



City of Carson

Report to Mayor and City Council

July, 1, 2014
New Business Consent

**SUBJECT: CONSIDER APPROVAL OF AN INTERIM DIRECTOR OF PUBLIC WORKS
EMPLOYMENT AGREEMENT WITH MR. BRUCE BARRETTE, AS REQUIRED BY
GOVERNMENT CODE SECTION 21221(H)**

Nelson Hernandez
Submitted by Nelson Hernandez
City Manager

Nelson Hernandez
Approved by Nelson Hernandez
City Manager

I. SUMMARY

The Director of Public Works position has been vacant for approximately one year, but temporarily filled with acting assignments. It has become necessary to appoint a person to fill this vacancy on an interim basis. To this end, the City Manager is requesting approval to appoint Mr. Bruce Barrette to fill the interim position on a contract and limited basis.

However, Government Code section 21221 (h) requires that, in the case of the appointment of a CalPERS-retired annuitant to an interim position, such appointment can only be made by the City Council. Therefore, staff recommends that the City Council approve the Interim Director of Public Works Employment Agreement (Exhibit No. 1) with Mr. Bruce Barrette to serve in this position on an interim basis.

II. RECOMMENDATION

APPROVE the Interim Director of Public Works Employment Agreement with Mr. Bruce Barrette for interim services while the City recruits to fill the full-time permanent position.

III. ALTERNATIVES

DECLINE to make such appointment.

IV. BACKGROUND

The Director of Public Works position is currently vacant and this critical position has created a dire situation which could create an adverse impact on the provision of City services. Specifically, the lack of management oversight results in insufficient direction to City staff.

Retired annuitant, Mr. Bruce Barrette has the necessary experience and thorough knowledge of municipal operations to perform the duties of the Director of Public Works position, and is available to serve as the Interim Director of Public Works while the City recruits for someone to fill the position on a permanent basis. Attached please find his resumé (Exhibit No. 2).

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Government Code section 21221 (h) permits a public agency's governing body to appoint a retired annuitant to an interim position during the recruitment for a permanent appointment and/or during an emergency to prevent stoppage of public business, without reinstatement from retirement or loss or interruption of retirement benefits. Any such interim appointment may not exceed more than 960 hours of service per fiscal year.

V. FISCAL IMPACT

Funds for this interim appointment will come from the funds budgeted for the vacant full-time position.

VI. EXHIBITS

1. Interim Director of Public Works Employment Agreement. (pgs. 3-8)
2. Bruce Barrette resumé. (pgs. 9-10)

Prepared by: Elvia Parra, A/Senior Human Resources Analyst

Document2

TO:Rev05-13-2014

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Public Works
Community Development	Community Services

Action taken by City Council

Date _____ Action _____

THE CITY OF CARSON
INTERIM DIRECTOR OF PUBLIC WORKS
EMPLOYMENT AGREEMENT

This AT-WILL INTERIM DIRECTOR OF PUBLIC WORKS EMPLOYMENT AGREEMENT ("Agreement") is made by and between the CITY OF CARSON ("City") and BRUCE BARRETTE ("Employee"). The City and Employee may be referred to individually as a "Party" or collectively as "the Parties."

RECITALS

WHEREAS, Government Code Section 21221(h) permits retired annuitants under the California Public Employees' Retirement System ("CalPERS") to be employed without reinstatement from retirement upon appointment by a public agency to fill a vacant position on an interim basis during the recruitment to permanently fill the vacant position;

WHEREAS, the position of Director of Public Works is currently vacant and the City is currently conducting an open recruitment to permanently fill this vacant position;

WHEREAS, the position of Director of Public Works serves as the department head for the City's Public Works Department;

WHEREAS, the City anticipates the Director of Public Works position will be filled with a permanent replacement by March 31, 2015;

WHEREAS, the City desires to hire Employee as an at-will, temporary employee for the position of Interim Public Works Director, which is a position that requires specialized skills and expert professional or technical services for a definite period of time;

WHEREAS, as a CalPERS retired annuitant under Government Code Section 21221(h), Employee possesses extensive experience in a public works department management capacity and the skill set to perform the required duties of Interim Director of Public Works, desires to perform the duties of and assume responsibility for the position of Interim Director of Public Works, and acknowledges that such employment is at-will and of a limited duration for a definite period of time, as described below;

WHEREAS, the Parties wish to establish the terms and conditions of Employee's services to the City, as described in this Agreement.

