

CITY MANAGER EMPLOYMENT AGREEMENT (City Contract No. 21-51)

This City Manager Employment Agreement ("Agreement") is made and entered into by and between the City of Laguna Beach (the "City"), a California general law city, and Shohreh Dupuis ("Dupuis").

WHEREAS, on April 27, 2021, the City Council of the City of Laguna Beach appointed Dupuis to the office of City Manager of the City of Laguna Beach, effective June 12, 2021 and subject to the approval of an Employment Agreement;

WHEREAS, Dupuis accepts the appointment as City Manager, subject to all terms and conditions set forth in this Agreement; and

WHEREAS, the City and Dupuis now desire to make and enter into this Agreement in accordance with the action approved by the City Council on May 4, 2021;

NOW, THEREFORE, it is agreed between the City and Dupuis as follows:

1. Duties.

1.1 Dupuis shall perform the functions and duties as required by and specified in the laws of the State of California, the City's Municipal Code, ordinances and resolutions, and to perform such legally permissible and proper duties and functions as the City Council may from time to time assign.

1.2 Dupuis shall be the chief executive officer of the City and shall be responsible to the City Council for the proper administration of all affairs of the City.

1.3 Dupuis shall perform her duties to the best of her ability and in accordance with the highest professional and ethical standards of the profession.

1.4 Dupuis shall comply with all rules and regulations established by the City Council and all applicable laws.

2. Term. This Agreement shall become effective June 12, 2021. Subject to the City's right to terminate Dupuis' employment at any time or Dupuis' voluntary resignation at any time, as provided for in this Agreement, the term of this Agreement is three (3) years from the effective date, and shall automatically be extended for one additional period of two (2) years unless the City notifies Dupuis of its intent not to so extend the Agreement at least six (6) months prior to the expiration of the original three-year term of this Agreement. The City Council's election not to extend this Agreement shall not entitle Dupuis to severance pay pursuant to Section 10 of this Agreement.

3. Compensation. Effective June 12, 2021, the City agrees to pay Dupuis as salary and compensation for her services as City Manager at the rate of an annual base salary of Two Hundred Seventy-Five Thousand Dollars (\$275,000.00). Effective July 1, 2022, and each year thereafter, the annual base salary shall be adjusted in accordance with the percentage cost of living

increase, if any, approved by the City Council in that year's budget then in effect for other City management employees. In addition, effective July 1, 2022, and each year thereafter, Dupuis shall receive exceptional performance pay in the sum of two and one-half percent (2.5%) of her then annual base salary unless she receives a non-satisfactory performance review. The salary and compensation payable to Dupuis shall be paid in the same manner and at the same time in accordance with the City's established payroll program for the payment of other City employee salaries. Dupuis' salary shall be subject to customary withholding for taxes and other required deductions.

4. Faithful Performance Surety Bond. It is mutually understood and agreed that Dupuis will file with the City a faithful performance and surety bond in a principal sum to be determined by the City Council. Said bond shall be paid for by the City.

5. Vacation, Sick Leave, Retirement, Administrative Leave and Insurance Benefits. It is mutually agreed between the parties hereto that Dupuis as City Manager shall be entitled to vacation, sick leave, retirement benefits, and any other management benefits in accordance with the City's standard personnel policies. In lieu of any overtime, Dupuis shall receive ten (10) days per year of administrative leave. Dupuis shall also receive health and insurance benefits in accordance with the City's standard personnel policies. The City agrees to pay to Dupuis an additional allowance in a sum equal to two percent (2%) of her then annual base salary as deferred compensation.

5.1 Contribution to Costs of Retirement Benefits. Notwithstanding the foregoing, and consistent with changes approved by the City and applied to other City employees, Dupuis shall contribute eight percent (8%) of compensation earnable to the costs of her retirement benefits. In addition, Dupuis shall further contribute to the costs of her retirement benefits in such amounts, if any, hereafter approved by the City and applied to City general management employees prior to the expiration date of this Agreement.

6. Automobile Allowance. It is mutually agreed that Dupuis will receive an allotment of Five Hundred Dollars (\$500.00) per month for use of her own car for City business. The car allotment may be used for automobile expenses and other business expenses not covered elsewhere in this Agreement.

7. Conferences and Memberships. The City agrees to annually budget and allocate funds as necessary to provide for Dupuis' membership in the Orange County City Manager's Association, the International City Management Association, and the California City Managers Foundation, and the expenses of necessary travel and living expenses to attend professional conferences and meetings reasonably necessary for her professional development.

