

RESOLUTION NO. ____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF
GLENDALE, CALIFORNIA FINDING THE POSITION OF FIRE
CHIEF TO BE AVAILABLE DUE TO A LEAVE OF ABSENCE
PURSUANT TO GOVERNMENT CODE SECTION 21221(g) AND
RATIFYING THE APPOINTMENT OF GREGORY FISH AS
ACTING FIRE CHIEF**

WHEREAS, Government Code section 21221(g) addresses the temporary employment of retirees in accordance with the Public Employees' Retirement Law, as administered by the California Public Employees' Retirement System (CalPERS), and permits a contracting agency to employ a CalPERS retiree for a period not to exceed one year in a position found to be available by the City Council due to a leave of absence granted to an employee on payroll status and requiring specialized skills; and

WHEREAS, the position of Fire Chief for the City of Glendale became available on October 27, 2023 due to the administrative leave of absence of the incumbent Fire Chief and the City needed to fill the position during the leave of absence to ensure the continued operation of the Fire Department; and

WHEREAS, legal counsel for the City had previously obtained written guidance from CalPERS dated June 1, 2017, which was confirmed again by CalPERS on July 23, 2020, stating that Government Code section 21221(g) was invalidated, and superseded by Government Code section 7522.56 effective January 1, 2013; and

WHEREAS, in accordance with CalPERS' guidance that Government Code section 21221(g) was no longer operative and that Government Code section 21224 applied when a position was vacant as a result of a leave of absence, the City Manager appointed Gregory Fish as acting Fire Chief pursuant to Government Code sections 21224 and 7522.56, effective November 1, 2023; and

WHEREAS, CalPERS recently rescinded its previous guidance and took the position that Government Code section 21221(g) was not superseded by Government Code section 7522.56 and that any retired annuitant appointed to a position found to be available due to a leave of absence granted to an incumbent must be made pursuant to Government Code section 21221(g); and

WHEREAS, accordingly, the City Council now wishes to find that the Fire Chief position became available on October 27, 2023 due to the leave of absence of the incumbent Fire Chief and to further find that the Fire Chief position requires specialized skills; and

WHEREAS, out of an abundance of caution, the City Council also wishes to ratify the City Manager's appointment of Gregory Fish, a CalPERS retired annuitant, as acting

Fire Chief pursuant to Government Code section 21221(g), effective November 1, 2023; and

WHEREAS, Government Code section 21221(g) does not specify that the findings by the City Council must be made prior to the effective date of the employment pursuant to Government Code section 21221(g); and

WHEREAS, it is understood by the City and Gregory Fish that his appointment as acting Fire Chief will end at the earliest to occur of the following: (1) when the leave of absence of the incumbent Fire Chief terminates, (2) the position of Fire Chief becomes vacant, or (3) October 31, 2024; and

WHEREAS, it is understood by the City and Gregory Fish that the combined total hours to be served by Gregory Fish in any fiscal year, for all positions and for all CalPERS employers combined, shall not exceed the 960-hour limitation set forth in California Government Code section 7522.56(d); 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 173.333 to equal the hourly rate; and

WHEREAS, minimum the minimum hourly rate for the Fire Chief position is \$93.49, and the maximum hourly rate for this position is \$126.87; and

WHEREAS, the hourly rate paid to Gregory Fish for his services as Acting Fire Chief is \$126.87, which is not less than the minimum or in excess of the maximum hourly rate paid to other employees performing comparable duties.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Glendale, California as follows:

Section 1. The Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

Section 2. The Council finds the Fire Chief position became available on October 27, 2023 due to the leave of absence of the incumbent Fire Chief and further finds that the Fire Chief position requires specialized skills.

Section 3. The Council hereby ratifies the City Manager's appointment of Gregory Fish, a CalPERS retired annuitant, as acting Fire Chief pursuant to Government Code section 21221(g), from November 1, 2023 until the earliest to occur of the following: (1) when the leave of absence of the incumbent Fire Chief terminates, (2) the position of Fire Chief becomes vacant, or (3) October 31, 2024.

Section 4. The Council hereby ratifies the hourly rate paid to Gregory Fish for his

services as acting Fire Chief of \$126.87.

ADOPTED by the Council of the City of Glendale, California on the ____ day of February, 2024, by the following vote:

Mayor

ATTEST:

City Clerk

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

I, Suzie Abajian, PhD, Clerk of the City of Glendale, certify that the foregoing Resolution No. _____ was adopted by the Council of the City of Glendale, California, at a regular meeting held on the _____ day of _____, 2024, and that same was adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

City Clerk