

January 4, 2022

R-36

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution approving an exception to the 180-day waiting period for public agencies pursuant to Government Code 7522.56 and 21224 to hire Michael J. Mais for a limited duration to work in the Law Department (Office of the City Attorney). (Citywide)

DISCUSSION

On January 1, 2013, the Public Employees' Pension Reform Act added Sections 7522.56 and 7522.57 to the Government Code, which set forth post-retirement employment requirements applicable to all retirees who are employed by CalPERS employers on or after January 1, 2013. This change added the requirement that all retirees must wait 180 days after their retirement date before they are eligible to begin post-retirement employment with a CalPERS agency. An exception to the 180-day wait period can be made if a public agency certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed. The appointment must be approved by the governing body of the employer in a public meeting and may not be placed on a Consent Calendar.

The Law Department requests the City Council approval to hire Michael J. Mais, recently retired Assistant City Attorney, as a Retired Annuitant-Management Support-NC effective January 5, 2022, for a limited duration, to provide critically needed legal services and support. Since 1995, Mr. Mais has been the primary legal advisor to the Development Services and Airport departments. Long Beach Airport has one of the most unique regulatory structures in the United States given its status as being one of only four airports in the country that is "slot controlled" and regulated by defined hours of operation. Given the length of time, Mr. Mais has exclusively advised these two departments he has acquired a unique institutional and legal knowledge and skill set that are critical to the operation of these departments. In his retired annuitant Management Support role, Mr. Mais will be in a position to provide critical training and expertise to other attorneys in the Law Department who will eventually assume Mr. Mais' responsibilities once they acquire the necessary knowledge and experience to fulfill these legal advisory roles. In addition to providing a mentorship and training role, Mr. Mais will continue to assist in ongoing litigation matters for Development Services, including various pending California Environmental Quality Act (CEQA) cases that Mr. Mais has handled since their inception. Furthermore, Mr. Mais will continue to provide critical environmental law advice and assistance related to the Southern California International Gateway (SCIG) project which is an industrial railyard project proposed to be built in the City of Los Angeles, but if not appropriately regulated, will cause severe noise and air quality impacts to the residents and businesses located on the

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west side of Long Beach. Up until his recent retirement, Mr. Mais served as the City of Long Beach's (City) primary in-house legal advisor regarding the SGIG project and its potential impacts to the City related to pending litigation in California Superior Court regarding Conditional Use Permits and various CEQA matters.

As discussed above, Mr. Mais possesses critically needed institutional knowledge, specialized legal skills, and legal experience for a number of critical City projects and issues. Mr. Mais is qualified to assist and provide critically needed advice on these projects and has acquired the relevant experience and specialized legal skills from his 37 years of employment with the City as a Deputy City Attorney, Principal Deputy City Attorney, and Assistant City Attorney for the last eight years. As a result of his expertise and skills, Mr. Mais has been an essential and integral employee and manager. Mr. Mais will continue to provide leadership, training, and mentorship to attorneys and staff in the City Attorney's Office.

Since Mr. Mais' proposed start date is less than the required 180-day waiting period subsequent to his retirement, City Council approval to hire Mr. Mais is required. The approved rate of pay for the limited duration is \$127.274 per hour. This amount represents the hourly rate that is within the minimum and maximum compensation paid to other employees performing comparable duties as listed in the City's publicly available pay schedule and will be funded through the General Fund and Insurance Fund as budgeted for the Law Department.

This matter was reviewed by Principal Deputy City Attorney Gary J. Anderson on December 10, 2021 and by Revenue Management Officer Geraldine Alejo on December 13, 2021.

TIMING CONSIDERATIONS

City Council action is requested on January 4, 2022, to ensure a smooth transition without interruption to the legal services provided by the City Attorney's office.

FISCAL IMPACT


The total annual cost for this position is estimated not to exceed \$131,530. The estimated cost is based on 960 hours over the CalPERS fiscal year ending June 30th, at a salary rate of \$127.274 per hour plus Medicare and FICA. The cost is covered by \$26,306 budgeted in the Insurance Fund Group in the Law Department and \$105,224 from the General Fund. The actual cost will be based on hours worked and not expected to exceed 960 hours over the CalPERS fiscal year. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with City Council priorities. There is no local job impact associated with this recommendation.

