

**CITY OF OAKLAND**  
**AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2010 FEB 25 PM 7:58

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Department of Human Resources Management  
DATE: March 9, 2010

RE: **Resolution Authorizing The City Administrator To Request That The California Public Employees' Retirement System (CalPERS) Board of Administration Approve An Extension Of The Appointment of Gerald A. Simon As A Temporary Contract Service Employee For Up To Three Hundred Sixty (360) Hours During The Period Of April 8, 2010 Through June 30, 2010 In Accordance With Government Code Section 21221(h)**

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**SUMMARY**

A Resolution has been prepared to authorize the City Administrator to request that the California Public Employees' Retirement System (CalPERS) Board of Administration approve an extension of the appointment of interim Fire Chief, Gerald Simon for up to 360 hours beyond the 960 hour limit during the period of April 8, 2010 through June 30, 2010.

California Public Employees' Retirement System Government Code Section 21221(h) states that appointments of a limited duration to a position requiring specialized skills or during an emergency shall not exceed 960 hours in any fiscal year. When an appointment is expected to or will exceed 960 hours in any fiscal year, the governing body shall request approval from the CalPERS Board of Administration to extend the temporary employment. In consultation with the City Administrator and after evaluating the work requirements for the duration of the fiscal year, it was determined that interim Fire Chief, Gerald A. Simon will exceed the 960 hour work limit by April 8, 2010, thereby requiring an extension to complete

**FISCAL IMPACT**

The Fire Chief position is approved in the fiscal year 2009-11 adopted budget. The Interim Chief position is linked to the Fire Chief position. Therefore, there is no impact to the General Fund.

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## BACKGROUND

As required in Government Code Section 21221(h), the accompanying resolution requests that the temporary appointment of Gerald A. Simon be extended up to an additional 360 hours from April 8, 2010 through June 30, 2010.

After retirement, a person may consider returning to work with their former CalPERS employer agency or with another CalPERS employer (any employer who contracts with CalPERS for retirement benefits) as a “retired annuitant.” There are some restrictions that must be met to avoid jeopardizing their CalPERS service, disability or industrial disability retirement benefits. These restrictions are explained in the CalPERS Publication.

Further, CalPERS Government Code Section 21224 details the requirements for employment after retirement for most positions that may be filled by the City. It permits the employment of a retired member when he/she has specialized skills needed to perform work of limited duration. Employment is limited to 960 hours a fiscal year however, if the retired annuitant’s specialized skills are required next year, an agency may temporarily appoint the retired annuitant again as long as the retired annuitant did not collect unemployment for the previous year’s temporary employment.

Government Code Section 21221(h) differs in part from Section 21224 in that it is generally used by agencies to temporarily appoint a retired annuitant to a high ranking position such as department or agency head, Police Chief, Fire Chief, etc. These appointments in addition to any made pursuant to Section 21224, shall not exceed 960 hours in any fiscal year. When an appointment is expected to or will exceed 960 hours in any fiscal year, the governing body shall request approval from the CalPERS Board of Administration to extend the temporary employment.

After the retirement of the permanent Fire Chief in early October, Gerald A. Simon was temporarily appointed as Interim Fire Chief on October 28, 2008 and worked through June 30, 2009 in accordance with Government Code Section 21224. He was re-appointed July 1, 2009 under Section 21221(h) in anticipation of the need to work additional hours beyond the 960 hour limit. The increase in hours is due to several factors including the implementation of the recently adopted Local 55 Memorandum of Understanding and the need for constant leadership as the Oakland community faced the recent H1N1 crisis. The Fire Chief developed and implemented response plans, and worked with Alameda County Public Health to provide oversight at community vaccination clinics and provide direction to command staff.

During this period it is essential that there is an experienced and knowledgeable Chief to lead budget, recruitment and departmental operations.

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Chief Simon has over 13 years experience as a Fire Chief having served in 4 jurisdictions in 2 states, including over 5 years in Oakland. He has intricate knowledge of the City of Oakland and the Fire Department laws, regulations and policies. The continuity of operations and leadership provided by Chief Simon during the recruitment process for Fire Chief is in the best interest of the City of Oakland.

### **KEY ISSUES AND IMPACTS**

The Fire Chief position was vacated in October 2008, when the former Chief retired. The City initiated a recruitment process that did not result in the selection of a Fire Chief. The position is currently filled by Interim Chief, Gerald A. Simon.