AGREEMENT

Section 1: TERM

The term of this Agreement shall commence on July 2, 2014, and shall automatically terminate on March 31, 2015, unless terminated prior to this date by either Party ("Term"). The



City shall terminate this Agreement in accordance with Section 4 of this Agreement upon the City finding a permanent replacement for the position of Director of Public Works. In no event shall the Term exceed the 960-hour per fiscal year limit under Government Code Section 21221(h). **Employee acknowledges he is an at-will, temporary employee who may be terminated, with or without cause, and with or without notice, at any time by the City Manager.** Employee may resign at any time with two weeks written notice to the City Manager. **July 2, 2014** shall be Employee's "Hire Date" for purposes of this Agreement.

Section 2: DUTIES, RESPONSIBILITIES, AND WORK HOURS

A. Employee shall be appointed to the position of Interim Director of Public Works for the City's Public Works Department. Employee acknowledges that the position of Interim Director of Public Works requires specialized skills and expert professional or technical services for a definite period of time, as described above in Section 1 of this Agreement. Employee shall perform all tasks necessary to plan, organize, and coordinate the activities of the Public Works Department. Under general direction of the City Manager, Employee's duties shall include, but not necessarily be limited to: attendance at City Council and other related agency meetings; planning, leading and overseeing a broad range of public works department activities, including, but not limited to, engineering and public works operations of the City; overseeing and directing the design, construction, operation, and maintenance of the City's infrastructure system as well as the processing of entitlements for all private developments; overseeing the day-to-day operations of the Public Works Department; drafting of reports, memoranda, letters and any other City-related documents; and performance of any other related duties and responsibilities as assigned by the City Manager.

B. Employee acknowledges that City Hall is open Mondays through Thursdays from 7:00 a.m. to 6:00 p.m. and is closed on Fridays, such that the City's standard work week is four (4) 10-hour days. Because Employee is an at-will, part-time, temporary employee for a definite period of time, however, Employee shall be expected to keep regular, "on-site" office hours Mondays through Thursdays from 7:00 a.m. to 6:00 p.m., as well as work on Public Works-related tasks from a home office, as may be required from time to time and/or authorized by the City. Subject to the Term as stated in Section 1 of this Agreement, Employee shall, on an average, **dedicate no more than forty (40) hours per week to the City, but in no case shall he exceed nine hundred sixty (960) hours between July 1, 2014 and June 30, 2015, including any time served in other interim appointments, as specified in Section 6(K),** and work under the direction of the City Manager. Employee acknowledges that he may be required and agrees to work additional hours if necessary, as directed and authorized by the City Manager.

C. All data, studies, reports, and other documents prepared and/or reviewed by Employee while performing his duties during the Term of this Agreement shall be furnished to and become the property of the City, without restriction or limitation on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Employee in connection with the performance of this Agreement shall be held confidential by Employee to the extent permitted by applicable law. Such materials, without the prior written consent of the City Manager or his designee, shall not be used by Employee for any purpose other than the performance of his duties. Nor shall such materials be disclosed to any person or



entity not connected with the performance of services under this Agreement, except as required by law.

Section 3: COMPENSATION AND BENEFITS

A. The City agrees to compensate Employee at step E of the salary range for Unclassified Employees of the City consistent with other Department Director positions, which currently has an hourly rate of seventy-five dollars and sixty-two cents (\$75.62).

