



Board Agenda Item 12

DATE: October 22, 2024

TO: Board of Supervisors

SUBMITTED BY: Steven E. White, Director
Public Works and Planning

SUBJECT: Resolution to Fill Public Works and Planning Position with Extra-Help Retiree - California Public Employees' Pension Reform Act Exception

RECOMMENDED ACTION(S):

Adopt resolution to fill a Supervising Architect position with Extra-Help retiree, Noel Roger Davidson, effective October 23, 2024, finding, pursuant to Government Code Section 7522.56 (f)(1), that a 180-day separation period for retired employees returning to employment as Extra-Help is not applicable based on your Board's certification that the nature of employment and appointment is necessary to fill a critically needed position before the 180-day separation period.

Approval of the recommended action will adopt a resolution consistent with exceptions identified in the provisions of Government Code section 7522.56 (f)(1) which state that, except in certain critically needed positions, retirees are subject to a 180-day separation ("sit-out") period following the date of retirement for employees who are re-employed by a public agency within the same retirement system. The recommended action meets the requirements of the California Public Employees' Pension Reform Act (PEPRA), which went into effect January 1, 2013. This item is countywide.

ALTERNATIVE ACTION(S):

Should your Board not approve the recommended action, there would be a reduction in experienced architects for critical capital projects.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Sufficient appropriations and revenues for the appointments are included in the FY 2024-25 Public Works and Planning Org 4360-1150 Adopted Budget.

DISCUSSION:

On September 12, 2012, the California Public Employees' Pension Reform Act, which is known as "PEPRA" (Assembly Bill 340), was signed into law effective January 1, 2013. Additionally, Assembly Bill 197, which amends a portion of the 1937 Act, was signed into law the same date to become effective January 1, 2013. The PEPRA legislation includes provisions in Government Code section 7522.56 requiring a 180-day separation ("sit-out") period following the date of retirement for retirees who are re-employed by a public agency within the same retirement system as an employee or through a contract unless:

- The employee is a "public safety officer", or

- The employer certifies the nature of the employment, and that appointment is necessary to fill a critically needed position before the 180 days has passed.

For the second exception above, legislation stipulates that your Board, as the employer's governing body, must approve, by resolution, the appointment in a public meeting and not on the consent calendar.

Noel Roger Davidson has an extensive background with over 50 years of experience in the field of design and architecture, 24 years of which have been with the County of Fresno as Architect and Supervising Architect. This experience has given him a unique understanding of the Public Works and Planning Department and architectural practices, with extensive knowledge in delivering capital projects. Additionally, and importantly, the County is currently in mediation with Klassen Corporation with regard to performance issues which resulted in significant delays in delivering completion of the Sheriff's Area 2 Substation and is currently pending settlement. Mr. Davidson is the Architect of Record on this project and is the individual that is most familiar with the project and associated project design, specifications, change orders, communication with the contractor, etc. In addition, Mr. Davidson will provide architectural guidance to staff as time permits.

It is anticipated that the need for Mr. Davidson to work extra help will continue until the Public Works and Planning Department is able to fill the vacant supervising architect position. In this part-time, extra-help capacity, Mr. Davidson will return as a Supervising Architect and will not work more than 960 hours during the year as set forth in PEPRA. The Public Works and Planning Department will be subject to, and will comply with, all other Extra-Help rules and requirements.

The Fresno County Employees' Retirement Association has reviewed this item and has no objections to Mr. Davidson's extra-help employment.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution

CAO ANALYST:

Salvador Espino