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OFFICE OF THE CITY CLERK
OAKLAND
2013 MAR 29 AM 9:45

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Exception to the 180-day Wait Period
To Hire an Annuitant

DATE: March 27, 2013

City Administrator
Approval

Date

3/29/13

COUNCIL DISTRICT: City-wide

RECOMMENDATION

Staff recommends that the City Council adopt:

Resolution Approving Appointment Of Raymond Derania To Serve As The Interim Deputy Director/Building Official For The City Of Oakland, To Allow The City Of Oakland To Employ Raymond Derania Within 180 Days Of His Retirement Pursuant To Government Code Section 7522.56(F)(1) For A Period Not To Exceed 960 Hours Or Until The City Has Completed Its Recruitment And Transition To A Suitable Successor, Whichever Occurs First

OUTCOME

In order to hire Mr. Derania, a recent retiree, the City Council must waive the California Public Employees Retirement System ("CalPERS") 180 day waiting period for rehire, in order to comply with the terms of the recent Pension Reform Act of 2013, which took effect on January 1. A resolution for waiver has been prepared accordingly, to facilitate the transition of the recently hired Director of Planning and Building, Rachel Flynn, who oversees the Deputy Director/Building Official, and while the City recruits a permanent replacement for Mr. Derania. Passage of this resolution would authorize the City Administrator to Employ Raymond Derania as a Temporary Contract Service Employee (TCSE) within 180 days of his retirement to fill the critically needed position of Deputy Director/Building Official and City Engineer function for the City of Oakland for a period not to exceed six months or until a recruitment and transition to a successor has occurred.

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BACKGROUND/LEGISLATIVE HISTORY

In late 2012, Mr. Derania communicated his plans to retire in the coming year. At that time a request to recruit for the Deputy Director/Building Official position was initiated by the department and is currently in process. On March 31, 2013 Mr. Derania retired from the City of Oakland.

The California Public Employee's Retirement System ("CalPERS") requires retirees to wait a period 180 days from date of retirement before working for a public employer in the same retirement system from which the retiree receives retirement benefits. The retiree may, however, be hired within the waiting period if their service is needed to fill a critically needed position, provided the waiting period is waived by the hiring entity's legislative body. In addition, the retiree may not have accepted any retirement incentive, must be paid a salary not less than the minimum nor in excess of the maximum monthly base salary paid to other employees performing comparable duties, divided by 162.5 to equal the hourly rate, and employment is limited to 960 hours per fiscal year. (Government Code section 7522.56.) The maximum monthly base salary for the Deputy Director/Building Official is \$13,156.23 and hourly equivalent is \$80.96, and the minimum monthly base salary is \$10,714.66 and hourly equivalent is \$65.94. Mr. Derania will be paid the hourly rate of \$80.96.

ANALYSIS

This appointment is necessary to fill the critically needed position of Deputy Director/Building Official and City Engineer function for the City of Oakland, in particular during the period of transition for the Building Services Unit of the Department of Planning and Building. City administration has considered alternatives involving existing management staff within the Unit, and has concluded that the appointment of Mr. Derania in a TCSE capacity for no more than six months would be the least disruptive and least costly approach to managing transitions which are already underway. The approach proposed here will allow for the new Planning and Building Director to learn directly from Mr. Derania and receive a proper management transition during the time when she is also recruiting a permanent replacement for Mr. Derania. This approach will result in an essential transfer of knowledge and training on critical service and change issues within Building Services, which has been the source of various reviews and legislative oversight.