8. Review of Performance. The City and Dupuis each acknowledge that periodic performance evaluations are an important means by which the City Council and the City Manager may ensure effective communications regarding expectations and performance. Toward this end, the City Council shall review and discuss Dupuis' performance on an annual basis. The evaluation shall be in writing unless the City Council and Dupuis agree on a different format to facilitate the evaluation. In connection with such review and discussion, the City Council may consider any adjustments in Dupuis' duties and compensation.

9. Termination of Employment. Notwithstanding anything in this Agreement to the contrary, the term of this Agreement may be terminated as follows.

9.1 Voluntary Resignation. Dupuis may voluntarily resign her position. Before voluntarily resigning her position, Dupuis agrees to give the City Council not less than sixty (60) days' advance notice in writing of her intention to resign. Promptly after the effective date of such resignation, the City shall pay to Dupuis all salary and benefits amounts both accrued and owing under this Agreement and any other applicable laws, rules, programs or policies. No severance pay pursuant to Section 10 of this Agreement shall be due or payable in the event of the voluntary termination of Dupuis' employment by her resignation.

9.2 Termination by City Council. Notwithstanding the term provided by this Agreement, the City Council may remove and terminate Dupuis in accordance with the following:

(a) Without Cause. The City Manager is an at-will employee serving at the pleasure of the City Council as provided in section 36506 of the Government Code of the State of California. The City Council, at any time during the term of this Agreement, may dismiss or discharge Dupuis without cause upon notice delivered in writing. Such termination shall include actual termination, a request that the City Manager resign or the elimination of the City Manager's position.

(b) With Cause. The City Council, at any time during the term of this Agreement, may discharge or dismiss Dupuis for cause, which for purposes of this Agreement shall be defined as follows:

(i) That Dupuis has some permanent or chronic physical defect that incapacitates her for the proper performance of her duties, as determined by a physician designated by the City Council.

(ii) That Dupuis has willfully failed to pay just debts or has willfully failed to make reasonable provisions for future payments of just debts, after notice has been given her by the City Council, whereby annoyance is caused the City Council or scandal is caused the City because of such failure.

(iii) That Dupuis has been convicted of a criminal offense involving moral turpitude. The word "convicted" shall be construed to mean convicted in any manner referred to in section 689 of the Penal Code of the State of California. The words "moral turpitude" shall be construed to mean any act or baseness, vileness, or depravity, or an act done contrary to justice, honesty, modesty, or good morals, or any act done with deception or through corrupt motives.

(iv) That Dupuis, through negligence or willful misconduct, has caused damage to public property (including motor vehicles) or waste of public supplies, or has used public property (including motor vehicles) or supplies for other than a public purpose.

(v) Any other intentional or grossly negligent action or inaction by Dupuis that materially and substantially: (A) impedes or disrupts the operations of the City or its organizational units; (B) is detrimental to employee or public safety; or (C) violates properly

established rules or procedures of the City causing a material and substantial adverse effect on the City's interests as clearly defined and delineated by properly established City Council action taken by the City Council as a body, policy, regulations or ordinances of the City.

(vi) That Dupuis has been willfully and intentionally absent without leave, or has willfully and intentionally failed to report after leave of absence has expired.

(vii) That Dupuis has willfully failed or refused to appear in obedience to lawful process or order of the City Council or to answer questions under oath, before the City Council or before a duly authorized committee of Congress of the United States or of the Legislature of the State of California, or a committee or subcommittee of said Congress or Legislature, or before any authorized court, office or tribunal, or before a Grand Jury, on any subject relating to (1) matters connected with the conduct of official business of the City or of any division, department, board or commission thereof, or (2) any of the matters set forth in sections 1028 and 1028.1 of the Government Code of the State of California.

Promptly after the effective date of such involuntary termination, the City shall pay to Dupuis all salary and benefits amounts both accrued and owing under this Agreement and any other applicable laws, rules, programs or policies. No severance pay pursuant to Section 10 of this Agreement shall be due or payable in the event of such involuntary termination for cause.

10. Severance Pay. In the event the services of Dupuis are terminated without cause upon the initiative and action of the City Council pursuant to Section 9.2(a) of this Agreement, the City shall pay to Dupuis at the time of such termination severance pay equal to nine (9) months of her then annual base salary. At Dupuis' option, such payment shall be paid in a lump sum or disbursed throughout a nine (9) month period, resulting in the continuation of medical, dental and life insurance, only, based on enrollment at the date of termination.

11. Other Terms and Conditions of Employment. The City Council may by resolution from time to time fix other terms and conditions of Dupuis' employment as the City may determine relating to the performance of her duties as City Manager, provided such terms and conditions are not inconsistent or in conflict with the provisions of this Agreement, the City's Municipal Code, and all applicable laws.

12. Miscellaneous.

12.1 Municipal Code. The provisions of chapter 2.08 of the Laguna Beach Municipal Code relating to the City Manager are incorporated into this Agreement by this reference.

