

**CITY OF OJAI
CITY COUNCIL RESOLUTION NO. 22-47**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF OJAI APPOINTING LINDY MORE PALMER AS
INTERIM ASSISTANT PUBLIC WORKS DIRECTOR,
GOVERNMENT CODE SECTION 2122(h)**

WHEREAS, Government (Gov.) Code section 21221(h) of the Public Employees' Retirement Law permits the governing body to appoint a CalPERS retiree to a vacant position requiring specialized skills during recruitment for a permanent appointment, and provides that such appointment will not subject the retired person to reinstatement from retirement or loss of benefits so long as it is a single appointment that does not exceed 960 hours in a fiscal year; and

WHEREAS, the City of Ojai desires to appoint Lindy Moore Palmer as an interim appointment retired annuitant to the vacant position of Assistant Public Works Director for the City of Ojai under Gov. Code section 21221(h), effective August 29, 2022; and

WHEREAS, the City of Ojai and Lindy Moore Palmer certify that Lindy Moore Palmer has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, an appointment under Gov. Code section 21221(h) requires the retiree is appointed into the interim appointment during recruitment for a permanent appointment; and

WHEREAS, the governing body has authorized the search for a permanent appointment on 10/27/2020; and

WHEREAS, this Gov. Code section 21221(h) appointment shall only be made once and therefore will end automatically upon the hiring of the Assistant Public Works Director; and

WHEREAS, the entire employment agreement, contract or appointment document between Lindy Moore Palmer and the City of Ojai has been reviewed by this body and is attached herein; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is \$10,540.40 and the hourly equivalent is \$60.81; the minimum base salary for this position is \$8,798.40 and the hourly equivalent is \$50.76; and

WHEREAS, the hourly rate paid to Lindy Moore Palmer will be \$60.81; and

City of Ojai
City Council Resolution No. 22-47

WHEREAS, Lindy Moore Palmer has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate; and

THEREFORE, BE IT RESOLVED THAT the City of Ojai hereby certifies the nature of the employment of Lindy Moore Palmer as described herein and detailed in the attached employment agreement and that this appointment is necessary to fill the critically needed position of Assistant Public Works Director for the City of Ojai by August 29, 2022, to provide support to prevent an immense backlog and/or work stoppage.

PASSED, APPROVED AND ADOPTED on this 23th day of August, 2022 by the following vote:

AYES: Blatz, Francina, Haney, Stix, Weirick
NOES: None
ABSENT: None
ABSTAIN: None

CITY OF OJAI, CALIFORNIA

By:

Betsy Stix
Betsy Stix, Mayor

August 31, 2022
Date signed

ATTEST:

Gail Davis
Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:

Matthew T. Summers
Matthew Summers, City Attorney

Attached: Exhibit A: Agreement for Temporary Employment

AGREEMENT FOR TEMPORARY EMPLOYMENT

THIS AGREEMENT is between the City of Ojai, State of California, a municipal corporation ("City"), and Lindy Moore Palmer, an individual ("Employee") (collectively, the "Parties").

Recitals

WHEREAS, the City's Assistant Public Works Director is an appointed position that is currently vacant and for which the City is conducting a recruitment for a permanent appointment;

WHEREAS, during this recruitment period, the City will have an immediate need for an employee to temporarily perform the position of Assistant Public Works Director, a position involving specialized skills to plan, direct, manage and oversee the functions, programs, and operations of the Public Works Department and provide highly responsible and complex administrative support to the Public Works Director and the City Manager;

WHEREAS, Employee is competent and qualified to perform the services required by this Agreement, and City wishes to have Employee perform certain critically necessary on-going duties and functions of the Assistant Public Works Director position on an interim basis;

WHEREAS, Employee's employment is authorized by Government Code section 21221(h), which permits the City to appoint a CalPERS retired annuitant to a vacant position requiring specialized skills during recruitment for a permanent replacement;

NOW, THEREFORE, the parties do mutually agree as follows:

Agreement

1. **Appointment and Scope of Services:** Pursuant to this Agreement, Employee is appointed as Interim Assistant Public Works Director beginning on August 29, 2022, and shall temporarily perform the functions of this position, which is a position involving highly-specialized and critically-needed skills as set forth, in the Assistant Public Works Director job description noted below, and the direction of the Public Works Director and/or the City Manager. Such employment is "at-will," subject to the terms of this Agreement, and Employee shall perform said duties at the pleasure of the City Manager.

