



**CITY COUNCIL AGENDA
REGULAR MEETING - WEDNESDAY, DECEMBER 8, 2021
REORGANIZATION OF THE CITY COUNCIL
100 CIVIC CENTER WAY, CALABASAS, CA 91302
HYBRID/ZOOM TELECONFERENCE
www.cityofcalabasas.com**

IMPORTANT NOTICE REGARDING THE DECEMBER 8, COUNCIL MEETING

Pursuant to Assembly Bill 361 and Government Code Section 54953(e), this meeting is being conducted utilizing teleconferencing and electronic means. Members of the City Council may teleconference into the meeting without noticing each teleconference location from which a member is participating in a public meeting. In accordance with the Governor's Executive Orders and in an effort to reduce the risk of spreading Coronavirus (COVID-19), only members of the City Council and City Staff will participate in person at City Hall. The meeting will be broadcast on CTV Channel 3 and the live stream of the meeting may be viewed online at www.cityofcalabasas.com/ctvlive.

Members of the public may join the meeting via Zoom teleconference using steps listed below:

From a PC, Mac, iPhone or Android device please go to:

<https://cityofcalabasas.zoom.us/j/88607636212?pwd=WjBHNTNLl1QXVhbktpSG1WOHdEQT09>

Passcode: 741018

Webinar ID: 88607636212

Or iPhone one-tap: US: +1-669-900-9128, 88607636212# or +1-253-215-8782, 88607636212#

Or Telephone: Dial (for higher quality, dial a number based on your current location): US: +1-669-900-9128 or +1-253-215-8782 or +1-346-248-7799 or +1-646 558-8656 or +1-301-715-8592 or +1-312-626-6799

International numbers available: <https://us02web.zoom.us/j/88607636212?pwd=WjBHNTNLl1QXVhbktpSG1WOHdEQT09>

In the event a quorum of the City Council loses electrical power or suffers an internet connection outage not corrected within 15 minutes, or in the event a disruption which prevents the City from broadcasting the meeting to and receiving comment from members of the public using the Zoom or a telephone call-in system, then the meeting will be adjourned. Any items noticed as public hearings will be continued to the next regularly scheduled meeting of the City Council. Any other agenda items the Council has not taken action on will be placed on a future agenda.

Please access a [Guide to Virtual Meeting Participation](#) for more information on how to join City Council or Commission meetings.

Any legal action by an applicant, appellant, or other person, seeking to obtain judicial review of any City Council decisions may be subject to the 90-day filing period of, and governed by, Code of Civil Procedure sections 1094.5 and 1094.6.

OPENING MATTERS – 7:00 P.M.

Call to Order/Roll Call of Councilmembers
Pledge of Allegiance by Girl Scout Troop 70226

COUNCIL ANNOUNCEMENTS

ORAL COMMUNICATIONS – PUBLIC COMMENT

CONSENT ITEMS

1. Adoption of Resolution No. 2021-1765, appointment and employment contract for interim Community Development Director

COUNCIL REORGANIZATION

- ◆ Presentations to Outgoing Mayor
- ◆ Comments by Members of the City Council
- ◆ Comments by the Outgoing Mayor

- ◆ Election of Mayor
- ◆ Oath of Office to Mayor
- ◆ Remarks by Mayor

- ◆ Election of Mayor pro Tem
- ◆ Oath of Office to Mayor pro Tem
- ◆ Remarks by Mayor pro Tem

ADJOURN

The City Council will adjourn to their next regular meeting scheduled on January 12, 2022.

Join the City Council for a reception in Founders Hall immediately following the meeting.



CITY of CALABASAS

CITY COUNCIL AGENDA REPORT

DATE: DECEMBER 1, 2021

TO: HONORABLE MAYOR AND COUNCILMEMBERS

**FROM: MATTHEW T. SUMMERS, CITY ATTORNEY
KINDON MEIK, CITY MANAGER**

**SUBJECT: ADOPTION OF RESOLUTION NO. 2021-1765, APPOINTMENT AND
EMPLOYMENT CONTRACT FOR INTERIM DIRECTOR OF COMMUNITY
DEVELOPMENT**

MEETING

DATE: DECEMBER 8, 2021

SUMMARY:

With the upcoming retirement of the current Community Development Director, the City is in need of an interim Director to manage the Community Development Department while a recruitment for a permanent Director takes place. The City Manager reached out to Don Penman who recently served as Interim City Manager for Calabasas. Mr. Penman has a background and expertise in City Management having served in various cities as a City Manager and Interim City Manager and has experience in Community Development as the Director of Development Services for the City of Arcadia for ten years.