The Fire Chief position is critical to the Oakland community. In the absence of leadership, morale is decreased which has a negative impact on departmental operations. During this time of severe economic crisis, the Fire Chief must be innovative and identify ways to continue to provide high quality community based fire services, while maximizing resources.

Since his return to Oakland, Chief Simon has successfully maintained the management-labor relationship with the International Association of Firefighters, Local 55. This relationship was essential to the City's ability to negotiate a contract that saved millions of dollars in General Fund spending. More recently, the Fire Chief provided leadership during the H1N1 crisis, directing command staff to facilitate community vaccinations, develop a Continuity of Operations Plan in collaboration with other City departments and produce training for all City of Oakland employees and the Oakland community.

### **SUSTAINABLE OPPORTUNITIES**

There are no economic, environmental, or social equity opportunities resulting from this action.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

The proposed action does not impact disability and senior citizen access.

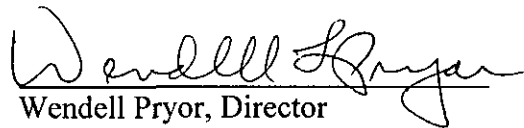
### **RECOMMENDATION(S) AND RATIONALE**

Staff recommends City Council approval of the resolution authorizing the City Administrator to request that the CalPERS Board of Administration approve an extension of the appointment of Gerald A. Simon as a Temporary Contract Service Employee for up to 360 hours during the period of April 8, 2010 through June 30, 2010.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that City Council approve the Resolution authorizing the City Administrator to request that the CalPERS Board of Administration approve an extension of the appointment of Gerald A. Simon as a Temporary Contract Services Employee for up to 360 hours during the period April 8, 2010 through June 30, 2010 in accordance with Government Code Section 21221(h).

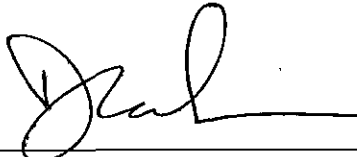
Respectfully submitted,




Wendell Pryor, Director  
Department of Human Resources Management

Prepared by:  
Yvonne S. Hudson, HR Manager  
Retirement and Benefits

APPROVED AND FORWARDED TO THE  
PUBLIC SAFETY COMMITTEE:



OFFICE OF THE CITY ADMINISTRATOR

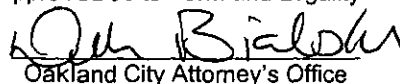


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FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2010 FEB 25 AM 9:45

Approved as to Form and Legality

  
Oakland City Attorney's Office

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO REQUEST THAT THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (CalPERS) BOARD OF ADMINISTRATION APPROVE AN EXTENSION OF THE APPOINTMENT OF GERALD A. SIMON AS A TEMPORARY CONTRACT SERVICE EMPLOYEE FOR UP TO THREE HUNDRED SIXTY (360) HOURS DURING THE PERIOD OF APRIL 8, 2010 THROUGH JUNE 30, 2010 IN ACCORDANCE WITH GOVERNMENT CODE SECTION 21221(h)**

**WHEREAS**, Gerald A. Simon, retired from the City of Oakland in the position of Agency Director of Fire Services on September 4, 2004; and

**WHEREAS**, the City of Oakland appointed Gerald A. Simon to the position of Temporary Contract Employee under Government Code Section 21221(h), a position deemed to be of limited duration and requiring specialized skills effective July 1, 2009; and

**WHEREAS**, Gerald A. Simon is expected to reach his maximum of 960 hours this fiscal year on or about April 8, 2010, and;

**WHEREAS**, the continuity of operations and leadership during the recruitment process for Fire Chief is in the best interest of the City of Oakland; and

**WHEREAS**, Gerald A. Simon has over 13 years experience as a Fire Chief having served in 4 jurisdictions in 2 states, including over 5 years in Oakland and has intricate knowledge of the City of Oakland and the Fire Department laws, regulations and policies; now, therefore, be it

**RESOLVED:** That the City Council authorizes the City Administrator to request that the CalPERS Board of Administration approve an extension of his appointment in accordance with Government Code section 21221(h) for the temporary employment of Gerald A. Simon for up to 360 hours during the period of April 8, 2010 through June 30, 2010.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California