

EMPLOYMENT CONTRACT

THIS AMENDED EMPLOYMENT CONTRACT, hereinafter referred to as "CONTRACT" is made and entered into this September 20, 2024, by and between the CITY OF DANA POINT, a municipal corporation, hereinafter referred to as "CITY", and Jeffrey Rosaler, hereinafter referred to as ROSALER.

WITNESSETH

WHEREAS, CITY is a municipal corporation, the operation of which involves securing the services of a qualified Director of Community Services; and,

WHEREAS, ROSALER can provide the services and possesses the professional skills required by CITY and is available to CITY; and,

WHEREAS, it is the desire of the City Manager of CITY to retain the services of ROSALER as Director of Community Services; and,

WHEREAS, it is the desire of the City Manager of CITY to provide certain benefits, establish certain conditions of employment, set certain work conditions, and provide an equitable means of terminating ROSALER's employment; and,

WHEREAS, the arrangement set forth in this contract represents an efficient and economical procedure to accomplish CITY's goal;

NOW, THEREFORE, CITY AND ROSALER, in consideration of the mutual covenants and agreements herein contained, agree as follows:

1. POSITION AND DUTIES. The City Manager of CITY hereby agrees to appoint ROSALER as the Director of Community Services of the City of Dana Point to perform, on a full-time basis, the duties and functions specified in CITY's Municipal Code, ordinances, resolutions, policies and Director of Community Services Job Description, and as required by the Government Code of the State of California, and to perform other legally permissible duties and perform such functions as the City Manager shall from time to time assign. The City Manager of CITY shall have the authority to determine the specific duties and functions which ROSALER shall perform under this contract and the means and manner by which ROSALER shall perform those duties and functions.

ROSALER agrees to devote all of his business time, skill, attention, and best efforts to the discharge of the duties and functions assigned to him by the City Manager during his employment.

The City Manager and ROSALER shall define goals and performance objectives for ROSALER which they determine necessary. The City Manager shall further establish a relative priority among those various goals and objectives. They shall generally be attainable within the time limitations as specified.

2. TERMINATION AND AT WILL STATUS. This contract shall commence on the effective date and shall remain in effect until terminated by CITY or ROSALER in accordance

with the provisions of this contract. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Manager to terminate the services of ROSALER at any time, subject only to the provisions set forth in this Section.

ROSALER holds his employment at the pleasure of the City Manager and is an At-Will employee. ROSALER is exempt from CITY's competitive service. The City Manager of CITY may terminate ROSALER's employment at any time, for any reason that is not in violation of the public policy of the State of California and may give ROSALER notice of termination at any time. ROSALER agrees that no representative of CITY has made or can make any promises, statements, or representations which state or imply that ROSALER is hired or retained under any terms other than those stated herein.

ROSALER may voluntarily terminate his employment at any time, for any reason, except he shall give the City Manager of CITY thirty (30) days written notice prior to the effective date of the voluntary termination of his employment.

If the City Manager of CITY terminates ROSALER's employment or ROSALER terminates his employment, ROSALER shall only be entitled to receive the compensation he is currently due for the work he has already performed, plus a severance payment if he is eligible as described in Paragraph 4 herein, plus the cash equivalent of any unused Comprehensive Annual Leave as described in Paragraph 3e herein.

3. COMPENSATION. CITY agrees to provide the following compensation to ROSALER:

a. Annual Compensation. Effective September 18, 2024, annual compensation of ONE HUNDRED SEVENTY THOUSAND, ONE HUNDRED dollars, \$170,100.00, for services rendered with applicable payroll taxes withheld. Said compensation shall be paid biweekly. Compensation may be adjusted upward annually due to merit increase approved by the City Manager.

b. Deferred Compensation. Upon the effective date of this contract and annually thereafter, ROSALER shall receive a deferred compensation contribution. The contribution will be equivalent to three percent (3.0%) of ROSALER's base salary, pro-rated if necessary. The contribution shall be paid on a biweekly basis to an account in ROSALER's name, subject to the terms and conditions of MissionSquare Retirement, the CITY's deferred compensation provider or to a successor provider, as deferred compensation. Notwithstanding the forgoing, the total contribution will not exceed the maximum limit set by the Internal Revenue Service (IRS) for deferred compensation contributions in any given year.

c. Cafeteria Plan. City shall pay to ROSALER's health, disability, and insurance plans as offered in the City's Cafeteria Plan the same amount as is paid for other City employees.

d. Retirement. ROSALER shall be a member of the City's retirement plan adopted and existing pursuant to its contract with the State of California Public Employees Retirement System ("PERS"). City shall pay the full amount of the required employer's contribution for the benefit of ROSALER, and ROSALER shall pay the full amount of the employee's required contribution consistent with other City employees deemed Classic

Members by PERS. In the event that other City employees deemed Classic Members by PERS are required to pay an additional amount of pay toward unfunded pension liability pension costs, then ROSALER shall pay the same amount.

