

Attachment A

Temporary Employment Agreement

**POST RETIREMENT
TEMPORARY EMPLOYMENT AGREEMENT
WITH ROSALINH UNG FOR PRINCIPAL PLANNER SERVICES**

THIS AGREEMENT FOR POST RETIREMENT TEMPORARY EMPLOYMENT ("Agreement") is made effective as of the 23rd day of June, 2020 ("Effective Date"), by and between the City of Newport Beach, a California municipal corporation and charter city ("City") and ROSALINH UNG ("Employee") whose mailing address is PO Box 4999, Irvine, California 92616, with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. City requires temporary Principal Planning services.
- C. In accordance with Government Code Section 21224(a), a retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. These appointments shall not exceed a combined total of 960 hours for all employers each fiscal year. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person appointed pursuant to this section shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate. A retired annuitant appointed pursuant to this section shall not work more than 960 hours each fiscal year regardless of whether he or she works for one or more employers.
- D. The City desires to employ Employee on a provisional "at will" basis and to enter into an Agreement with Employee for temporary Principal Planner employment ("Position") services upon the terms and conditions in this Agreement.
- E. Employee is willing to accept such temporary employment on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on June 23, 2020, or earlier as

directed, in writing, by the Community Development Director, and shall end June 30, 2021, unless terminated earlier as provided herein.

2. SERVICES TO BE PERFORMED BY EMPLOYEE

2.1 Services shall include the following: Principal Planner, as further described in the Job Description attached hereto as Exhibit A and incorporated herein by reference.

2.2 All duties shall be performed in compliance with City ordinances, policies, rules and regulations. Employee shall familiarize him or herself with the City's Employee Manual. At all times, Employee agrees to perform all services related to Employee's employment hereunder faithfully and diligently and to discharge the responsibilities thereof to the best of Employee's ability.

3. COMPENSATION

3.1 As consideration for the performance of specified services under this Agreement Employee shall be compensated as follows:

3.1.1 Pay of **Sixty-Three Dollars and 96/100 (\$63.96)** per hour for hours worked pursuant to this Agreement. Employee shall be paid on a bi-weekly basis corresponding to the City's payroll schedule and Employee is subject to State and Federal income tax withholdings. \$63.96 per hour shall be considered just compensation and no additional benefits or holiday pay will be provided under this Agreement.

3.1.2 Employee shall maintain and submit complete records of time expended pursuant to this Agreement and corresponding to City's payroll schedule.

4. HOURS

4.1 Hours of work are not guaranteed. Employee's services will be provided on an as needed, per project basis, upon written request of the Department Director or City Manager. Hours of work shall not exceed 30 hours per week.

4.2 It is expressly understood that Employee is a nonexempt Employee and employment is for a provisional, "at will" position.

4.3 Notwithstanding any federal and state laws, regulations or orders, Employee shall not work more than 960 hours during the term of the Agreement in accordance with CalPERS post retirement employment guidelines. The Employee shall be responsible for monitoring the hours worked during these time periods to insure full compliance.

5. ADMINISTRATION

This Agreement will be administered by the Community Development Department. City's Community Development Director or designee shall be the Administrator and shall have the authority to act for City under this Agreement. The Administrator shall represent City in all matters pertaining to the services to be rendered pursuant to this Agreement.

6. NOTICES

6.1 All notices, demands, requests or approvals, including any change in mailing address, to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided.

6.2 All notices, demands, requests or approvals from Employee to City shall be addressed to City at:

Attn: Seimone Jurjis
Community Development Department
City of Newport Beach
100 Civic Center Drive
PO Box 1768
Newport Beach, CA 92658

6.3 All notices, demands, requests or approvals from City to Employee shall be addressed to Consultant at:

Rosalinh Ung
PO Box 4999
Irvine, CA 92616

7. TERMINATION

7.1 Employee's employment is "at will" which means that Employee's employment with City may be terminated at any time, with or without cause, by either party by giving 24 hours prior written notice to the other party.

7.2 Provisional Employee shall mean any person who, pursuant to an Appointment, contract or otherwise, performs work that is generally identified in the Annual Budget and is of limited duration or seasonal in nature.

