

EMPLOYMENT AGREEMENT BETWEEN
CITY OF HUNTINGTON BEACH AND CHAU VU

HER AGREEMENT is entered into the 2nd day of September, 2023, between the City of Huntington Beach, a California municipal corporation, hereinafter "City," and Chau Vu, hereinafter "Vu."

WITNESSETH

WHEREAS, the City Manager has been empowered to appoint and remove department heads; and

WHEREAS, the City, through the City Manager, desires to employ the services of Vu as the Director of Public Works of the City of Huntington Beach; and

WHEREAS, the City seeks to provide certain benefits, establish certain conditions of employment, and to set working conditions of Vu; and

WHEREAS, the City intends to:

- (1) Secure, retain, and employ the services of Vu; and
- (2) Provide a means for terminating Vu's service; and
- (3) Vu accepts employment as the City's Director of Public Works;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Chau Vu

Director of Public Works Employment Agreement

SECTION 1. DUTIES.

The City agrees to employ Vu as Director of Public Works of the City to perform the functions and duties of that office as set forth in the Municipal Code of the City of Huntington Beach and the City Charter, and to perform other duties and functions as the City Manager shall from time to time assign. Vu shall devote her full attention and effort to the office and perform the mentioned duties and functions in a professional manner.

SECTION 2. STATUS AND TERM.

(a) Vu shall serve for an indefinite term at the pleasure of the City Manager and shall be considered an at-will employee of the City.

(b) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Manager to terminate the employment of Vu at any time, subject only to the provisions set forth in Section 6, subparagraphs (a), (b) and (c) of her Agreement, and Section 401 of the Charter of the City of Huntington Beach.

(c) Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Vu to resign at any time from her position with the City, subject only to the provisions set forth in Section 6, subparagraph (d), of her Agreement.

(d) Vu agrees to remain in the exclusive employ of City for an indefinite period of time and shall neither accept other employment nor become employed by any other employer without the prior written approval of the City Manager until notice of Vu's resignation is given.

The term "employed" (and derivations of that term as used in the preceding paragraph) shall include employment by another legal entity or self-employment, however, shall not be construed to include occasional teaching, writing, consulting, or military reserve service performed on Vu's time off, and with the advance approval of the City Manager.

SECTION 3. SALARY.

City agrees to pay Vu for her services rendered pursuant to her Agreement at Range 269, Step F (\$102.88/hourly) of the City's classification and compensation plan or Resolutions or Ordinances from time to time enacted that govern such compensation.

SECTION 4. OTHER BENEFITS.

In addition to the foregoing benefits, Vu shall also receive all such other benefits that are generally applicable to non-associated employees (Department Heads) hired after 12/27/97, as set forth in Huntington Beach City Council Resolution No. 2016-50, entitled "A Resolution Of The City Council Of The City Of Huntington Beach Modifying Salary And Benefits For Non-Represented Employees Including The Elected City Attorney, City Clerk, And City Treasurer, " a copy of which is attached hereto as Exhibit "A" and incorporated by reference as fully set forth herein. This includes provision of an auto allowance (auto allowance is currently set at \$230.77 paid bi-weekly), as stated in Exhibit "A", along with reimbursement of out-of-town travel at the approved mileage rates. Vu shall also be eligible for a cell-phone stipend (smartphone) in the amount of \$50.00 per month, paid bi-weekly or use of a City-provided cell-phone. The benefits provided to Vu pursuant to her Section may be modified by the City from time to time, upon adoption of a successor Resolution.

SECTION 5. ADMINISTRATIVE LEAVE.

The City Manager may place Vu on Administrative Leave with full pay and benefits at any time during the term of her Agreement.

SECTION 6. TERMINATION AND SEVERANCE PAY.

(a) Except as provided in subsection (b), in the event the City Manager terminates the employment of Vu, and during such time that Vu is willing and able to perform her duties under her Agreement, the City shall pay to Vu a severance payment equal to salary payments which Vu would have been receiving over a twelve week period at Vu's current rate of pay in effect on the day prior to the date of termination. In addition, for the lesser of ninety (90) calendar days after the date of termination or the time Vu secures health and medical insurance through comparable employment, the City shall maintain and pay for health, medical, disability, the continuation of retirement benefits and life insurance in such amounts and on such terms as have been received by Vu and Vu's dependents at the time of such termination; however, no other additional benefits shall accrue during her ninety (90) calendar-day period.

(b) (1) Notwithstanding subsection (a) above, the following reasons shall constitute grounds to terminate the employment of Vu without severance pay:

- (i) a willful breach of her agreement or the willful and repeated neglect by Vu to perform duties that she is required to perform;
- (ii) conviction of any criminal act relating to employment with the City;
- (iii) conviction of a felony.

(2) Prior to the time that the City Manager terminates Vu without severance pay for any of the reasons set forth in Section (b)(1) above, and only in that case, the

City Manager shall provide Vu with written notice of proposed termination which will include the reason and factual basis for termination. Within ten days of such notice, Vu may request an opportunity to respond to the reasons and factual basis provided by the City Manager. If such a request to respond is made, the City Manager shall conduct a meeting, which may be informal in nature, so that Vu may respond to the notice of proposed termination. At such meeting, Vu may be represented by an attorney of her choice and present evidence or information relevant to the reasons and factual basis set forth in the notice of proposed termination. Subsequently, the decision of the City Manager as to whether reasons set forth in Section (b)(l) exist or do not exist shall be final as between the parties.