12.2 Business Expenses. The City shall reimburse Dupuis for all reasonable City- related business expenses incurred by her in accordance with submittal, processing and payment policies of the City.

12.3 Indemnification; Reimbursement and Forfeiture. The City shall defend, hold harmless and indemnify Dupuis against any claim, demand or other legal action arising out of any alleged act or omission occurring in the performance of her duties as the City Manager. The City shall pay the amount of any settlement or judgment thereon, provided that Dupuis

cooperates in the defense of the claim, demand or action; in this regard, the City shall have the discretion to compromise or settle any such claim, demand or action and pay the amount of any settlement or judgment rendered thereon. Notwithstanding the foregoing, the City shall have no duty to indemnify, defend, or hold Dupuis harmless from any criminal proceeding, or with regard to any civil, criminal or administrative proceeding initiated by her.

Notwithstanding anything in this Agreement to the contrary, the City reserves all rights (including all rights to full monetary reimbursement) provided under section 53243 et seq. of the Government Code of the State of California. In the event Dupuis is convicted in a court of law of a crime involving an abuse of office or position, Dupuis shall reimburse the City for any sums expended investigating and/or defending such wrongdoing as provided under the above-referenced statutes. For purposes of this Agreement, the phrase "abuse of office or position" shall have the same meaning as set forth in section 53243.4 of the Government Code. Further, in the event Dupuis is convicted of any felony under state or federal law for conduct arising out of, or in the performance of, her official duties shall forfeit any contract right or other common law, constitutional or statutory claim against the City to retirement or pension rights or benefits, however those benefits may be characterized, including lost compensation, other than the accrued rights and benefits to which she may be entitled under any public retirement system in which she is a member. Such forfeiture shall be in addition to, and independent of, any forfeiture of public retirement system rights pursuant to sections 7522.70, 7522.72 or 7522.74 of the Government Code.

12.4 Conflict of Interest. Dupuis shall not engage in any business or transaction, or have a financial or other personal interest or association, direct or indirect, that is in conflict with the proper discharge of her official duties or that would tend to impair the independence of her judgment or action in the performance of her official duties. Dupuis shall also be subject to the conflict of interest provisions of the Government Code of the State of California, the City's Municipal Code, and any other conflict of interest regulations applicable to Dupuis' employment with the City.

12.5 Notices. Any notice required by this Agreement shall be in writing and shall be either given in person or by first class mail with the postage prepaid, addressed as follows:

To City: Laguna Beach City Council
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

To Dupuis: Shohreh Dupuis, City Manager
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

12.6 Arbitration. Any controversy or claim arising out of the interpretation or performance of this Agreement, or otherwise pertaining to this Agreement or Dupuis' appointment and service as the City Manager, shall be resolved by binding arbitration in Orange County, California, in accordance with the rules of the Judicial Arbitration and Mediation Services, Inc.,

or such other arbitration service that the City and Dupuis may mutually select; and the arbitration award may be enforced as provided by California law. The City shall be solely responsible for the costs of administration and the costs of the arbitrator.

12.7 Construction and Interpretation. This Agreement shall be construed in accordance with the laws of the State of California and as if drafted jointly by both parties.

12.8 Integration and Amendment. This Agreement represents the entire understanding of the City and Dupuis as to those matters contained herein, and no prior oral or written understanding shall be of any force or effect with respect to those matters covered by this Agreement. Except as specifically authorized by this Agreement, this Agreement may not be modified, altered or amended, except in writing approved by the City Council and Dupuis, and signed by the Mayor of the City and Dupuis.

12.9 Assignment: Personal Contract. This Agreement is not assignable by either the City or Dupuis. The City and Dupuis acknowledge that this Agreement is a personal services agreement for the personal services of the City Manager.

12.10 Severability. In the event that any provision of this Agreement is held or determined to be illegal, invalid or void by reason of any final, non-appealable judgment, order or decision of a court having jurisdiction over the parties, the remainder of the Agreement shall remain in full force and effect unless the parts found to be illegal, invalid or void are wholly inseparable from the remaining portion of the Agreement.

IN WITNESS WHEREOF, the parties have caused this City Manager Employment Agreement to be executed in the manner required by law.

Dated this 5th day of May, 2021.

CITY OF LAGUNA BEACH

SHOHREH DUPUIS

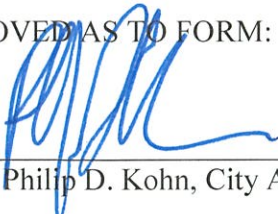
By: 
Bob Whalen, Mayor

By: 
Shohreh Dupuis

ATTEST:


Ann Marie McKay, City Clerk

APPROVED AS TO FORM:


Philip D. Kohn, City Attorney