7.3 Employee's employment status cannot be changed except in writing on a form signed by the Department Director, City Manager and Employee.

7.4 Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from the temporary position with the City.

7.5 No promises or representations regarding regular, full time or permanent employment status have been made to Employee and Employee has no expectation of permanent employment with the City. Furthermore, Employee has no expectation of Civil Service classification, rights or status under this Agreement.

7.6 Upon termination of this Agreement, the City shall pay to Employee that

portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

8. EFFECT OF PRIOR AGREEMENTS

This Agreement supersedes any prior agreement between the City and the Employee, except that this agreement shall not affect or operate to reduce any benefit or compensation inuring to the Employee of a kind elsewhere provided and not expressly provided in this Agreement.

9. OWNERSHIP OF DOCUMENTS

Each and every report, draft, map, record, plan, document and other writing produced (hereinafter "Documents"), prepared or caused to be prepared by Employee, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Employee or any other party.

10. CONFIDENTIALITY

Employee shall hold and safeguard confidential information in trust for the City and shall not, without the prior written consent of the City, misappropriate or disclose or make available to anyone for use outside the City at any time, either during his employment with the City or subsequent to the termination of his employment with the City for any reason, including, without limitation, termination by the City for cause or without cause, any confidential information, whether or not developed by Employee, except as required in the performance of Employee's duties to the City. All documents, including drafts, preliminary drawings or plans, notes and communications that result from the services in this Agreement, shall be kept confidential unless City authorizes in writing the release of information.

11. CONFLICTS OF INTEREST

11.1 The Employee may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

11.2 If subject to the Act, Employee shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City.

12. OUTSIDE ACTIVITIES

12.1 Employee is expected to devote his/her full time, attention and efforts to the performance of his or her assigned duties. An Employee shall not engage in any outside employment or business activities during his/her workday. An Employee shall not engage

in any employment, outside activity, or enterprise that is inconsistent, incompatible or in conflict with, or that interferes with, his/her ability to perform the duties, functions, or responsibilities of his/her Position.

12.2 Employees may obtain and/or maintain employment with persons or entities other than the City or self-employment (outside employment) subject to written approval by the Department Director.

13. STANDARD PROVISIONS

13.1 Recitals. City and Employee acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement.

13.2 Compliance with all Laws. Employee shall, at its own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all work prepared by Employee shall conform to applicable City, county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Department Director and City.

13.3 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Job Description or any other attachments attached hereto, the terms of this Agreement shall govern.

13.4 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

13.5 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

13.6 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

13.7 Amendments. This Agreement may be modified or amended only by a written document executed by both Employee and City and approved as to form by the City Attorney.

13.8 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

13.9 Controlling Law and Venue. The laws of the State of California shall govern

this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

13.10 No Attorneys' Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.

13.11 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

CITY OF NEWPORT BEACH,
a California municipal corporation
Date: _____

CITY OF NEWPORT BEACH,
a California municipal corporation
Date: _____

By: _____
Seimone Jurjis
Community Development Director

By: _____
Will O'Neill
Mayor

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE
Date: 6/11/2020

EMPLOYEE: Rosalinh Ung
Date: _____

By: *Aaron C. Harp*
For: Aaron C. Harp
City Attorney

By: _____
Rosalinh Ung

*06/11/20
JUN*

ATTEST:
Date: _____

By: _____
Leilani I. Brown
City Clerk

[END OF SIGNATURES]

Attachments:

Exhibit A: Job Description

**EXHIBIT A
JOB DESCRIPTION**

CITY OF NEWPORT BEACH

PRINCIPAL PLANNER

DEFINITION: To perform a wide variety of advanced level duties related to urban planning and the coordination of planning and development projects to ensure compliance with Federal, State and local regulations governing planning and the environment; and to provide responsible staff assistance to the Deputy Community Development Director.

DISTINGUISHING CHARACTERISTICS: This is the technical/supervisory level class in the professional planning series. Positions at this level are distinguished from other classes within the series by the level of responsibility assumed and the complexity of duties assigned to classes within this series including review, coordination and analysis of major or complex projects, preparation of environmental impact and traffic studies and reports, and supervision of outside consultants and Department staff involved in the preparation of special studies, environmental impact studies and traffic studies. Employees at this level are required to be fully trained in all procedures related to assigned area of responsibility and to supervise a section or area of specialization.

