

RESOLUTION NO. 24.023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, APPOINTING DAVE KIFF AS CITY MANAGER AND APPROVING THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF LAGUNA BEACH AND DAVE KIFF; AND FINDING SUCH ACTION EXEMPT FROM CEQA

WHEREAS, over the last several months, the City Council has engaged in a formal competitive executive recruitment process to select a qualified candidate to fill the City Manager position; and

WHEREAS, pursuant to Laguna Beach Municipal Code Chapter 2.08.010, the City Manager of the City of Laguna Beach must be appointed by motion or resolution adopted by the affirmative vote of at least three members of the City Council and must be appointed wholly on the basis of his executive and administrative qualifications and ability; and

WHEREAS, based upon the formal competitive executive recruitment process, the City Council has identified Dave Kiff as the candidate who is qualified and able to serve as City Manager; and

WHEREAS, pursuant to Government Code Section 36506, the City Council is required to fix the compensation of the City Manager by resolution; and

WHEREAS, the City Council desires to fix the compensation and establish the terms and conditions of employment for Mr. Kiff pursuant to the Employment Agreement, attached hereto as Exhibit A and incorporated herein by reference.

NOW, THEREFORE, be it resolved, determined, and ordered by the City Council of the City of Laguna Beach, as follows:

SECTION 1. The foregoing recitals are true and correct and incorporated herein by this reference.

SECTION 2. Dave Kiff is hereby appointed City Manager for the City of Laguna Beach effective May 6, 2024.

SECTION 3. The City Council hereby approves and authorizes the Mayor to execute the Employment Agreement between the City of Laguna Beach and Dave Kiff, which is attached hereto as Exhibit A and is incorporated herein by reference, and dated April 9, 2024.

SECTION 4. The City Clerk is hereby directed to administer the Oath of Office.

SECTION 5. Pursuant to the California Environmental Quality Act, a “project” means an action which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (See CEQA Guidelines Section 15378(a).) A “project” specifically does not include continuing administrative or maintenance activities, such as personnel-related actions and general policy and procedure making. (CEQA Guidelines Section 15378(b)(2).) Furthermore, the proposed action is exempt from CEQA as there is no possibility that such action would have a significant negative effect on the environment. (CEQA Guidelines Section 15061(b)(3).) The City Council finds that the proposed action is administrative in nature and personnel-related in that it appoints Mr. Kiff as the City Manager and approves the employment agreement with Mr. Kiff. As such, the action does not constitute a project. Alternatively, the City Council finds that the action is exempt because there is no possibility that it will have a significant negative effect on the environment as it is a personnel-related action.

SECTION 6. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

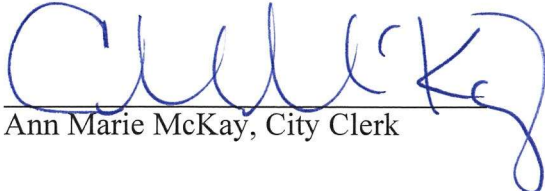
SECTION 7. This Resolution is effective upon Mr. Kiff’s completion of a background check consistent with City policies and procedures.

PASSED AND ADOPTED this 9th day of April, 2024.



Sue Kempf, Mayor

ATTEST:



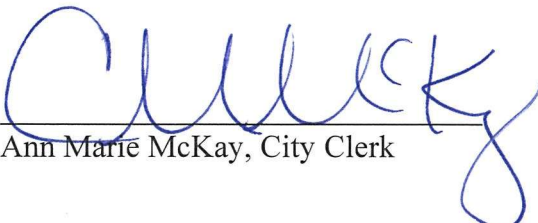
Ann Marie McKay, City Clerk

I, Ann Marie McKay, City Clerk of the City of Laguna Beach, certify that the foregoing Resolution No. 24.023 was duly adopted at a regular meeting of the City Council of said City held on April 9, 2024, by the following vote:

AYES: COUNCILMEMBERS: Orgill, Weiss, Whalen, Rounaghi, Kempf

NOES: COUNCILMEMBERS: None

ABSTAIN: COUNCILMEMBERS: None



Ann Marie McKay, City Clerk

Exhibit A
(Employment Agreement between the City of Laguna Beach and Dave Kiff)

**EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF LAGUNA BEACH AND DAVE KIFF**

THIS EMPLOYMENT AGREEMENT (“**Agreement**”) is made and entered into effective as of the 9th day of April 2024, by and between the CITY OF LAGUNA BEACH, a general law city and municipal corporation (“**City**”), and DAVE KIFF, an individual (“**Kiff**,” and collectively with the City, the “**Parties**”), both of whom understand as follows:

RECITALS

A. City desires to engage the services of Kiff, and Kiff desires to accept employment, as City Manager of the City of Laguna Beach, as provided by the provisions of Chapter 2.08 of the Laguna Beach Municipal Code;

B. It is the desire of the City Council to (1) secure and retain the services of Kiff and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Kiff’s morale and peace of mind with respect to future security, and (3) to provide a means of terminating Kiff’s services if City so desires to terminate his employ;

C. Kiff desires to accept employment, on an at-will basis, as the City Manager of the City; and

D. The Parties further desire to establish certain benefits and certain conditions of Kiff’s employment.

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

1. Employment.

a. Duties. The City hereby agrees to employ Kiff as City Manager of the City to perform the functions and duties specified in City's Municipal Code and the Government Code of the State of California, and Kiff agrees to accept such employment. Kiff shall perform all duties and responsibilities imposed by law and industry standards, and such legally permissible further and proper duties and functions as the City Council may from time to time assign. Kiff shall hold office at the pleasure of the City Council and shall be the administrative head of the government of the City under the

direction and control of the City Council except as otherwise provided in the Municipal Code.

b. Work Efforts and Schedule. Kiff shall devote such time, interest, and effort to the performance of his duties as may be reasonably necessary to fulfill the requirements set forth in Section 1.a. Kiff agrees to perform such services to the best of his ability, in an efficient and competent manner consistent with the standards of the profession. Due to the nature of the City Manager position, it is understood that flexibility is required for Kiff's work schedule, including without limitation the need for remote work and to modify his schedule within reason to adjust for attendance at meetings at night and during other times outside of ordinary business hours, at Kiff's reasonable discretion. Without limiting the generality of the foregoing, Kiff understands and agrees that the position is an exempt, salaried, full-time position that may involve expenditures of time in excess of forty (40) hours per week, and will also include time outside normal office hours, such as attendance at City Council and other meetings. Kiff shall be exempt from paid overtime compensation and from Fair Labor Standard Act work hours restrictions. For purposes of this Section, "normal office hours" shall refer to work at City Hall when it is open for business, as determined by the City Council.

c. Outside Professional Activities. Due to the nature of the City Manager position, it is understood Kiff shall not consult or engage in other non-City connected business or employment (aside from community volunteer activities) without the prior knowledge and express approval of the City Council. Kiff may, however, undertake limited outside activities, including (a) volunteer professional development activities, including activities on behalf of organizations like the League of California Cities and City Manager associations; (b) volunteer activities; (c) teaching, subject to City Council approval; and/or (d) other related activities, provided that such activities do not in any way interfere, conflict with, or adversely affect his employment as City Manager or the performance of his duties as provided herein.

2. Term.

a. Commencement and Term. This Agreement shall be effective as of May 6, 2024, which is the commencement date of Kiff's service as City Manager (May 6 shall hereinafter be referred to as the "**Anniversary Date**") and continued

without interruption through May 5, 2027 (“**Term**”), unless terminated as provided in Section 3 herein.

b. Renewal. On each of the Anniversary Dates in 2027 and 2028, respectively, this Agreement shall automatically renew for one (1) additional year (each automatic one (1)-year renewal shall be considered an extension of the Term), unless prior thereto, either (i) the Parties agree to enter into a formal, written amendment to mutually extend the Term of this Agreement for greater than a one (1)-year period, or (ii) the City Council notifies Kiff of its intent not to extend the Agreement for one additional year; provided, however, that in the event the City Council desires not to allow the automatic renewal of the Term of the Agreement, the City shall inform Kiff, in writing, no less than six (6) months prior to the end of the Term, as may have been from time to time extended in accordance with this Section. For the avoidance of doubt, this Section 3.b allows for two separate one-year renewals.