B. Employee shall not be eligible for any other incentives, compensation, or benefits, except for the above hourly rate and workers' compensation benefits.

Section 4: RESIGNATION/TERMINATION

A. Employee may resign at any time; provided, however, Employee shall reasonably provide the City Manager with at least two (2) weeks advance written notice.

B. Employee is an at-will employee and serves at the will and pleasure of the City Manager and may be terminated at any time, with or without cause, and with or without notice.

C. After Notice of Resignation or Termination, Employee shall cooperate with the City, as requested by the City, to effect a transition of Employee's responsibilities and duties and to ensure that the City is aware of all matters being handled by Employee.

D. In accordance with state law and the requirements of the California Public Employees Retirement Law, Employee may not be reappointed to this position following the expiration of this Agreement, nor may this Agreement be modified to extend the term of the Agreement.

Section 5. NOTICES

Notices required to be served pursuant to this Agreement shall be served in person or by first-class U.S. mail addressed as follows:

City

City of Carson
701 E. Carson St.
Carson, CA 90745
Attn: Mr. Nelson Hernandez, City Manager

Employee

Bruce Barrette
Address on file with the City



Section 6: GENERAL TERMS AND CONDITIONS

The General Terms and Conditions of this Agreement are described as follows:

A. Indemnification. For the purposes of indemnification and defense of legal actions, Employee shall be considered an employee of the City and entitled to the same rights and subject to the same obligations as are provided for all other employees of the City, as set forth in the Government Code. Accordingly, the City shall defend, hold harmless, and indemnify Employee against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Employee's services under this Agreement. This section shall not apply to any intentional tort or crime committed by Employee, to any action outside the course and scope of the services provided by Employee under this Agreement, or any other intentional or malicious conduct or gross negligence of Employee.

B. Entire Agreement. The text of this Agreement shall constitute the entire and exclusive agreement between the Parties. All prior oral or written communications, understandings, or agreements between the Parties not set forth herein shall be superseded in total by this Agreement. No amendment or modification to this Agreement may be made except by a written agreement signed by the Employee and the City Manager and approved as to form by the City Attorney.

C. No Modification To Extend Agreement Term. In accordance with state law and the requirements of the California Public Employees' Retirement System, this Agreement may not be amended to extend the term of the Agreement.

D. Assignment. This Agreement is not assignable by either the City or Employee.

E. Severability. In the event any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the Parties, the remainder of this Agreement shall remain in full force and effect unless the parts found to be illegal or void are wholly inseparable from the remaining portions of this Agreement.

F. Effect of Waiver. The failure of either Party to insist on strict compliance with any of the terms, covenants, or conditions in this Agreement by the other Party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other time or times.

G. Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution. Any action to interpret or enforce the terms of this Agreement shall be held exclusively in a state court in Los Angeles County, California. Employee expressly waives any right to remove any such action from Los Angeles County.

H. Effective Date. This Agreement shall not become effective until it has been signed by Employee and approved by the City Manager.



I. Effect of Agreement on Employee's CalPERS Retirement Benefits. The City makes no representation on the impact, if any, this Agreement shall or may have upon his CalPERS retirement benefits, status, duties, and/or obligations. Employee acknowledges that in entering into this Agreement, he has not relied upon any such representations (none of which being in existence) in assessing the CalPERS-related impact of his employment. Therefore, Employee releases the City from any and all CalPERS-related claims or liabilities that may arise in connection with his employment pursuant to this Agreement.

J. No Unemployment Insurance Benefits Received By Employee. Employee expressly certifies and warrants to the City that he has not received any unemployment insurance payments for retired annuitant work for any public employer within the twelve (12) months prior to his appointment date.

K. Compliance With 960 Hours Per Fiscal Year Limit. Retired annuitants appointed to an interim position without reinstatement are limited to a combined total of nine hundred sixty (960) hours for all employers each fiscal year, including concurrent appointments pursuant to Government Code sections 21221, 21224 and 21229. Employee expressly certifies and warrants to the City that his anticipated work schedule of a maximum of forty (40) hours per week will not cause him to exceed the 960 hours per fiscal year limit pursuant to Government Code Section 21221(h), including work for this or any other CalPERS employer during the current fiscal year.

