

RESOLUTION 2017-###

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO RESCINDING RESOLUTION 2017-033 AND ADOPTING A REVISED RESOLUTION APPOINTING CALPERS RETIRED ANNUITANT WALTER N. SCHULD TO THE POSITION OF INTERIM CHIEF OF POLICE AND APPROVING A REVISED EMPLOYMENT CONTRACT PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTIONS 21221(H)

WHEREAS, the proposed contracts is consistent with the following adopted policy items under the FY2015-2017 Council Priority Workplan, effective October 1, 2016: Public Safety and Fiscal Sustainability;

WHEREAS, this is not a project as defined by CEQA;

WHEREAS, the Chief of Police position is currently vacant, given the resignation of Lisa Rosales from this post, effective February 6, 2017, and the City has executed a contract with Bob Murray & Associates to conduct an executive search to fill the position permanently;

WHEREAS, while the recruitment is being conducted, the City Manager seeks to execute a contract with Walter N. Schuld (former San Pablo Chief of Police) to serve as Interim Chief, consistent with the Public Employees' Pension Reform Act (California Government Code Section 21221(h));

WHEREAS, on February 21, 2017, the City Council adopted Resolution 2017-033 appointing retired annuitant Walter N. Schuld to the position of Interim Chief of Police and approving an employment agreement;

WHEREAS, as Mr. Schuld has subsequently objected to indemnifying the City in the event of some dispute regarding CalPERS retirement restrictions, it is now recommended that the section titled *Retired Annuitant Status and Indemnification* in the employment agreement be amended, with all other aspects of the contract remaining the same as were detailed in the staff report of February 21, 2017 on this matter (and also detailed below);

WHEREAS, the Public Employee's Retirement Law (PERL) generally prohibits CalPERS employers from hiring retirees unless they are first reinstated from retirement, however, an exception to this rule allows local agencies to hire retired annuitants pursuant to Government Code section 21221(h), provided certain key eligibility requirements are satisfied;

WHEREAS, under the Government Code, a retiree may serve without reinstatement when the services of a retiree possessing specialized skills are needed during recruitment for a permanent appointment;

WHEREAS, Mr. Schuld retired from the City of San Pablo after 31 years of service (in 2014); he served as *Chief of Police* and *Assistant City Manager/Chief of Police*; and given his experience, and specialized skills, staff is recommending he be hired as a retired

annuitant, starting on or around March 1, 2017, as *Interim Chief of Police* while the City permanently fills this vacancy;

WHEREAS, this temporary employment assignment under Government Code section 21221(h) requires the following conditions and limitations be met:

- the vacant position is deemed to require specialized skills or during an emergency to prevent stoppage of public business, see below:
 - Mr. Schuld's interim appointment will be "critically needed" to ensure public health and safety is maintained while the City actively recruits to permanently fill the Chief of Police position; and,
 - Mr. Schuld's interim appointment is for a "limited duration" and requires "specialized skills" (meets P.O.S.T./peace officer requirements);
- the annuitant's employment will not exceed 960 hours in a fiscal year (July 1st through June 30th) for employment with all CalPERS employers combined;
- the annuitant's pay rate will not exceed the maximum paid to other employees performing comparable duties as listed on a publicly available pay schedule for the vacant position, divided by 173.333 to equal an hourly rate;
- the annuitant will not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate; and
- the retired annuitant will certify that he has not received unemployment insurance payments for prior retired annuitant work for any CalPERS employer within 12 months prior to the appointment date;

WHEREAS, this employment offer is conditioned upon the retired annuitant successfully completing a P.O.S.T. required Background Check, and a Physical and Psychological evaluation;

WHEREAS, CalPERS has given its approval of this temporary employment;

WHEREAS, the annuitant will be compensated at the monthly salary maximum permissible for this position \$101.54 per hour (\$17,600 monthly salary/173.333 hours per month) in accordance with the City's adopted salary schedule for the Chief of Police classification for FY 2016/17 and will receive no other benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate; and

WHEREAS, if the annuitant worked from March 1 through the end of the fiscal year, the total cost of the contract would be \$70,400, which expense is not currently budgeted but will be covered in this fiscal year and into the next fiscal year if necessary by salary savings from the vacant permanent position (the annuitant is expected to commence work on March 21, 2017).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Pablo hereby rescinds Resolution 2017-033 and adopts a revised resolution to appoint Walter N. Schuld to serve as Interim Chief of Police, if all conditions described above are met and pursuant to the terms in the contract attached in the revised contract (Exhibit 1), and authorizes the City Manager to execute that contract if the conditions described above are met.

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Adopted this 20th day of March, 2017, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

Ted J. Denney, City Clerk

Cecilia Valdez, Mayor