

RESOLUTION NO. 22-09

**A RESOLUTION OF THE BOARD OF DIRECTORS OF TWENTYNINE PALMS
WATER DISTRICT FOR EXCEPTION TO THE 180-DAY WAITING PERIOD
IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS
7522.56 AND 21224**

WHEREAS, in compliance with Government Code Section 7522.56, the Board of Directors of Twentynine Palms Water District must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, Irene Hull will retire from the Twentynine Palms Water District in the position of Customer Service Representative II, effective December 9, 2022; and

WHEREAS, Section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is June 7, 2023, without this certification resolution; and

WHEREAS, 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 Board of Directors, Twentynine Palms Water District, and Irene Hull, certify that Irene Hull has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the Board of Directors wishes to appoint Irene Hull as an extra help retired annuitant to assist in the training customer service representatives, effective December 12, 2022; and

WHEREAS, the entire employment agreement between Irene Hull and Twentynine Palms Water District has been reviewed by this body and is attached herein; and

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

WHEREAS, the employment shall be limited to 960 hours per fiscal year; 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, the position on the pay schedule that is comparable to the work that will be performed by Ms. Hull is Customer Service Representative 2 for which the minimum hourly rate is \$23.75 and the maximum hourly rate is \$28.15; and

WHEREAS, the hourly rate to be paid to Irene Hull is \$28.15; and

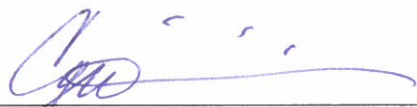
WHEREAS, Irene Hull has not and will not receive any other benefit, incentive compensation in lieu of benefit, or any other form of compensation in addition to this hourly pay rate.

NOW THEREFORE, BE IT RESOLVED THAT, the Board of Directors of Twentynine Palms Water District hereby finds, determines and resolves as follows:

1. The Board of Directors 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.
2. The Board of Directors hereby certifies the nature of the appointment of Irene Hull as described herein and detailed in the attached employment agreement and that this appointment is necessary to perform the critically needed functions related to the training of customer service representatives.
3. The Board of Directors hereby waives the 180-day waiting period pursuant to Government Code Sections 7522.56(f)(1).
4. The employment agreement with Irene Hull, a copy of which is enclosed herein as Exhibit "A", is approved by the Board of Directors, effective December 12, 2022.
5. The General Manager is authorized to execute said agreement on behalf of the Twentynine Palms Water District, with such technical amendments as may be deemed appropriate by the General Manager and General Counsel.

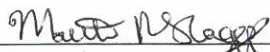
PASSED, APPROVED AND ADOPTED this 16th day of November, 2022.

Ayes: Directors Arthur, Coghill, Leazer, and Giannini
Noes: None
Abstain: None
Absent: Director Horn



Carol Giannini, President
Board of Directors

Attest:



Matt Shragge, Board Secretary
Twentynine Palms Water District



EXHIBIT "A"

November 17, 2022

Ms. Irene Hull
73957 Playa Vista Drive
Twentynine Palms, CA 92277

Re: CalPERS Retiree Conditional Limited-Term Appointment Agreement

Dear Ms. Hull:

If accepted by you, this letter represents an agreement for a limited-term appointment as a CalPERS retiree with the Twentynine Palms Water District ("District") in an extra-help capacity under the provisions of Government Code Section 21224 to assist with training customer service representatives consistent with such duties and functions as are assigned by the General Manager.

This agreement is made because we have determined that your specialized skills in customer service functions needed for District operation are necessary to assist with the training of customer service representatives.

The terms of this agreement include:

- The term of your appointment will be from December 12, 2022 through December 11, 2023 unless the District elects to terminate this agreement on an earlier date.
- Rate of pay for this temporary appointment will be \$28.15 per hour.
- No further payments or benefits other than the hourly rate will be provided unless required by state or federal law.
- Hours worked shall not exceed 960 hours in a fiscal year (inclusive of all hours worked for any CalPERS employer), unless an exception applies.

The District and you make this agreement with the mutual understanding that the appointment complies with the requirements applicable to the employment of CalPERS retirees, as codified in Government Code Sections 7522.56 and 21224. Specifically, an appointment under Sections 7522.56 and 21224 is permissible if all of the following requirements are met:

- (1) The appointment must be to a temporary position.
- (2) The appointment is of limited duration.
- (3) The appointment is either during an emergency to prevent stoppage of public business or because the retiree has specialized skills needed in performing the work.
- (4) The total hours worked by the retiree in a fiscal year, for all CalPERS employers, cannot exceed 960 hours, unless an exception applies.