3. Termination, Resignation, and Severance Pay.

a. At-Will. Kiff’s employment with the City is on an at-will basis. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate, by a majority vote of the City Council, the services of Kiff without cause, at any time and without notice other than a duly-noticed City Council meeting agenda, and complying with Section 3.d of this Agreement and the Laguna Beach Municipal Code, as may from time to time be amended. Notwithstanding the foregoing, and in accordance with Laguna Beach Municipal Code § 2.08.070 (as may from time to time be amended), Kiff may not be terminated under this provision for at-will termination by the City within ninety (90) days following a general municipal election at which one or more Council seats are contested on the ballot of such election (the "**Election Cool-off Period**"). For the avoidance of doubt, the City Council’s decision during the Election Cool-off Period or otherwise to either (i) not renew, or provide notice of non-renewal of, the Agreement, as set forth in Section 2.b, above, or (ii) terminate “for cause,” as set forth in Section 3.c, below, does not constitute a termination for purposes of this Section 3.a or Laguna Beach Municipal Code § 2.08.070.

b. Resignation. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Kiff to resign from his position, subject only to Kiff

providing sixty (60) days' prior written notice to the City. Kiff's resignation shall be deemed accepted upon delivery of a written resignation to the City Council. Notwithstanding the foregoing, Kiff hereby expresses his intent to remain as City Manager for a period of not less than three (3) years from the date of execution of this Agreement.

c. For Cause Termination. Notwithstanding the provisions of Section 3.a, City may terminate this Agreement "for cause" as defined below. In the event Kiff is terminated by the City for "cause" (*i.e.*, a "**For Cause Termination**") then City may terminate this Agreement immediately and Kiff shall not be entitled to severance and will only be entitled to the compensation accrued up to the date of such For Cause Termination. For Cause Termination shall be defined for purposes of this Agreement to only mean any of the following: (1) conviction of any felony; (2) conviction of a misdemeanor arising directly out of the City Manager's duties pursuant to this Agreement involving a willful and intentional violation of law; (3) conviction of a crime of moral turpitude; (4) removal from office by the Grand Jury; (5) willful abandonment of duties; (6) malfeasance; (7) gross negligence; (8) fraud; or (9) serious misconduct, substantiated through an independent investigation (*e.g.*, sexual harassment, discrimination), which would constitute a violation of City policy, or state or federal law. (Conviction for purposes of this Agreement includes a judgment entered after a trial, plea of guilty, or plea of nolo contendere.)

d. Severance. In the event Kiff is terminated by the City Council at any time that Kiff is still willing and able to perform the duties of City Manager, and the termination is not a For Cause Termination (*i.e.*, it is instead an "**At Will Termination**"), as defined in Section 3.a, above, then, subject to the limitations set forth in Government Code Section 53260, the City shall pay Kiff a lump sum cash payment settlement equal to six (6) months' base pay (as defined in Section 5, below) ("**Severance**"), exclusive of incentive or bonus pay, benefits and other non-cash remuneration, except health benefits which will be continued, at the same level of City contribution provided Department head level employees (and at the same coverage election as at the time of termination), for the same period as the severance or until Kiff begins other employment, whichever occurs first. To receive Severance, Kiff must execute and deliver to the City a Settlement Agreement and General Release, in a form satisfactory to

the City, within twenty-one (21) days of the date of notice of the At Will Termination given by a majority membership of the City Council. In the event Kiff elects not to sign the Settlement Agreement and General Release, Kiff will not be entitled to Severance. The term At Will Termination shall include Kiff's resignation, but only if it is preceded by a formal request by a majority of the membership of the City Council that he resign and is outside of the termination period specified in Section 2.b. The term At Will Termination does not include any of the following circumstances, for which Kiff will not be entitled to Severance: (1) his employment is terminated by the Council at any time for cause (*i.e.*, a For Cause Termination); (2) Kiff resigns or retires, except for a resignation as referenced in the immediately preceding sentence; (3) in the event of death, or due to a medical condition or disability, even with reasonable accommodations, Kiff cannot perform the essential functions of the employment position; or (4) his Agreement is not renewed and Kiff has received notice of non-renewal at least six (6) months' prior to the expiration of the Term, per Section 2.b.

e. Effect of Payment of Severance/Release.

i. It is understood and agreed by the Parties that Kiff is employed at will, and that upon commencement of the City's payment of Severance to Kiff, any right of Kiff to continued employment with City is terminated. The promise and tender of payment to Kiff, of any Severance payable herein, is in lieu of any damages which Kiff might claim arising out of the At Will Termination of the employment relationship between the Parties, including lost wages, breach of contract, express or implied, breach of covenant of good faith and fair dealing, emotional distress and anxiety, or any similar contractual and personal injury claims.