Other specific reasons for this proposed action include:

1. The City of Oakland is obligated to have a Building Official and City Engineer in its employ at all times to meet requirements of the City of Oakland Building Code.
2. The Department of Planning and Building has a critical need to employ a Deputy Director/Building Official/City Engineer to prevent disruption to public business and to ensure the smooth operation of services provided to the public for building plan check

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- and building inspections.
3. An appropriate successor to serve as the City's Deputy Director/Building Official and City Engineer has not been identified at this time, but the recruitment is in process.
 4. The Department is unable to appoint an Interim Deputy Director/Building Official and City Engineer from existing staff due to their current workloads and inability to perform additional duties without compromising services to the public.
 5. Mr. Derania is uniquely qualified and has agreed to assist in filling the City's critical need at this time to:
 - a. Provide staff training and sharing of institutional knowledge
 - b. Assist with preparation of the 2 year budget for Development Service Fund 2415
 - c. Assist with the transition of City Engineer functions to the Public Works Agency
 - d. Assist with coordination of the permit review process for new major projects
 - e. Assist with codifying local amendments for adoption with the new editions of the California Building Codes
 - f. Assist with the implementation of the "best practices" recommendations of Management Partners.

PUBLIC OUTREACH/INTEREST

No public outreach was necessary for this action, beyond the usual 10-day noticing of all potential Council actions.

COORDINATION

This report was coordinated with the Department of Human Resources, the City Attorney's Office, the Budget Office & the Payroll unh.

COST SUMMARY/IMPLICATIONS

The requested salary for this position is \$13,156.23 per month and does not exceed the salary rate for the classification of Deputy Director/Building Official, for a fully-burdened cost not to exceed \$110,000 for a total of 960 hours.

1. **SOURCE OF FUNDING:** The Development Service Fund (2415), Administration: Engineering Organization (84411), Non-Project 0000000, and Engineering & Architectural Plan Approval Program (PS30).
2. **FISCAL IMPACT:** Sufficient existing funds are available for the Temporary Contract Service Employee (Deputy Director/Building Official/City Engineer) in the Development Services Fund (2415) through savings in the vacant Deputy Director/Building Official position.

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SUSTAINABLE OPPORTUNITIES

Economic: Implementation and enforcement of the City of Oakland's Building Code provides economic opportunities for Oakland-based construction and contracting firms and adds value to Oakland business and residential properties.

Environmental: Oakland's Building Services unit promotes environmentally sustainable building practices wherever possible and practical.

Social Equity: No Social Equity opportunities have been identified as part of this proposed action.

For questions regarding this report, please contact Sarah T. Schlenk, Agency Administrative Manager, at (510) 238-3982.

Respectfully submitted,



Rachel Flynn
Director, Planning & Building

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OAKLAND CITY COUNCIL

Approved as to Form and Legality

DRAFT

City Attorney

RESOLUTION No. _____ C.M.S.

RESOLUTION APPROVING APPOINTMENT OF RAYMOND DERANIA TO SERVE AS THE INTERIM DEPUTY DIRECTOR/BUILDING OFFICIAL FOR THE CITY OF OAKLAND, TO ALLOW THE CITY OF OAKLAND TO EMPLOY RAYMOND DERANIA WITHIN 180 DAYS OF HIS RETIREMENT PURSUANT TO GOVERNMENT CODE SECTION 7522.56(f)(1) FOR A PERIOD NOT TO EXCEED 960 HOURS OR UNTIL THE CITY HAS COMPLETED ITS RECRUITMENT AND TRANSITION TO A SUITABLE SUCCESSOR, WHICHEVER OCCURS FIRST

WHEREAS, Raymond Derania retired from the City of Oakland in the position of Deputy Director/Building Official effective March 31, 2013; and

WHEREAS, the City of Oakland is currently recruiting to fill the vacant Deputy Director/Building Official position, and it is anticipated that the position may not be filled until September, 2013; and

WHEREAS, the City of Oakland intends to appoint Raymond Derania to serve as the Interim Deputy Director/Building Official for the City of Oakland during recruitment for a permanent appointment pursuant to Government Code Section 21221(h) because of his specialized skills and to prevent stoppage of public business; and

WHEREAS, Government Code Section 21221(h) provides for the City of Oakland to make an interim appointment to a vacant position during recruitment for a permanent position if deemed by the City of Oakland to require specialized skills or during an emergency to prevent stoppage of public business; and