(c) In the event the City at any time during the term of her Agreement, reduces the salary of Vu from its current level, except as part of an across-the-board reduction for all Directors of City, or in the event City refuses, following written notice, to extend to Vu any non-salary benefit customarily available to all Directors, or in the event Vu resigns following a suggestion, whether formal or informal, by the City Manager that she resign, then, Vu may, at her option, be deemed to be "terminated." The termination date will occur then at the date of reduction or refusal to extend or such suggestion of resignation within the meaning and context of the severance pay provision in subparagraph (a) above; provided that the option to be deemed terminated is exercised by written notice from Vu and delivered to the City Manager within ten (10) working days of notification of such reduction, refusal to extend, or suggestion of resignation. In that event, the severance payment shall be calculated from the date Vu exercises the option to be deemed terminated.

(d) In the event Vu voluntarily resigns her position, Vu shall give City written notice at least thirty (30) days prior to the last workday, unless the City Manager and Vu otherwise agree.

(e) It is understood that after notice of termination in any form, Vu and the City will cooperate to provide for an orderly transition. Specific responsibilities during such transition may be specified in a written separation agreement.

SECTION 7. DISABILITY.

If Vu is medically, physically disabled or otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or ill health, and has provided proof of the same from a medical professional, she shall be eligible for Disability Leave upon exhausting all accrued sick leave, general leave and executive leave, and duty injury leave if applicable. Disability Leave shall be unpaid and shall be approved by the City Manager for a time period of up to three (3) months. The length of such time period of the Disability Leave shall be dependent upon the length of the disability as demonstrated by Vu. If Vu is unable to return to work at that time, the City shall have the option to terminate the employment of Vu, subject to the requirements imposed on City by Section 6, paragraph (a).

SECTION 8. PERFORMANCE EVALUATION.

The City Manager shall review and evaluate in writing the performance of Vu at least once annually. That review and evaluation shall be in accordance with specific criteria developed in consultation with Vu and the City Manager. Those criteria may be added to or subtracted from as the City Manager may from time to time determine, in consultation with Vu.

SECTION 9. GENERAL AND EXECUTIVE LEAVE

(a) Vu shall accrue General Leave in accordance with the General Leave accrual provisions applicable to Department Heads of the City as contained in the Non-Associated Resolution (Exhibit "A"). Vu shall be credited for her years of service at other CalPERS agencies in determining her annual general leave accrual allowance. Vu shall be credited 80 hours of Executive Leave on January 1 of each calendar year, and shall initially be provided with a prorated number of Executive Leave hours for the remainder of the calendar year upon execution of her Agreement.

(b) Executive Leave must be used in the same calendar year it is credited, and unused Executive Leave may not be carried forward to the next calendar year or cashed out at any time. General Leave shall be accrued in accordance with the appropriate provisions of the Non-Associated Resolution (Exhibit "A"). Vu shall provide the City Manager with reasonable notice prior to taking two (2) or more General Leave or Executive Leave days off.

SECTION 10. PROFESSIONAL DEVELOPMENT.

The City agrees to budget and pay for Vu's professional memberships as normally accorded to Department Heads. Vu shall also receive paid leave, plus registration, travel and reasonable expenses for short courses, conferences and seminars that are necessary for professional/personal development and, in the judgment of the City Manager, for the good of the City, and subject to budget limitations and to established travel policies and procedures.

SECTION 11. FINANCIAL DISCLOSURE.

Vu shall report to the City Manager any ownership interest in real property within the County of Orange, excluding personal residence. Vu shall also complete

and file annually, Financial Disclosure 700 Forms. Also, Vu shall report to the City Manager any financial interest greater than Ten Thousand Dollars (\$10,000) in value in a firm doing work for City or from which City intends to make a purchase. Such reporting shall be made in writing by Vu to the City Manager within ten (10) calendar days of the execution of her agreement and within ten (10) calendar days of acquisition of that interest in real property. Additionally, Vu shall report in writing to the City Manager any financial interest greater than Ten Thousand Dollars (\$ 10,000) in value in a firm doing work for the City or from whom the City intends to make a purchase immediately upon notice of the intended work or purchase.

SECTION 12. INDENNIFICATION.

The City shall defend and indemnify Vu against actions, including but not limited to any: tort, professional liability claim or demand, or other non-criminal legal, equitable or administrative action, arising out of an alleged act or omission occurring in the performance of Vu during the discharge of her duties as an employee / officer of the City, other than an action brought by the City against Vu, or an action filed against the City by Vu. The City shall pay the reasonable expenses for the travel, lodging, meals, and lost work time of Vu should Vu be subject to such, should an action be pending after termination of Vu. The City shall be responsible for and have authority to compromise and settle any action, with prior consultation with Vu, and pay the amount of any settlement or judgment rendered on that action. Vu shall cooperate fully with the City in the settlement, compromise, preparation of the defense, or trial of any such action.

13. GENERAL PROVISIONS.

- (a) The text herein shall constitute the entire Agreement between the parties.
- (b) Her Agreement shall become effective commencing September 2, 2023.

- (c) If any provision, or any portion of any provision, contained in her Agreement is held unconstitutional, invalid, or unenforceable, the remainder of her Agreement, or any portion of it, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- (d) No amendment of her Agreement shall be effective unless in writing and signed by both parties.


IN WITNESS THEREOF, City has caused her Agreement to be signed and executed on its behalf by its City Manager, and Vu has signed and executed her Agreement, both in duplicate, the day and year first above written.

CITY:



Al Zelinka, City Manager

VU:



Chau Vu

APPROVED AS TO FORM:



City Attorney