ii. This Section does not otherwise affect, waive, nor release any other rights Kiff may have under this Agreement or applicable law.

f. Abuse of Office. Pursuant to Government Code sections 53243 *et seq.*, if Kiff is convicted of a crime involving an abuse of his office or position, as defined below, all of the following shall apply upon final conviction: (1) if Kiff is provided with administrative leave pay pending an investigation, he shall be required to fully reimburse such amounts paid; (2) if the City, in its discretion, pays for the criminal legal defense of Kiff, in his official capacity, Kiff shall be required to fully reimburse such

amounts paid; and (3) if this Agreement is terminated, any cash settlement related to the termination that Kiff may receive from the City shall be fully reimbursed to City. For purposes of this Section, “abuse of office or position” means either: (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority as those crimes are specifically defined under specific provision of California statute; or (2) a crime against public justice, including a crime described in Title 7 commencing with section 92 of the Penal Code or as specifically defined under separate provision of California statute.

g. Public Communications. The City and Kiff agree that neither the City nor Kiff, shall make any written, oral or electronic statement to any member of the public, the press, or any City employee concerning Kiff’s separation from the City, except in the form of a joint press release, the content of which is mutually agreeable to the City and Kiff. Consent of either Party to such joint press release shall not unreasonably be withheld. Either party may verbally repeat the substance of the joint press release or statement in response to any inquiry. This Section 3.g shall not apply in the event of a For Cause Termination.

h. Survival. This Section will survive termination of the Agreement.

4. Revolving Door. Kiff must comply with Government Code Section 87406.3 for a period of one year after separating from service with City. This Section will survive termination of this Agreement.

5. Compensation.

a. Base Salary. The City agrees to pay Kiff for the services required by this Agreement a base annual salary of three-hundred and fifteen-thousand Dollars (\$315,000.00), payable in equal installments at the same time as other employees of the City are paid and subject to customary withholding for taxes and other required deductions.

b. Indexed Salary Increases. Commencing in 2025, and subject to completion of an annual performance evaluation as set forth in Section 15 of this Agreement, the City agrees to increase Kiff’s base salary with an annual cost of living adjustment (“COLA”) by a percent equivalent to the percent change in the May Consumer Price Index for Urban Wage Earners and Clerical Workers (Los Angeles/Long

Beach/Anaheim), as calculated by the Department of Industrial Relations (“**DIR CPI Increase**”), during the preceding 12-month period, up to a maximum of four percent (4%) per year, effective July 1 of each year, without the need for a separate amendment to this Agreement (“**Automatic COLA Increase**”). In the event the DIR CPI Increase exceeds four percent (4%), the City Council may, but is not obligated to, award a greater COLA increase than the Automatic COLA Increase permitted by this Section; provided, however, that such increase shall require written amendment of this Agreement, approved by the City Council at a regular meeting. For the avoidance of doubt, no Automatic COLA Increase shall be provided in 2024.

c. Other Salary Adjustments. On his Anniversary Date starting in 2025, the City may consider potential increases to Kiff’s salary and/or any other benefits Kiff receives, and to make modifications in such amounts and to such extent (whether in the nature of a merit-based base salary increase, other compensation enhancement, or otherwise) based on performance, comparative salaries, and the finances of the City, as the City Council in its discretion may determine that it is desirable to do so, to take effect on July 1 of the forthcoming fiscal year. The City Council may, in its discretion, also determine to give Kiff exceptional performance recognition in the form of a one-time check for exceptional performance during the prior year, to take effect on July 1 of the forthcoming fiscal year. Any modifications to Kiff’s compensation or benefits as contemplated in this Section 5.c require written amendment of this Agreement, approved by the City Council at a regular meeting.