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SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOE AMBROSINI
HUMAN RESOURCES DIRECTOR

APPROVED:



THOMAS B. MODICA
CITY MANAGER

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH APPROVING THE EXCEPTION TO
THE 180-DAY WAIT PERIOD PURSUANT TO
GOVERNMENT CODE SECTIONS 7522.56 AND 21224 FOR
RETIRED ANNUITANT MICHAEL J. MAIS

WHEREAS, in compliance with Government Code (GC) Section 7522.56
the City of Long Beach must provide CalPERS this certification resolution when hiring a
retiree before 180 days has passed since his or her retirement date; and

WHEREAS, Michael J. Mais, CalPERS ID 1519060960, retired effective
December 4, 2021, from the City of Long Beach in the position of Assistant City Attorney;
and

WHEREAS, GC Section 7522.56 requires that post-retirement employment
commence no earlier than 180 days after the retirement date, which is June 2, 2022,
without this certification resolution; and

WHEREAS, GC Section 7522.56 provides that this exception to the 180-
day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the City Council, the City Attorney, the City of Long Beach and
Michael J. Mais certify that Michael J. Mais has not and will not receive a Golden
Handshake or any other retirement-related incentive; and

WHEREAS, the City Attorney with City Council approval hereby appoints
Michael J. Mais as a Retired Annuitant-Management Support-NC to perform duties for
the City of Long Beach under Government Code Section 21224, effective January 5,
2022; and

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

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

3 WHEREAS, the compensation paid to retirees cannot be less than the
4 minimum nor exceed the maximum monthly base salary paid to other employees
5 performing comparable duties, divided by 173.333 to equal the hourly rate; and

6 WHEREAS, the maximum base salary for this position is \$30,000 monthly
7 and the hourly equivalent is \$173.077; and the minimum base salary for this position is
8 \$4,000.00 monthly and the hourly equivalent is \$23.076; and

9 WHEREAS, at the direction of City Council, the hourly rate paid to Michael
10 J. Mais as a retired annuitant will be \$127.274; and

11 WHEREAS, Michael J. Mais has not and will not receive any other benefit,
12 incentive, compensation in lieu of benefit or other form of compensation in addition to this
13 hourly pay rate; and

14 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
15 follows:

16 Section 1. The City Council hereby certifies the nature of the
17 appointment of Michael J. Mais as described herein and detailed in the attached
18 appointment letter. This appointment is necessary to fill the critically needed position of
19 Retired Annuitant-Management Support-NC for the City of Long Beach by January 5,
20 2022, for the purpose of providing needed critical and time sensitive legal services
21 relating to important CEQA litigation, various Airport matters, as well as pending and
22 anticipated Development Services, Planning, and Public Works matters, including
23 pending California Environmental Quality Act (CEQA) cases where Mr. Mais has the
24 institutional knowledge and has handled since their inception. Mr. Mais will continue to
25 provide critical environmental law advice and assistance related to the proposed
26 Southern California International Gateway (SCIG) project which could, if not appropriately
27 regulated, cause severe noise and air quality impacts to west Long Beach residents and
28 businesses.



CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

OFFICE OF THE CITY ATTORNEY

411 W. Ocean Boulevard, 9th Floor
Long Beach, CA 90802
Writer's Direct Dial: (562) 570-2295
Facsimile: (562) 436-1579
E-Mail: charles.parkin@longbeach.gov

January 5, 2022

Michael J. Mais

RE: Conditional Offer of Employment – Retired Annuitant-Management Support-NC

Dear Mike:

It is my pleasure to make you a conditional offer of employment as a Retired Annuitant – Management Support in the Long Beach City Attorney's Office, as approved by the City Council on January 4, 2022. Your appointment as a PERS retired annuitant will be effective January 5, 2022, at an hourly rate of \$127.274.

As a PERS retired annuitant, you are limited to 960 hours during the PERS fiscal year (July 1 through June 30).

I look forward to continuing to work with you.

Very truly yours,

CHARLES PARKIN
City Attorney

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cc: Tyler Pike, Legal Administrator
Personnel File