The attached Employment Agreement includes provisions for salary, and other terms and conditions of the temporary employment consistent with state laws and regulations. The Agreement, if approved becomes effective January 3, 2022, and would terminate by June 30, 2022, unless sooner terminated by the parties or a permanent appointment of a new Director takes place.

FISCAL IMPACT/SOURCE OF FUNDING:

The City's current budget contains sufficient payroll appropriations to cover the salary.

SUMMARY RECOMMENDATION:

If the City Council desires to approve the agreement for Interim Community Development Director as outlined above, Resolution No. 2021-1765 should be adopted, appointing Don Penman and authorize the Mayor to sign the agreement on behalf of the City.

ATTACHMENT:

A - Resolution No. 2021-1765

B - Employment Agreement with Don Penman

**ITEM 1 ATTACHMENT A
RESOLUTION NO. 2021-1765**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CALABASAS, CALIFORNIA, APPOINTING DON PENMAN
AS INTERIM COMMUNITY DEVELOPMENT DIRECTOR.**

WHEREAS, the City of Calabasas needs to fill the position of Community Development Director on an interim basis, starting January 3, 2022, to prevent stoppage of public business, continue Municipal operations, and address issues associated with the current declared federal, state, county, and city States of Emergency during recruitment for a permanent appointment; and

WHEREAS, the position of Community Development Director is one which requires specialized skills including the authority to implement Executive Orders to protect public health and safety under a declared state of emergency; and

WHEREAS, The President of the United States, California Governor Gavin Newsom, the Los Angeles County Board of Supervisors, and the City Council of the City of Calabasas have all declared a State of Emergency to address the Coronavirus Global Pandemic (COVID -19); and

WHEREAS, the designated Interim Community Development Director would be filling a vacant position for a short duration pursuant to Government Code section 21221(h) and 21224(a); and

WHEREAS, although it is not intended that the individual retained as Interim Community Development Director will work more than 960 hours in a fiscal year for this, or any other PERS employer, and Government Code Sections 21221 and 21224 limit the number of hours a retired annuitant may work to 960 hours in a fiscal year, Executive Orders N-25-20, N-35-20, N-08-21, and CalPERS Circular Letters 200-015-20 and 200-046-21 suspend work hour limitations for retired annuitants; and

WHEREAS, Don Penman is a retired annuitant with specialized skills as a former interim Community Development Director and City Manager who has experience managing a the planning department of a public agency during a declared state of emergency (including a city during the 2018 Woolsey Fire) and who can assist the City for a short duration with navigating through the current declared federal, state, county, and city States of Emergency and related planning and land use issues while the City is recruiting for a permanent Community Development Director; and

WHEREAS, Don Penman's compensation shall not exceed the maximum monthly base salary paid to the former Community Development Director; and Don

Penman will not receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate; and

WHEREAS, Don Penman has not received unemployment insurance compensation within the 12 month period prior to his appointment; and

WHEREAS, should the State of Emergency be terminated or Executive Orders N-25-20, N-35-20, N-08-21, and CalPERS Circular Letters 200-015-20 and 200-046-21, be rescinded, Don Penman's maximum number of hours will then, calculated from that day forward, not exceed 960 hours in a fiscal year consistent with CalPERS Circular Letters 200-015-20 and 200-046-21; and

WHEREAS, the City of Calabasas desires to hire Don Penman for the position of Interim Community Development Director for the period of January 3, 2022 to a date not beyond June 30, 2022; and

WHEREAS, Don Penman has agreed to fill the position of Interim Community Development Director under the terms outlined above and pursuant to a written agreement approved by the City Council.