6. Housing Assistance Stipend. The City shall provide to Kiff a housing assistance stipend in the amount of one-thousand Dollars (\$1,000) per month, to aid in Kiff’s ability to live near or within the City’s boundaries while serving as City Manager. The housing assistance stipend shall be payable in equal installments at the same time as other employees of the City are paid and subject to customary withholding for taxes and other required deduction. Commencing in 2025, and subject to completion of an annual performance evaluation as set forth in Section 15 of this Agreement, the City agrees to apply the Automatic COLA Increase to Kiff’s housing assistance stipend, consistent with and as set forth in Section 5.b. The Annual COLA Increase for the housing assistance stipend is likewise subject to a four percent (4%) cap; provided, however, that

the City Council may, but is not obligated to, award a greater COLA increase than the Automatic COLA Increase permitted by Section 5.b and this Section 6, subject to a written amendment of this Agreement, approved by the City Council at a regular meeting. For the avoidance of doubt, no Automatic COLA Increase shall be provided in 2024 for the housing assistance stipend.

7. **Automobile**. The City agrees that upon proof of insurance coverage in an amount acceptable to the City, the City shall provide Kiff a monthly vehicle allowance of Five Hundred Dollars (\$500.00) per month, which shall be paid in equal installments in each pay period. The vehicle allowance is intended to reimburse Kiff for mileage costs and the use of his private vehicle for City business. Kiff must provide his own automobile for his use in performing his duties and is responsible for all maintenance, repair, fuel and insurance expenses for said vehicle. Kiff agrees to adhere to all laws, regulations, and City policies applicable to vehicles, driving, or traffic when operating his vehicle on City-related business.

8. **Internet/Cell Phone Stipend**. The City agrees to provide Kiff a cell phone stipend of Eighty Dollars (\$80) per month, which shall be paid in equal installments in each pay period (“**Cell Phone Stipend**”); provided, however, that if Kiff instead elects to receive a City-issued cell phone paid for at City expense, no Cell Phone Stipend shall be provided. The City further agrees to provide Kiff an internet stipend of Fifty Dollars (\$50) per month (“**Internet Stipend**”), which shall be paid in equal installments in each pay period. The Cell Phone and Internet Stipends, respectively, are intended to reimburse Kiff for personal discretionary technological purchases and expenses in furtherance of employment (*e.g.*, cellular phone, data plan, home internet service) while conducting City business. In the event Kiff elects to receive the Cell Phone Stipend, he shall use his personal cellular phone for transaction of City business, and the Cell Phone and Internet Stipends, in part, shall serve as reimbursement for use of his private phone and personal internet for business purposes. The City further agrees to furnish Kiff with a laptop computer for purposes of conducting official City business. Kiff agrees the use of such laptop computer shall be for conducting City business only and shall not be used for personal purposes.

9. **Leaves, Vacation, and Holidays.**

a. **Sick Leave.** Sick leave shall accrue at the rate of eighty (80) hours per year. Sick leave accrues and is accounted for on a prorated basis in each pay period. Kiff shall be provided an initial bank of twenty (20) hours of sick leave; provided, however, that Kiff shall not accrue additional sick leave until the normal rate of accrual accounts for the initially banked hours. Thereafter, Kiff shall accrue sick leave at the normal rate. Sick leave may be used for personal illness, illness of a spouse or dependent, and doctor and dentist appointments or as otherwise provided under California law. Kiff is entitled to unlimited accumulation of sick leave, pursuant to the terms of this Section 9.a. Sick leave earned can be cashed in (into the City's Retirement Health Savings ("RHS") Plan) at the rate of fifty percent (50%) of its value upon death, retirement for disability or from service, or resignation; provided, however, that sick leave cannot be cashed in (into the RHS Plan or otherwise), to the extent not used in the fiscal year accrued, in the event of a For Cause or At Will Termination. Except for the limitations provided above, cash-in (into the RHS Plan) can be requested in October or May of each fiscal year. Sick leave not cashed in may be carried over for cash-in (into the RHS Plan) during October or May of future fiscal years. Accrued sick leave may also be converted to service credit under the "Credit for Unused Sick Leave" option of the Public Employees' Retirement System per Government Code section 20965. Kiff will not be otherwise compensated for any unused sick leave at the time of separation of employment except as provided herein.