2. **Compensation and Work Schedule:**
 - a. **Rate of Pay:** Employee shall be paid hourly based on a full-time monthly salary of \$10,540.40. The City has confirmed that this rate is not less than the minimum, nor in excess of the maximum, paid by the City to other employees performing comparable duties (divided by 173.333 to equal an hourly rate of \$60.81) as listed on the City's publicly-available pay schedule (the Assistant Public Works Director position's monthly salary range is a minimum of \$8,798.40 and a maximum of \$10,540.40). Payments will be made on regularly scheduled City payroll dates, and shall be subject to all applicable payroll

taxes and withholdings. Such compensation shall be the sole compensation for her services under this Agreement.

- b) Work Schedule and 960-Hour Limitation: Work Schedule and 960-hour Limitation. Employee is expected to devote necessary time, within and outside normal business hours, to the business of the City. Pursuant to Government Code sections 21221(h) and section 7522.56, however, Employee's performance of services as a retired annuitant, whether compensated or on a volunteer basis, shall not exceed 960 hours per fiscal year in all positions for all public employers that contract with CalPERS for retirement benefits. The City retains the right to designate, reduce, change, or amend the number of hours assigned to Employee consistent with the City's workload and other needs. If Employee's hours are approaching 960, then the City retains the right to summarily suspend Employee's duties under this Agreement and to reassign any scheduled hours, as needed, to ensure that Employee does not exceed the maximum hours allowed by this Agreement.
- i. Employee will be responsible for keeping track of the number of hours worked on a time sheet form provided by the City and submitting them at least every two weeks.
 - ii. The position to which Employee is appointed is a temporary, hourly assignment which shall not exceed 40 hours per week. The City Manager, through the City Council, will assign Employee hours to work. Due to the nature of the position, it is understood that the work day and work week hours may vary, however Employee shall not work overtime (i.e. hours in excess of 40 per week) without specific authorization by the City Manager.
 - iii. The City and Employee anticipate that Employee will primarily work a Five day (Monday-Friday) schedule, with additional work as necessary to provide reasonable availability to County Council and to address urgent matters within a 32-40 hour per week time frame. The City and Employee acknowledge that this work will include hours outside of regular business hours including, without limitation, attendance at regular and special City Council and or Commission meetings and attendance at such community events and City functions at the Council may direct.
- c) Exempt Position: The position is exempt from FLSA overtime pay requirements. This temporary, full-time employment typically will average approximately 40 hours per week. Employee's typical working hours will be during the City's regular business hours, plus evening hours as needed to attend City Council meetings and other City business. Due to the nature of the position, however, it is understood that the working hours may exceed 40-hours per work week and may occasionally be slightly less than 40 hours per week. All hours worked must be tracked and submitted to the City.

3. **Employment Status:**

- a) **Benefits:** Other than compensation described above in Section 2(a), Employee will receive no other benefits, incentives, compensation in lieu of benefits, or any other form of compensation. Employee understands and agrees that she is not, and will not be, eligible to receive any benefits from the City, including any City group plan for hospital, surgical, or medical insurance, any City retirement program, or any paid holidays, vacation, sick leave, or other leave, with or without pay, or any other job benefits available to an employee in the regular service of the City, except for worker's compensation insurance coverage.
- b) **No Membership in Bargaining Unit:** Employee understands that she is not a member of any bargaining unit and is not covered by the terms of any Memorandum of Understanding with any represented or unrepresented group of City employees.
- c) **No Property Right in Employment:** Employee understands and agrees that the terms of her employment are governed only by this Agreement and that no right of employment for any specific term is created by this Agreement. Employee further understands that she acquires no property interest in her employment by virtue of this Agreement, that the employment is "at-will" as defined by laws of the State of California (meaning that he can be terminated at any time for any reason or for no reason), and that she is not entitled to any pre- or post-deprivation administrative hearing or other due process upon termination. The Parties agree that confidential personnel records pertaining to Employee's employment and eventual release from employment shall remain confidential to the extent permitted by law.
- d) **Employee's Requirement to Report Additional Employment:** Employee understands that CalPERS retired annuitants may be employed by a CalPERS public agency employer, by temporary appointment not to exceed 960 hours in any fiscal year for all such employers; either (1) during an emergency to prevent stoppage of public business, or (2) because the retired employee has skills needed in performing the work of limited duration. Employee agrees not to perform work for any other CalPERS agency during the period of employment for City under this Agreement.
- e) **No Volunteer Work:** In compliance with CalPERS regulations and requirements, the Parties expressly agree that Employee cannot and will not perform any "volunteer" work to the City during her employment under this Agreement.