WHEREAS, Government Code Section 7522.56(f) requires that post-retirement employment commence no earlier than 180 days after Mr. Derania's retirement date, which is September 28, 2013; and

WHEREAS, Section 7522.56(f)(1) provides for an exception to the 180 day waiting period if the City of Oakland certifies the nature of the employment and the appointment is necessary to fill a critically needed position before the 180 days has passed and the Oakland City Council approves the appointment in a public meeting; and

WHEREAS, the City of Oakland has presented a report to this body certifying the nature of the

employment and that the Deputy Director/Building Official is a critically needed position; and

WHEREAS, Section 7522.56(g) provides that this exception to the 180 day waiting period shall not apply if Mr. Derania accepts a retirement incentive; and

WHEREAS, the City of Oakland confirms that Raymond Derania has not and will not receive a Golden Handshake or any other retirement incentive; and

WHEREAS, the entire employment agreement, contract or appointment document between Raymond Derania and the City of Oakland has been reviewed by this body and is attached as Exhibit "A"; and

WHEREAS, all matters, issues, terms or conditions related to this employment and appointment have or shall be placed on the non-consent calendar and not on the consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 162.5 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is \$13,156.23 and hourly equivalent is \$80.96 and the minimum base salary for this position is \$10,714.66 and the hourly equivalent is \$65.94; and

WHEREAS, the hourly rate paid to Raymond Derania will be \$80.96, and

WHEREAS, sufficient existing funds are available for the Temporary Contract Service Employee (Deputy Director/Building Official) in the Development Service Fund (2415), through savings in the vacant Building Official position, in the Administration: Engineering Organization (84411), Non-Project 0000000, and Engineering & Architectural Plan Approval Program (PS30); and the requested salary for this position is \$13,156.23 per month and does not exceed the salary rate for the classification of Deputy Director/Building Official, for a fully-burdened cost not to exceed \$110,000 for a total of 960 hours; now, therefore be it:

RESOLVED: That the Oakland City Council hereby approves the City of Oakland's Appointment of Raymond Derania as the Interim Deputy Director/Building Official of the City of Oakland, effective April 29, 2013, for a period not to exceed 960 hours or until the City has completed its recruitment and transition to a suitable successor, whichever occurs first;

FURTHER RESOLVED: That the Oakland City Council hereby certifies the nature of the appointment of Raymond Derania as described herein and that this appointment is necessary prior to expiration of the 180 day waiting period in order to temporarily fill the vacant position of Deputy Director/Building Official and City Engineer function for the City of Oakland by April

29, 2013, because:

1. The City of Oakland is obligated to have a Building Official and City Engineer in its employ at all times to meet requirements of the City of Oakland Building Code;
2. The Department of Planning and Building has a critical need to employ a Deputy Director/Building Official and City Engineer to prevent stoppage of public business and to ensure the smooth operation of services provided to the public for building plan check and building inspections;
3. An appropriate successor to serve as the City's Deputy Director/Building Official and City Engineer has not been identified at this time, but the recruitment is in process;
4. The Department is unable to appoint an Interim Deputy Director/Building Official and City Engineer from existing staff due to their current workloads and inability to perform additional duties without compromising services to the public; and
5. Mr. Derania has the required specialized skills and, thus, is uniquely qualified to fill the City's critical need at this time to:
 - a. Provide staff training and sharing of institutional knowledge;
 - b. Assist with preparation of the 2 year budget for Development Service Fund 2415;
 - c. Assist with the transition of City Engineer functions to PWA;
 - d. Assist with coordination of the permit review process for new major projects;
 - e. Assist with codifying local amendments for adoption with the new editions of the California Building Codes; and
 - f. Assist with the implementation of the "best practices" recommendations of Management Partners;

FURTHER RESOLVED: That City of Oakland certifies that Raymond Derania has not and will not receive a Golden Handshake or any other retirement incentive; and