b. **Vacation Leave.** Kiff shall earn one-hundred and seventy-six (176) hours of vacation per year. Vacation leave accrues and is accounted for on a prorated basis in each pay period. Kiff shall be provided an initial bank of forty (40) hours of vacation leave; provided, however, that Kiff shall not accrue additional vacation leave until the normal rate of accrual accounts for the initially banked hours. Thereafter, Kiff shall accrue vacation leave at the normal rate. Kiff may use vacation as it accrues. Vacation accrued by Kiff and not taken shall be paid to Kiff when separating from City service, calculated at Kiff's then-current base hourly rate; it shall not be necessary to carry Kiff on the payroll for the vacation period available at time of separation. In the event separation from the City is caused by Kiff's death, payment shall be made to Kiff's designated beneficiary or in accordance with the law. Vacation is transferable from one year to the

next. Kiff may accrue a maximum of 400 hours of vacation. Every calendar year, Kiff may opt to exchange unused vacation time for monetary compensation at his then-current base hourly rate.

c. Administrative Leave. Administrative leave of ninety (90) hours per year is provided for Kiff to be taken at his discretion, which shall be deemed earned on July 1 of each year. Kiff shall receive an initial bank of fifteen (15) hours of administrative leave, which reflects the prorated administrative leave hours for a partial year's service from commencement date through June 30. Administrative Leave not used by June 30 of each year shall not be converted, carried over or cashed out, and shall be eliminated. Furthermore, Kiff will not be compensated for any unused Administrative Leave at the time of separation of employment.

d. Holidays. Kiff shall be entitled to the same number of paid holidays per year as provided to other City unrepresented executive and management employees.

10. Retirement, Insurance, and Other Benefits.

a. CalPERS Retirement. The City agrees to execute all necessary agreements to enroll Kiff in the California Public Employees Retirement System ("CalPERS") commensurate with the standard City employee retirement benefits program, as that program may be changed from time to time. During the term of this Agreement, City shall contribute to the employer's portion and Kiff shall contribute to the employee's portion (currently set at seven and three-quarters percent (7.75%)) of Kiff's membership in CalPERS as a PEPRAs employee. Such contributions shall be subject to the annual cap for contributions for PEPRAs employees set by CalPERS. In addition, Kiff shall further contribute to the costs of his 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. The City does not participate in Social Security for employees enrolled in CalPERS. Notwithstanding the foregoing, in the event CalPERS determines Kiff to be a classic member, Kiff and the City shall each pay the normal contribution in accordance with City policy. Kiff shall complete CalPERS's "Reciprocal Self-Certification Form" and submit the form to the City within 10 business days after employment has commenced.

b. Deferred Compensation. In the event that Kiff is classified as a PEPRA member by CalPERS, the City shall fund a 457(b) deferred compensation plan on Kiff's behalf, payable in equal installments concurrent with employee pay periods, in the amount of \$30,500 per year, which is the maximum amount permitted by the Internal Revenue Service in 2024 (including catch-up contributions). The City's deferred compensation contribution shall be prorated for any partial years of service, including but not limited to prorated contributions for 2024 commensurate with Kiff's commencement of service as City Manager. The 457(b) deferred compensation contribution amount shall thereafter be adjusted in each tax year to be consistent with the maximum Internal Revenue Service ("IRS") annual limit for that year; provided, however, that any increase in the IRS limit that exceeds four percent (4%) over the prior year is discretionary and shall require written approval by the City Council, consistent with the requirements of Section 5.b. The City shall pay reasonable fees to create such a plan for Kiff. Kiff and the City shall each pay the relevant FICA taxes on such contribution. Notwithstanding the foregoing, Kiff may request the City contribute the amount set forth in this paragraph to a 401(a) defined contribution plan in lieu of a 457(b) plan.

c. Medical and Other Insurance.

i. Medical.

(a) City Contribution. The City shall provide health (medical, dental and vision) insurance benefits to Kiff as commensurate with the standard department head employee health benefits. The City shall pay one hundred percent (100%) of the premium coverage for Kiff, and ninety percent (90%) of the premium coverage for all dependent care. Kiff shall be responsible for the remaining dependent care premium coverage, as well as all co-pays, charges, out-of-pocket expenses, and other costs required by the insurance provider or for any such co-pays, charges, out-of-pocket expenses, and other costs not covered by insurance.

(b) In-Lieu Benefit. In lieu of selecting to use the City-provided above-referenced health benefit coverage, Kiff may elect a cash flex benefit in the amount of sixty percent (60%) of the City's HMO employee only rate per month, which shall be provided in equal installments concurrent with employee pay periods, with proof of alternative medical and dental coverage.

ii. Life Insurance and Long Term Disability. City shall provide Kiff with a term life insurance policy in the face amount equal to one year's base salary, as set forth in Section 5.a. City shall further pay the premium for long-term disability insurance, as provided to other department head level employees within the City.

d. Other Insurance. City shall provide and pay for all other insurance mandated by State law.

