TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: COMMUNITY SERVICES

DATE: DECEMBER 12, 2005 CMR: 387:05

SUBJECT: BUDGET AMENDMENT ORDINANCE (BAO) TO CONVERT FOUR PUBLIC EMPLOYEE RETIREMENT SYSTEM (PERS) “EXEMPT” HOURLY POSITIONS TO SEIU CLASSIFIED POSITIONS

RECOMMENDATION

Staff recommends that Council approve the attached Budget Amendment Ordinance adding four positions to the Table of Organization (Attachment A). These positions include three (3) 0.75 FTE program assistants and one (1) 0.75 FTE producer. All positions are being converted from hourly equivalents and will have the rights and benefits of the existing union contract.

BACKGROUND

For the past five years the City has employed several hourly staff in “Public Employees Retirement System (PERS) exempt” positions. The PERS exempt designation allows the employee to work up to full time, beyond the PERS 1000-hour limitation, without enrolling in the PERS system. PERS allows the exempt designation for non-career track positions designated for specific, limited term projects financed with temporary funding. The four positions at issue were originally approved based on these criteria. These positions were approved by the Public Employees Retirement System (Attachment B). However, this letter specifically stated that the exemption would cease to apply in the event that employment in the positions continued beyond the originally anticipated termination date and became career positions.

DISCUSSION

Last fall, the Service Employees International Union (SEIU) asked the City to review the City’s use of PERS exempt positions in the course of formation and contract negotiations for the bargaining unit. The Human Resources Department, in consultation with the City Attorney’s Office, conducted a survey and review of job details and functions for the eleven positions filled as PERS exempt, and recommended that four of those positions be converted into classified status because these positions no longer met all of the PERS exempt criteria. Specifically, the Community Services Department (CSD) advised that it no longer considered these positions to be based only on specific projects, it now had an ongoing need for the positions, it required work in each position in excess of 1000 hours per year, and the work required for each position is similar to work already being performed by classified employees. Other PERS exempt positions, after being examined to ensure consistency between job duties and PERS rules were addressed. Several positions that had been labeled exempt
were converted into hourly positions (non-exempt) with a limit of no more than 1000 hours a year; another was converted to a professional services contractor status because the responsibilities met the definition of a contractor.

Of the four positions identified for conversion to regular classified part-time employee status, three will be converted to program assistants working at the Jr. Museum and Zoo. Their function is to operate the Museum’s revenue-generating education, outreach and camp programs. The fourth position will be converted to a Producer classification to manage rentals at the Cubberley Theatre, maintain the theatre, and supervise its technical staff.

If approved, these positions will be converted on January 1, 2006 to regular, classified status within the Community Services Department. The program assistants will report to the supervisor of the Jr. Museum and Zoo and the producer will report to the manager of the Cubberley Center and Human Services division.

**RESOURCE IMPACT**

For the remainder of the 2005/06 budget, the total cost of the conversions is $177,267. Of this amount $106,667 will be transferred from the CSD’s hourly salary budget to regular salaries. To pay for the balance of $70,600, staff will incorporate the higher cost of these positions into the cost-recovery formula for the fees that support these programs, to ensure that there will not be a net impact on the General Fund.

These changes will be reflected in the mid-year budget adjustment. The total annual cost of these positions, including benefits is $252,186.

**POLICY IMPLICATIONS**

This request does not represent a change in policy.

**ENVIRONMENTAL REVIEW**

This is not a project under the California Environmental Quality Act.

**ATTACHMENTS**

Attachment A: Budget Amendment Ordinance  
Attachment B: Letter dated January 12, 1999 from PERS  
Attachment C: Table of Organization

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