FURTHER RESOLVED: That the entire employment agreement, contract or appointment document between Raymond Derania and the City of Oakland, attached hereto as Exhibit "A"; has been reviewed by this body.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A

TEMPORARY CONTRACT SERVICE EMPLOYEE AGREEMENT

(attached)



City of Oakland
TEMPORARY CONTRACT SERVICE EMPLOYEE REVIEW



TO THE AGENCY/DEPARTMENT

1. Submit this form along with the Temporary Employment Agreement and Employment Application to Human Resources Management for approval before showing and obtaining applicant's signature.
2. When submitting these forms to the Department of Human Resources Management, leave them with a HR representative and complete the remainder of form.
3. After obtaining approval and obtaining applicant's signature return form to the DHRM, Recruitment & Classification.

EXHIBIT A

AGENCY: _____ DEPARTMENT: Dept. of Planning & Building

DEPARTMENT CONTACT: Melanie Cockerham

PHONE# 238-3771

AGENCY/DEPT. DIRECTOR APPROVAL: _____

[Signature]
 Signature

DATE: 3.27.13

Main Duties in Priority Order (top five):

Main Duties in Priority Order (top five):	% of Time Weekly
1) Assist with preparation of the 2 year budget for Development Service Fund 2415	20%
2) Assist with transition of the City Engineer functions to PWA	20%
3) Assist with coordination of the permit review & approval process for new major projects	20%
4) Assist with codifying local amendments for adoption with the new editions of the CA Bldg Codes	20%
5) Assist with the implementation of the "Best Practices" recommendations of Management Partners	20%

Requirements for Position:

Education: _____

Experience: _____

License & Other: _____

Comparable Classification Title: _____

Suggested Compensation level: \$ _____ per hour

Has applicant been employed by the City before? Yes No

If Yes: Dates of previous employment: From December 2, 1990 To March 29, 2013

Title of position previously held: Deputy Director/Building Official (2004-2013)

Agency/Department previously employed in: Department of Planning & Building

To be Completed by the Department of Human Resources Management

Are the following completed documents attached?

Submitted Separately

City Application	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
Temporary Contract Services Employee	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
New Employee Entry Request	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
I-9 (INS)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
W-4	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
DE-4	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
Designation of Person to Receive Check	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
Deferred Compensation Plan	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>
(Distribution Request and Participation Agreement)			

Approved Compensation Rate: \$ _____ Official Start and End Dates: _____ to _____

Comparable Class Title: _____

DHRM, Recruitment & Classification Approval: _____ Signature _____ Date _____

DHRM, R&C Approver Name and Title: _____

City of Oakland
Temporary Employment Agreement
(Ordinance No. 12026 Amending Ordinance No. 4727 C.M.S.)

The City of Oakland is offering you temporary employment under the following terms:

1. Your period of employment with the City will be: Beginning Date Apr 29, 2013 Ending Date Sep 27, 2013

2. Your days of work will be: **MON** **TUE** **WED** **THR** **FRI** **SAT** **SUN**

3. Your hours of work will be: 8:30 a.m. to 5:00 p.m.

(You are not authorized to work more than forty hours a work week without the express written permission of your supervisor.)

4. Your supervisor will be: Rachel Flynn, Director, Department of Planning & Building

5. Your rate of pay for all services will be \$ 80.96 per hour subject to the withholding of all taxes required by law.

Other than the above hourly wage you shall not receive any additional compensation and you will not receive any employee benefits unless required by law.

Your services will be terminated upon the City's determination that the project for which you were hired no longer requires your services or upon your having worked nine hundred and sixty (960) hours, whichever comes first.

Under no circumstances will you be permitted to work more than 960 hours in this classification.

If you understand the terms of this offer and accept them, please sign below.

Applicant Name: Raymond Derania

(Please Print)

Applicant Signature: *Raymond Derania*

Date: 3/27/13

Agency/Department Representative Signature: *Melanie Cockerham*

Date: 3-27-13