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

SECTION 1. The City Council of the City of Calabasas hereby appoints Don Penman to the position of Interim Community Development Director for a period effective January 3, 2022 to a date not beyond June 30, 2022.

SECTION 2. The appointment of Don Penman is hereby certified to comply with the requirements of Government Code sections 21221(h), and 21224, Executive Orders N-25-20, N-35-20, N-08-21, and CalPERS Circular Letters 200-015-20 and 200-046-21.

SECTION 3. A copy of this Resolution shall be sent to the Director of the California Department of Human Resources.

SECTION 4. The City Clerk shall certify to the adoption of this resolution and shall cause the same to be processed in the manner required by law.

PASSED, APPROVED AND ADOPTED this 8th day of December 2021.

James R. Bozajian, Mayor

ATTEST:

APPROVED AS TO FORM:

Maricela Hernandez, City Clerk
Master Municipal Clerk
California Professional Municipal Clerk

Matthew T. Summers
Colantuono, Highsmith & Whatley, PC
City Attorney

ITEM 1 ATTACHMENT B
AT-WILL LIMITED DURATION EMPLOYMENT AGREEMENT
BETWEEN CITY OF CALABASAS AND
DONALD E. PENMAN
INTERIM COMMUNITY DEVELOPMENT DIRECTOR

This At-Will Employment Agreement ("Agreement") is entered into effective December 8, 2021, by and between the CITY OF CALABASAS, a municipal corporation, hereafter referred to the "CITY" and Donald E. Penman, hereafter referred to as "EMPLOYEE".

WHEREAS, the CITY has commenced recruitment to fill the forthcoming vacancy in the position of Community Development Director. During the recruitment period the City has a vital need for an Interim Community Development Director to allow for organizational and operational continuity, to prevent the stoppage of public business during a state of emergency until a permanent replacement can be appointed; and

WHEREAS, EMPLOYEE has served as a City Manager and Interim Community Development Director in various cities and has exceptional skills which make him qualified as an Interim Community Development Director, on a temporary basis, including, but not limited to, guiding cities through a state of emergency, while the City recruits for a permanent replacement to fill this vacancy.

NOW THEREFORE, in consideration of the above stated desires and the mutual covenants, terms and conditions, herein contained, the parties hereto mutually and freely agree as follows:

SECTION 1- EMPLOYMENT CONDITIONS AND DUTIES

- a. EMPLOYEE is appointed by the City Council and shall serve at the pleasure of the City Manager in a temporary capacity as the Interim Community Development Director during the City's recruitment for the Community Development Director position.
- b. EMPLOYEE acknowledges that this temporary position is an "at-will" position and that EMPLOYEE has no property interest in or expectation of continued employment or any due process right to a hearing before or after a decision by the City Council to terminate this position. Further, EMPLOYEE acknowledges that this Agreement and his temporary position is not a guarantee of continued employment.

SECTION 2- EMPLOYMENT TERM

- a. The City agrees to employ EMPLOYEE as "Interim Community Development

Director.” This is a salaried management position which is FLSA-exempt and is likely to require in excess of 40 hours of work per week. Employee agrees to remain in this position from January 3, 2022 until June 30, 2022 or such time as the permanent appointment is made for a Community Development Director, pursuant to the City’s ongoing recruitment for this position, whichever occurs first. The temporary position of Interim Community Development Director is an at-will position and EMPLOYEE has no property interest in his position.

- b. During the term of this Agreement, EMPLOYEE shall not serve other entities or development clients in other jurisdictions which would interfere with, or be incompatible or in conflict with the EMPLOYEE’S performance of the duties required under this agreement. The determination of incompatibility will be made by the City Council in their sole discretion and shall be final.
- c. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the rights of the City to terminate the services of the EMPLOYEE at any time during such employment term or any renewal thereof.
- d. Nothing in this Agreement shall prevent, limit, or otherwise interfere with EMPLOYEE’S right to resign at any time from this position with the City, subject to the provisions as set forth in this agreement.