- (5) The compensation received by the retiree is not more than the maximum, nor less than the minimum, monthly base salary paid to other employees performing comparable duties as listed on the District's publicly available pay schedule, reflected as an hourly rate by dividing the monthly base pay by 173.333.
- (6) The compensation paid to the retiree is limited to the hourly rate and no other benefits may be provided.
- (7) For any retirees with a retirement effective date on or after January 1, 2013, the appointment must occur at least 180 days following the date of retirement unless the employer certifies that the appointment is necessary to fill a critically needed position before 180 days have expired and the governing body approves the appointment in a public meeting.
- (8) The retiree cannot have received unemployment insurance payments in the prior 12-month period arising from work performed as a retiree for any public employer.
- (9) If the retiree is less than normal retirement age (i.e., the highest age under any retirement formula that the retiree accrued benefits under with any CalPERS employer), at least 60 days must have passed since the retiree's retirement. This waiting period cannot be waived.

The District, in good faith, has determined that your appointment meets (1) – (6) of the foregoing requirements as follows:

- (1) The appointment will be to a temporary position.
- (2) The appointment is of limited duration because it is anticipated to last less than one (1) year.
- (3) This appointment is made because you possess the specialized skills, as identified in the first paragraph of this appointment offer, necessary for the purpose of the appointment.
- (4) The appointment will not exceed 960 hours in a fiscal year (inclusive of all hours worked for any CalPERS employer).
- (5) The compensation you will receive is no more nor less than the hourly rate paid to other employees performing comparable duties as listed on the District's publicly available pay schedule.
- (6) Your compensation consists of the hourly rate only; no further benefits will be provided.

By executing this agreement, you are also, in good faith, determining that your appointment meets each of the nine (9) requirements noted above, including the unemployment insurance requirement. That is, while the District is not in a position to do so, by executing this agreement you are confirming the fact that you have not received unemployment insurance payments within the past 12 months arising from work performed as a retiree for any public employer.

Since you retired less than 180 days from this appointment, the Board of Directors adopted a Resolution to certify that your appointment is necessary to fill a critically needed position before the 180 days have expired as specified in (7) above.

By signing this agreement, you are also confirming that the bona fide separation rule described in (9) above does not apply because you are at least of normal retirement age.

Notwithstanding (4) above, the District has no way of monitoring the hours that you work for another CalPERS employer. As such, it is your responsibility to ensure that the total hours worked in a fiscal year (July 1 – June 30) for the District and any other CalPERS employer do not exceed 960 hours in the aggregate. However, please note that consistent with the requirements of Section 21220(d) and (e), **the District will enroll you in CalPERS solely for administrative recordkeeping purposes (you will remain in retired status) and will report both your hours and pay pursuant to this agreement.**

While the District and you make this agreement because we believe that it is authorized under Sections 7522.56 and 21224, CalPERS could disagree. If CalPERS disagrees, there is a risk that you will be required to do the following: (1) return any retirement allowance you received during the period of the appointment; (2) pay an amount of money equal to the employee contributions that should have been made, plus interest, during the appointment; and (3) pay CalPERS' administrative expenses incurred as a result of its audit of the appointment. You will also be subject to reinstatement from retirement.

By executing this agreement, you waive any claims against the District arising from an adverse determination by CalPERS associated with this appointment that is attributed to any misrepresentation made by you in this agreement or any violation of these rules caused by employment with any other CalPERS employer. Please contact CalPERS if you have any questions regarding the requirements of Sections 7522.56 and 21224 or this appointment.

There is no right to public employment expressed by this agreement. All limited-term appointments are subject to the business necessity of the District and are at-will; therefore, the appointment may end with or without cause or advance notice.

We welcome you to your limited-term appointment with the Twentynine Palms Water District and extend our best wishes for your success in the temporary position.

If you have additional questions or comments, feel free to contact me directly.

Sincerely,

Matthew Shragge, General Manager
Twentynine Palms Water District

Acknowledgment:

I, Irene Hull, agree to this Conditional Limited Term Appointment Agreement (CalPERS Retiree), and hereby warrant that I understand and agree with all the terms and conditions of employment as set forth in this letter.

Signature

Date