4. **Representation of Employee:** Employee represents that she is properly trained and certified to perform the duties required of the position and this Agreement.

5. **Effective Date and Term of Agreement:** This Agreement shall be effective on August 29, 2022, and shall terminate automatically upon the hiring of the Assistant Public Works Director. Employment under this Agreement is temporary, at-will, and may be terminated with or without cause and with or without notice at any time by Employee or the City.

6. **Effect of Agreement on Employee's CalPERS Retirement Benefits**; Indemnification: The City makes no representation on the impact, if any; this Agreement shall or may have upon Employee's CalPERS retirement benefits, status, duties, and/or obligations. Employee acknowledges that in entering into this Agreement, she has not relied upon any such representations (none of which being in existence) in assessing the CalPERS-related impact of her employment. Therefore, Employee releases the City from any and all CalPERS-related claims or liabilities that may arise in connection with her employment pursuant to this Agreement.

The City is not obligated to provide, and Employee is not entitled to receive from City, enrollment in the California Public Employees' Retirement System (CalPERS), unless Employee is currently a member of CalPERS through prior employment.

7. **No Unemployment Benefits Received by Employee**: Employee expressly certified and warrants to the City that she has not received any unemployment insurance payments for retired annuitant work for any public employer within twelve (12) months prior to her appointment date.
8. **Non-Assignment of Agreement**: This Agreement is intended to secure the individual services of the Employee and is not assignable or transferable by the Employee to any third party.
9. **Governing Law/Venue**: This Agreement shall be interpreted according to the laws of the State of California. Venue for any action or proceeding regarding this contract shall be in Ventura County.
10. **Enforceability**: If a term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
11. **Conflict of Interest**: employee agrees that during the term of this Agreement, she will not maintain any financial interest or engage in any other contract employment, occupation, work, endeavor or association, whether compensated for or not, that would in any way conflict with, or impair Employee's ability to perform the duties described in this Agreement. Any work performed for the City outside the terms of this Agreement must be approved in advance in writing by the City Manager. Employee agrees to disclose whether he is performing work for any other CalPERS public agency employer as required by section 3(d) of this Agreement.
12. **Entire Agreement and Modification**: This Agreement constitutes the entire understanding of the parties hereto. This Agreement supersedes any previous contracts, agreements, negotiations or understandings, whether written or oral, between the parties.

Employee shall be entitled to no other compensation or benefits than those specified herein, and Employee acknowledges that no representation, inducements or promises not contained in this Agreement have been made to Employee to induce Employee to enter into this Agreement.

13. **Support Services and Equipment:** Employee shall be provided office space and the necessary equipment during assigned working hours, sufficient to fulfill obligations under this Agreement, as determined by the City Manager, at no cost to Employee.

14. **Notices:** All notices permitted or required under this Agreement shall be given to the respective parties by hand-delivery or by mail at the following address, or at such other address as the respective parties may provide in writing for this purpose, by deposit in the U.S. Mail, postage pre-paid, addressed as follows:

CITY:

City of Ojai
Attn: City Manager:
401 S. Ventura Street
Ojai, CA 93023

EMPLOYEE:

Lindy Moore Palmer
365 Encino Drive
Oak View, CA 93022

15. **Indemnification:** Pursuant to the California Government Claims Act, City shall defend, save harmless and indemnify Employee against any tort, professional liability, claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties under this Agreement, except that this provision shall not apply with respect to any intentional tort or crime committed by Employee, or any action outside the course and scope of her employment.