L. Conflicts Prohibited. During the term of this Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this Agreement. Employee shall comply with all requirements of law, including but not limited to, Sections 1090, 1125, and 87100 *et seq.* of the Government Code, and all other similar statutory and administrative rules.

M. Independent Legal Advice. The City and Employee represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement, that each has carefully reviewed this entire Agreement, that each and every term thereof is understood, and that the terms of this Agreement are contractual and not a mere recital. This Agreement shall not be construed against the Party or its representatives who drafted it or who drafted any portion thereof.

IN WITNESS WHEREOF, the City of Carson has caused this Agreement to be signed and executed on its behalf by its City Manager, and approved as to form by the City Attorney, and executed by the Employee.

CITY OF CARSON,

Dated: _____

Nelson Hernandez
City Manager

Approved as to form:

Dated: _____

William W. Wynder
City Attorney

EMPLOYEE,

In signing this Agreement, Employee understands and agrees that he is an **at-will, temporary employee** and that his rights to employment with the City are governed by the terms and conditions of this Agreement rather than the ordinances, resolutions, and policies of the City of Carson which might otherwise apply to classified or other employees of the City. Employee further acknowledges that he was given the opportunity to consult with an attorney prior to signing this Agreement.

Dated: _____

Signed: _____
Bruce Barrette
Employee



Bruce Barrette

STRENGTHS SUMMARY:

- Project Management: Serves as lead staff member in HCDGB Committee and Redevelopment PAC Committee. Managed FEMA, FHWA, and annual road maintenance projects, Website development and maintenance and customer service software deployment. Piloted City Pride Program, coordinating more than 40 judges and over 50 residents and business owners.
- Municipal Government: Researches, writes, and presents ordinances, resolutions, conditional use permits, and variances to City Council and Planning Commission.
- Finance Management: Developed City budget, Public Works, CIP, Community Development Department budget; Administrative Services Department budget. Tax increment financing, monthly, and annual reports.
- Communication Skills: Proficient in written and oral communications; preparation of staff reports for City Council, Planning Commission, community groups, and other governmental agencies.
- Organization: Serves as liaison to numerous government agencies and Chamber of Commerce.
- Technical Advisor: Administers and manages installation of city computer network and telephone systems.

WORK EXPERIENCE:

- March 2014 – present: Interim Assistant City Manager, City of Carson
April 2006 – August 2011: Public Works Manager, City of La Habra Heights
- November 2002 to February 2006: Assistant to the City Manager, City of Los Alamitos
- September 1997 to November 2002: Network Manager, Administrative Services Department, City of Los Alamitos, CA
- August 1993 to September 1997: Finance Assistant, Administrative Services Department, City of Los Alamitos
- October 1990 to August 1993: Community Development Analyst, Community Development, City of Los Alamitos
- February 1988 to October 1990: Community Development Assistant, Community Development, City of Los Alamitos
- 1980 to 1985: Restaurant management, e.g., Century Plaza Hotel and Chart House



ACCOMPLISHMENTS:

Completed multiple research and analysis projects for the City of Los Alamitos, including: redevelopment; utility tax; annexation; trash rates; personnel; computer networking; FEMA reimbursement; cash flow analysis; department and city-wide budget; cable television franchise negotiations, prepared RFP for City Attorney, helped secure \$21 million from Congress for military construction, managed implementation of city website, customer service software; Strategic plan development, and numerous purchasing analysis. Formed road maintenance assessment district, and completed the installation of license plate recognition cameras.

EDUCATION:

A.A. Liberal Studies - Fullerton College 1979

B.A. Geography - Long Beach State University 1988

M.P.A. Public Administration - Long Beach State University (one class remaining)

