

WHEREAS, William Pattison has not yet attained his normal retirement age of 60 years of age and, as such, must experience a bona fide separation in service unless an exception applies; and

WHEREAS, subdivision (c) of section 586.2 of Title 2 of the CCR provides that the bona fide separation in service requirement shall not apply in the event of an emergency has been declared as provided in Government Code section 8558 that requires the employment of a retired person; and

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency in California finding that the conditions set forth in Government Code Section 8558 had been met triggering the exception to the bona fide separation in service requirement for any retired person employed in response to said emergency; and

WHEREAS, it is imperative that the City have continuity in leadership pending the recruitment and hiring of a permanent City Manager to ensure the effective operation of the City in the midst of the COVID-19 pandemic and, as such, the appointment of William Pattison as interim City Manager is consistent with the conditions of subdivision (c) of section 586.2 of Title 2 of the CCR and Executive Order N-25-20, as clarified by Executive Order N-35-20, such that the City's appointment of William Pattison as interim City Manager is exempt from both the 180 day waiting period and the bona fide separation in service requirement; and

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

WHEREAS, the announcement for the recruitment of the City Manager position was posted on December 31, 2020 on the City's website located at www.coachella.org, and said recruitment is ongoing; and

WHEREAS, this Section 21221(h) appointment shall end on the date immediately preceding the date on which the permanent replacement for the vacant position of City Manager commences his or her employment or, if earlier, the date that this appointment is terminated by the City or William Pattison; and

WHEREAS, it is understood by the City and William Pattison that the combined total hours to be served by William Pattison 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 Section 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 monthly salary for employees hired after into the City Manager position is \$ 19,378.67 and the hourly equivalent is \$ 111.80; and

WHEREAS, the hourly rate to be paid to William Pattison is \$111.80; and

WHEREAS, William Pattison 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 unless otherwise required by federal or state law; and

WHEREAS, the entire employment agreement between William Pattison and the City of Coachella has been reviewed by this body and is attached hereto as **Exhibit A**; and

WHEREAS, no matters, issues, terms, and/or conditions related to this employment and appointment have been or will be placed on the consent calendar; and

WHEREAS, pursuant to Government Code Section 7522.56(e)(1), William Pattison 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 Section 7522.56 during the 12-month period preceding the effective date of this appointment.

THE CITY COUNCIL OF THE CITY OF COACHELLA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the foregoing Recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council hereby certifies the nature of the employment of William Pattison as described herein and detailed in the attached employment agreement and that this appointment is necessary to fill the critically needed position of City Manager for the City of Coachella on an interim basis.

SECTION 3. The City Council hereby appoints William Pattison as interim City Manager effective January 1, 2021 at 3:00 p.m. subject to the provisions set forth in an employment agreement, until the date immediately preceding the date on which the permanent replacement for the vacant position of City Manager 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 permanent City Manager, to provide the specialized skills necessary to manage the City Manager's Office.

SECTION 4. The employment agreement for William Pattison, a copy of which is incorporated herein as **Exhibit A**, is approved by the City Council.

SECTION 5. The Mayor is authorized to execute this Resolution and said agreement on behalf of the City, with such technical amendments as may be deemed appropriate by the Mayor and City Attorney.

PASSED, APPROVED and ADOPTED this 1st day of January 2021.

Steven A. Hernandez
Mayor

ATTEST:

Angela M. Zepeda
City Clerk

APPROVED AS TO FORM:

Carlos Campos
City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF COACHELLA)

I HEREBY CERTIFY that the foregoing Resolution No. 2021-01 was duly adopted by the City Council of the City of Coachella at a regular meeting thereof, held on the 1st day of January 2021, by the following vote of Council:

AYES:

NOES:

ABSENT:

ABSTAIN:

Andrea J. Carranza, MMC
Deputy City Clerk