16. **No Presumption of Drafter:** The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the Parties, and this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any Party to be the drafter of this Agreement and, therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

17. **Assistance of Counsel:** Each party to this Agreement warrants to the other party that the party has either had the assistance of counsel in negotiation for, and preparation of, this Agreement or could have had such assistance and voluntarily declined to obtain such assistance.

EMPLOYEE:

Lindy Moore Palmer

Date

CITY:

James Vega
City Manager

Date



City of Ojai

Assistant Public Works Director

DEFINITION

Under administrative direction, assists in planning, organizing, managing, and providing administrative direction and oversight for all functions and activities of the Public Works Department, including streets and traffic control, storm drain maintenance, supervise Public Works crew and Trolley staff, responding to resident and business concerns, administering encroachment permit applications, stormwater management and reporting, solid waste contract management, and field inspections., assists in coordinating assigned activities with other City departments, divisions, outside agencies, and the public; fosters cooperative working relationships among City departments, divisions, and with intergovernmental and regulatory agencies and various public and private groups; provides highly responsible and complex professional assistance to the Public Works Director in areas of expertise; and performs related work as required.

EXAMPLES OF ESSENTIAL FUNCTIONS:

Management reserves the rights to add, modify, change, or rescind the work assignments of different positions and to make reasonable accommodations so that qualified employees can perform the essential functions of the job.

- Assumes management responsibility for major public works function and activities, including streets and traffic control, storm drain maintenance.
- Supervises Public Works crew and Trolley staff, in coordination with the Public Works Director.
- Manages and participates in the development and implementation of goals, objectives, policies, and priorities for assigned functions and programs; recommends, within departmental policy, appropriate service and staffing levels; recommends and administers policies and procedures.
- Assists in managing and participates in the development and administration of the Public Works annual budget and capital improvement budgets; assists in directing the forecast of additional funds needed for staffing, equipment, materials, and supplies; assists in directing the monitoring of and approves expenditures; assists in directing and implements adjustments as necessary; assists in applying for and administering grants received for public works projects.
- Selects, trains, motivates, and evaluates assigned personnel; provides or coordinates staff training; works with employees to correct deficiencies; responds to staff questions and concerns.

- Continuously monitors and evaluates the efficiency and effectiveness of service delivery methods and procedures; assesses and monitors work load, administrative and support systems, and internal reporting relationships; identifies opportunities for improvement and reviews with the Public Works Director; directs the implementation of improvements.
- Assists in planning, directing, and coordinating the Public Works Department's work plan; meets with staff to identify and resolve problems; assigns projects and programmatic areas of responsibility; reviews and evaluates work methods and procedures.
- Serves as a liaison for the Public Works Department with other City departments, divisions, and outside agencies; attends meetings, as necessary; provides staff support to commissions, committees, and task forces, as necessary; negotiates and resolves significant and controversial issues.
- Represents the Public Works Department to other City departments, elected officials, and outside agencies; explains and interprets departmental programs, policies, and activities.
- Conducts a variety of departmental organizational and operational studies and investigations; recommends modifications to programs, policies, and procedures as appropriate.
- Participates on and makes presentations to a variety of boards and commissions; attends and participates in professional group meetings; stays abreast of new trends and innovations in the field of public works and other types of public services as they relate to the area of assignment.
- Maintains and directs the maintenance of working and official departmental files.
- Monitors changes in laws, regulations, and technology that may affect City or departmental operations; implements policy and procedural changes as required.
- Prepares, reviews, and presents staff reports, various management and information updates, and reports on special projects as assigned by the Public Works Director.
- Responds to difficult and sensitive public inquiries and complaints and assists with resolutions and alternative recommendations.
- Performs other duties as assigned.

QUALIFICATIONS / REQUIREMENTS:

QUALIFICATIONS

Knowledge of:

- Administrative principles and practices, including goal setting, program development, implementation, and evaluation, and supervision of staff.
- Public agency budgetary, contract administration, administrative practices, and general principles of risk management related to the functions of the assigned area.
- Organizational and management practices as applied to the analysis and evaluation of projects, programs, policies, procedures, and operational needs; principles and practices of municipal government administration.
- Principles and practices of public works program development, maintenance, and management in a municipal setting.
- Methods, materials, and techniques used in the construction of public works projects.
- Applicable Federal, State, and local laws, codes, and regulations.