SECTION 3- COMPENSATION

- a. The City shall pay EMPLOYEE for all services rendered and worked pursuant to this agreement at an hourly rate of \$105.00 per hour. This is an exempt position under the Fair Labor Standards Act. Employee's compensation will be paid in conformance with the City's established pay periods and pay days.
- b. EMPLOYEE shall not receive nor be entitled to any benefits, incentives, or compensation in lieu of benefits under this agreement, including, but not limited to, medical, dental, vision, deferred compensation, holiday, vacation pay, management or administrative leave, sick leave, PERS contributions, severance, auto allowance, or any other incentives or benefits provided by CITY to permanent full or part time employees.
- c. EMPLOYEE is a CalPERS retiree annuitant and as such will be required to comply with CalPERS regulations limiting annuitant’s post retirement employment to the extent that such limitations have not been rescinded or suspended by statute or by the Governor through Executive orders issued during the Coronavirus Pandemic (COVID-19) State of Emergency. In addition, pursuant to Government Code section 21221(h) EMPLOYEE is filling a vacant position. EMPLOYEE has specialized skills needed to perform the work under this agreement and assist the city through a state of emergency. EMPLOYEE is further providing the City with specialized skills needed for the City’s response to the current state of emergency and to maintain the City’s essential services, under Government Code section 21224(a). EMPLOYEE desires that he not be

reinstated from retirement and that he provide the aforementioned services without interruption of retirement benefits. This employment is intended by CITY and EMPLOYEE to take advantage of, and be in compliance with Government Code sections 21221(h) and 21224(a) as modified by the Governor's Executive Orders N-25-20, N-35-20, and N-08-21, as reflected in CalPERS Circular Letters 200-015-20 and 200-046-21.

SECTION 4-WORK HOURS

The EMPLOYEE shall coordinate the work schedule based upon needs of the City. EMPLOYEE'S work schedule will be as established by the City Manager and can be expected to exceed 40 hours per week, due to required attendance at City Council and Planning Commission and other meetings.

SECTION 5- EMPLOYMENT TERMINATION

The City Manager may terminate or remove the EMPLOYEE with or without cause at any time. EMPLOYEE has no property interest in his position and understands that this is a temporary position of limited duration.

SECTION 6 – INDEMNIFICATION

City will defend and indemnify EMPLOYEE, using legal counsel selected by City or its insurers, against liability for acts or omissions by EMPLOYEE occurring in the course and scope of employment under this Agreement, in accordance with Government Code Sections 825, 995 and 995.2 through 995.8. In the event of a legal conflict as determined by city or its insurer which necessitates independent counsel, city or its insurer shall select and pay the reasonable fees of such counsel.

SECTION 7- MISCELLANEOUS

- a. This agreement supersedes any and all other agreements between the parties hereto with respect to the employment of the EMPLOYEE by the City and contains all of the covenants and agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducement, promise, or agreements have been made by any party or anyone acting on behalf of any party orally or otherwise which are not embodied herein.
- b. No other agreement, statement or promise not contained in this Agreement shall be valid or binding or shall be used in interpreting the meaning of this Agreement.
- c. Amendments, modifications or changes may be made to this Agreement and shall become effective on the date contained therein when executed in writing and mutually signed by both parties to this Agreement.

- d. This Agreement and any amendments, modifications or changes thereto shall be binding upon the City during its term.
- e. This Agreement and any amendments, modifications or changes thereto shall be binding upon the EMPLOYEE and inure to the benefit of the heirs at law and executors of the EMPLOYEE.
- f. Except as otherwise provided in the Agreement, EMPLOYEE shall comply with all rules and regulations of the City, including the City's Personnel Rules and Regulations.
- g. EMPLOYEE shall not engage in any activity which is or may become a conflict of interest, a prohibited contract or which may create incompatibility of office as defined under California law.

SECTION 8- SEVERABILITY

If any provision or any portion hereof is held to be unconstitutional invalid or unenforceable, the remainder to this Agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

"EMPLOYEE"

"CITY"

Donald E. Penman

James R. Bozajian, Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Maricela Hernandez, City Clerk
*Master Municipal Clerk
California Professional Municipal Clerk*

Matthew T. Summers
Colantuono Highsmith & Whatley
City Attorney