In the event the CITY voluntarily joins or is required by law to join the Federal Social Security System, ROSALER shall be treated in the same manner as all City employees. Should the CalPERS plan be amended by the City Council in the future, ROSALER would be automatically entitled to receive such amended benefits.

e. Comprehensive Annual Leave (CAL). The City shall provide ROSALER with annual leave as Comprehensive Annual Leave (CAL). CAL credits shall be accrued at the rate of 9.23 hours per biweekly pay period. In order to encourage ROSALER to use his accrued CAL, CAL credits are allowed to accrue up to a maximum of 480 hours. Once ROSALER has reached the maximum accrual, ROSALER will cease to accrue additional CAL credits until the accrued CAL credits fall below the 480 hour level. Unused CAL may be converted to cash, pursuant to the City's Comprehensive Annual Leave Personnel Policy amended effective January 1, 2022. If ROSALER's employment is terminated, ROSALER shall receive compensation for any accrued but unused CAL credits with applicable payroll taxes withheld.

f. CITY shall reimburse ROSALER for approved, reasonable and ordinary business expenses incurred by ROSALER in the performance of this contract, provided such expenses have been authorized by the City Manager.

g. Annual Physical. It is in the CITY's best interest that ROSALER maintain good health and physical ability to fulfill his duties as Director of Community Services. Toward this end, CITY shall pay the full cost of one complete annual physical examination for ROSALER conducted by the physician of her choice. The cost to the CITY shall be offset by any payment made by ROSALER's health insurance carrier toward the cost of the examination.

h. Vehicle. ROSALER's duties as Director of Community Services for the City of Dana Point will require that he always have unrestricted access to an automobile to attend to City business, in and out of the City, and to respond to emergencies. ROSALER agrees to pay for all liability, property damage and comprehensive insurance related to all City and personal use of said automobile, and all non-related driving or incidents. ROSALER agrees to incur all expenses for the purchase, operation, gas, maintenance, repair or regular replacement, and applicable taxes associated with said automobile. In return for providing said automobile and paying all expenses associated with the operation and maintenance of said automobile, CITY shall pay ROSALER the sum of FIVE HUNDRED FIFTY dollars \$550.00 per month paid biweekly with applicable payroll taxes withheld.

i. All other benefits provided to Management level employees in the CITY Personnel Policies.

4. SEVERANCE PAYMENT.

a. Termination without Cause. In the event that ROSALER is involuntarily terminated by City Manager, CITY shall pay ROSALER a lump sum cash severance payment equal to three (3) months of ROSALER's monthly compensation established in Paragraph 3a

herein, with applicable payroll taxes withheld. In exchange for and as a condition to receipt of the Severance Payment, ROSALER shall execute a release and waiver, in a form acceptable to the City Attorney, releasing the City from any and all claims associated with ROSALER's employment and termination.

b. Termination for Cause. In the event ROSALER is terminated for cause as defined herein, CITY shall have no obligation to make severance payment described in Paragraph 4a above. In the context of this Agreement, "for cause" shall mean ROSALER has been terminated because of the commission, attempted commission, violation, or conviction of any criminal law committed at any time (except minor traffic infractions), gross negligence or malfeasance, incompetence, insubordination, and/or violation of any rules or policies applicable to the general employees of the CITY. ROSALER has an affirmative duty to report to the City Manager or designee if he is arrested or if he is under investigation for alleged criminal activity or criminal misconduct.

c. If ROSALER terminates his employment, CITY shall not make any severance payment to ROSALER.

d. Notwithstanding any other provision or the term of this Agreement, the Severance that ROSALER may receive under this Agreement as a result of termination shall not exceed the limitations provided in Government Code Section 53260-53264. In addition, in the event ROSALER is convicted of a crime involving an abuse of office or position, ROSALER shall reimburse the CITY for any paid leave or cash settlement (including separation benefits or severance, if applicable), to the extent as provided by Government Code Sections 53243-53243.4.

5. PERFORMANCE EVALUATION.

a. The City Manager shall review and evaluate the performance of ROSALER after his initial six months of continuous employment, and then annually each September. The City Manager shall review and evaluate the performance of ROSALER annually each September and shall provide ROSALER with a summary of the findings and provide ROSALER with adequate opportunity to discuss the evaluation(s) with the City Manager.

In connection with each annual performance evaluation, the City Manager may grant ROSALER a performance bonus up to 5% of his base salary. Whether or not to grant a bonus and the amount of any such bonus shall be determined at the sole discretion of the City Manager. It is the understanding and intent of the City and ROSALER that the performance bonuses for Classic CalPERS members are pensionable compensation per California Code of Regulations (CCR), Title 2 §571(a)(1).

6. INDEMNIFICATION. CITY shall defend, hold harmless, and indemnify ROSALER against any tort, professional liability claims or demand or other legal action, whether groundless or otherwise, arising out of this contract, or any alleged act or omission occurring in the course and scope of performance of ROSALER's duties in accordance with the provisions of the California Government Code Section 825.

7. BONDING. CITY shall bear the full cost of any fidelity or other bonds required of ROSALER under any law or ordinance.

8. ENTIRE AGREEMENT. This contract is the complete and final expression of the parties' agreement. This contract remains the entire agreement and understanding between the parties and contains all of the terms and conditions of the parties' agreement. This contract supersedes all prior or contemporaneous oral or written negotiations, discussions, representations, or agreements between the parties, if any.

No amendment, alteration, extension, or modification of this contract shall be binding unless in writing and signed by both the City Manager and ROSALER.

9. GOVERNING LAW. This contract will be governed by and construed in accordance with the laws of the State of California.

10. NO WAIVER. No party's failure to enforce any provision(s) of this contract will be construed in any way as a waiver of such provision(s), nor prevent that party from enforcing each and every other provision of this contract.

11. PARTIAL INVALIDITY. The invalidity or unenforceability of any provision(s) of this contract will not affect the validity or enforceability of the other provision(s) of the contract.

12. HEADINGS. Paragraph headings used in this contract are for convenience only and shall not be considered part of the terms of this contract.

CITY OF DANA POINT

By 
Michael A. Killebrew, City Manager

JEFFREY ROSALER

By 
Jeffrey Rosaler

ATTEST:


Shayna Sharke, City Clerk

APPROVED AS TO FORM:


Patrick Munoz, City Attorney