- Principles and practices of employee supervision, including work planning, assignment, review and evaluation, and the training of staff in work procedures.
- Methods and techniques for the development of presentations, contract negotiations, business correspondence, and information distribution; research and reporting methods, techniques, and procedures.
- Record keeping principles and procedures.
- Modern office practices, methods, and computer equipment.
- Computer applications related to the work.
- Safe driving principles and practices.
- Safe work practices.
- English usage, grammar, spelling, vocabulary, and punctuation.
- Techniques for dealing effectively with the public, vendors, contractors, and City staff, in person and over the telephone.
- Techniques for effectively representing the City in contacts with governmental agencies, community groups, and various business, professional, educational, regulatory, and legislative organizations.
- Techniques for providing a high level of customer service to public and City staff, in person and over the telephone.

Ability to:

- Assist in developing and implementing goals, objectives, policies, procedures, work standards, and internal controls for the department and assigned program areas.
- Assist in preparing and administering large and complex budgets; allocate limited resources in a cost effective manner.
- Interpret, apply, and ensure compliance with Federal, State, and local policies, procedures, laws, and regulations.
- Plan, organize, direct, and coordinate the work of supervisory, professional, and technical personnel.
- Select, train, motivate, and evaluate the work of staff and train staff in work procedures.
- Research, analyze, and evaluate new service delivery methods, procedures, and techniques.
- Effectively administer special projects with contractual agreements and ensure compliance with stipulations; effectively administer a variety of public works programs and administrative activities.
- Conduct effective negotiations and effectively represent the City and the department in meetings with governmental agencies, contractors, vendors, and various businesses, professional, regulatory, and legislative organizations.
- Prepare clear and concise reports, correspondence, policies, procedures, and other written materials.
- Conduct complex research projects, evaluate alternatives, make sound recommendations, and prepare effective technical staff reports.
- Establish and maintain a variety of filing, record-keeping, and tracking systems.
- Organize and prioritize a variety of projects and multiple tasks in an effective and timely manner; organize own work, set priorities, and meet critical time deadlines.
- Operate modern office equipment including computer equipment and specialized software applications programs.

- Operate a motor vehicle safely.
- Use English effectively to communicate in person, over the telephone, and in writing.
- Use tact, initiative, prudence, and independent judgment within general policy and legal guidelines in politically sensitive situations.
- Establish and maintain effective working relationships with those contacted in the course of the work.

Education and Experience:

Any combination of training and experience which would provide the required knowledge, skills, and abilities is qualifying. A typical way to obtain the required qualifications would be:

Four years of responsible public works experience including management and supervisory experience.

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in civil engineering is desired.

License:

Possession of, or ability to obtain, an appropriate valid California's driver's license

Registration as a Professional Civil Engineer in the State of California is desirable.

ADDITIONAL INFORMATION:

PHYSICAL DEMANDS

Must possess mobility to work in a standard office setting and use standard office equipment, including a computer; to inspect various City infrastructure, development, field operations, and work sites, to operate a motor vehicle, and to visit various City and meeting sites; vision to read printed materials and a computer screen; and hearing and speech to communicate in person, before groups, and over the telephone. This is primarily a sedentary office classification although standing in work areas and walking between work areas may be required. Finger dexterity is needed to access, enter, and retrieve data using a computer keyboard, typewriter keyboard, or calculator and to operate standard office equipment. Positions in this classification occasionally bend, stoop, kneel, reach, push, and pull drawers open and closed to retrieve and file information. Employees must possess the ability to lift, carry, push, and pull materials and objects up to 25 pounds and heavier weights with the use of proper equipment.

ENVIRONMENTAL ELEMENTS

Employees work in an office environment with moderate noise levels and controlled temperature conditions, although there may be occasional exposure to inclement weather conditions, noise, dust, and potentially hazardous materials. Employees may interact with staff and/or public and private representatives in interpreting and enforcing departmental policies and procedures.