SUPERVISION RECEIVED AND EXERCISED: Reports to the Deputy Community Development Director and may receive direction from the Community Development Director and/or Planning Manager. Exercises direct technical and functional supervision over professional, technical, consultant and clerical staff

EXAMPLES OF ESSENTIAL DUTIES: Duties may include, but are not limited to, the following:

Essential Job Duties

- Administer the California Environmental Quality Act; advise other departments on compliance and prepare or supervise the preparation of environmental documents as necessary for Departmental projects and projects of other departments;
- Analyze and develop recommendations on complex planning, zoning and development proposals;
- Act as liaison for projects involving intergovernmental coordination; review other agencies' environmental impact reports for potential impact to the City;
- Research a variety of environmental issues related to advance and current planning activities;
- Prepare special reports and/or supervise the performance of professional staff or

outside consultants in the preparation of specialized planning reports including environmental impact reports and traffic studies;

- Ensure project compliance with all regulations and policies governing development and the protection of the environment;
 - Prepare scope of services and administer contracts of outside consultants retained by the City to prepare environmental documents;
 - Attend a variety of meetings to explain projects and documents of a specialized nature;
 - Provide technical assistance to individuals, citizen committees, City Council, Planning Commission and other City Departments;
 - Develop and present recommendations related to the environmental impact of various projects; prepare appropriate reports and presentations;
 - Confer with engineers, developers, architects, a variety of agencies and the general public in acquiring information and coordinating planning and zoning matters; provide information regarding City development requirements;
 - Provide direct supervision and technical assistance to professional and technical planning staff in the preparation of a variety of planning and special studies; conduct performance evaluations;
 - May investigate, conduct administrative public hearings, and render decisions on administrative discretionary applications;
 - May assist in preparing the budget; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; assist in monitoring and tracking the approved budget;
 - Remain current in the planning principles, practices, and techniques through continuing education; and
- Perform related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Modern principles and practices of current and/or advanced local government planning and development with particular emphasis on environmental protection;

Methods and techniques of effective technical report preparation and presentation;

Research methods and sources of information related to urban growth and development;

Recent developments, current literature and sources of information related to municipal planning and administration;

Principles, practices, and techniques of project management;

Methods and techniques of scheduling work assignments to ensure assignments are completed in an efficient and timely manner;

Contract negotiation and administration;

Pertinent Federal, State and local rules, regulations and ordinances; and

Principles and practices of supervision, training, performance evaluation, and personnel management.

Ability to:

Work under minimum supervision and provide lead direction, coordination and supervision of staff;

Analyze proposed projects for compliance with environmental regulations and develop appropriate recommendations to decision-makers and department management;

Ensure project compliance with Federal, State and local rules, laws and regulations particularly those pertaining to environmental protection;

Administer the contracts of outside consultants and evaluate quality of work and ensure assignments are completed in an efficient and timely manner;

Interpret and apply pertinent laws, rules and regulations;

Prepare and analyze technical and administrative reports, statements and correspondence;

Supervise planners and clerical staff and insure assignments are completed in an efficient and timely manner;

Conduct performance evaluations;

Assist with budget development and monitoring;

Negotiate and oversee contracts and manage the work of consultants;

Exercise sound independent judgment within established procedure guidelines;

Communicate clearly and concisely, both orally and in writing;

Appear for work on time;

Follow directions from a supervisor;

Understand and follow posted work rules and procedures;

Accept constructive criticism; and

Establish and maintain cooperative working relationship with those contacted in the course of work.

This position may be required to work overtime hours as needed.

EXPERIENCE AND TRAINING: Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience: Four years of responsible professional current and/or advanced local government planning experience including some experience in the preparation or review of environmental documents.

Training: Equivalent to a Bachelor's degree from an accredited college or university with major course work in planning, public or business administration or a related field.

LICENSE OR CERTIFICATE: Possession of, or ability to obtain, an appropriate, valid California driver's license.

Bargaining Group – Key & Mgmt
Approved by Council 1/08/08
Revised (mwd): 12/7/17