11. Wellness Stipend. Kiff shall be entitled to reimbursement for expenses related to wellness (e.g., uninsured medical expenses, chiropractic visits, elective dental work, fitness memberships, etc.), upon submission of receipts to the City, up to a gross amount of one thousand Dollars (\$1,000) per calendar year.

12. Professional Development. The City hereby agrees to budget for and pay travel and subsistence expenses of Kiff for professional travel, official travel, meetings necessary to pursue official and other functions for the City and to continue professional development of Kiff, to the extent deemed reasonable by the City Council. The City also agrees to pay for the travel and subsistence expenses of Kiff for short courses, institutes and seminars that are necessary for his professional development and for the good of the City.

13. Memberships. The City agrees to pay Kiff's membership dues and subscriptions in the Orange County City Manager's Association, the International City/County Management Association ("ICMA"), League of California Cities, California City Managers Foundation, and other similar organizations to which the City is a member, at City expense with prior City approval. Kiff shall have a reasonable right to attend meetings of such organizations.

14. General Expenses. The City recognizes that certain extraordinary expenses of a non-personal and job-affiliated nature may be incurred by Kiff, such as a business-related lunch or certain expenses incurred at a conference of a professional organization of which Kiff is a member. The City agrees to reimburse Kiff for reasonable expenses which are submitted to the City Council within thirty (30) days of occurrence for approval and which are supported by expense receipts, statements or personal affidavits, and an audit thereof in like manner as other demands against the City. For the avoidance

of doubt, this paragraph is intended to apply to business expenses that Kiff himself directly incurs in performance of his job duties.

15. Performance Evaluation. The City Council shall conduct a “mini” review and evaluate the performance of Kiff at the first regular meeting that is at least 100 days following the commencement of his job as City Manager. At least annually thereafter, the City Council shall conduct a review and evaluate the performance of Kiff in his role as City Manager. At the election of either Kiff or the City Council, the format of such evaluation shall be a facilitated evaluation conducted by a third-party facilitator that is mutually agreeable to both the City Council and Kiff, at the City Council’s expense. If neither the City Council nor Kiff elect for a facilitated evaluation, the format of the evaluation shall be as determined by the City Council. The City Council shall provide Kiff with an evaluation of his performance based on criteria established by the City Council with the assistance of Kiff and/or the facilitator, if so elected. Kiff shall be provided an adequate opportunity to discuss his evaluation with the City Council. The annual evaluations are expected to take place within one month before or after the Anniversary Date, or at any other time as requested by Kiff. Notwithstanding the foregoing, the City Council may evaluate Kiff at any time.

16. Indemnification. In accordance with and consistent with applicable law, the City shall provide Kiff with a defense and indemnification, and shall hold Kiff harmless from and against any and all claims, actions, or causes of action of any kind for which Kiff may be held liable and which arise out of or relate to Kiff’s performance of his job duties at City, in accordance with the requirements of the California Government Code. In addition and in accordance with and consistent with applicable law, the City shall defend, at the City’s expense and with counsel of the City’s choosing, any action, claim, or proceeding in which Kiff is named and which alleges actions on the part of Kiff, or failures to act, within the scope of the above-referenced indemnity obligation. Notwithstanding the foregoing, any funds provided for the legal criminal defense of Kiff, if such were authorized, shall be fully reimbursed to the City if Kiff is convicted of a crime involving an abuse of his office or position, in accordance with Government Code section 53243.1. This Section will survive the termination of the Agreement.

17. **Bonding.** The City shall bear the full cost of any fidelity or other bonds required of Kiff, acting as City Manager of the City, under any law or ordinance.

18. **Other Terms and Conditions of Employment.** The City Council may by resolution or contract amendment from time to time fix other terms and conditions of Kiff's employment as the City may determine relating to the performance of his duties as City Manager, provided that 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.

19. **Notices.** Notices given under this Agreement shall be in writing and shall be served personally or sent by Federal Express or some equivalent private overnight delivery service. Notices shall be deemed received at the earlier of actual receipt or two (2) days following transmission to an overnight carrier.

City

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

With a copy to:

Megan K. Garibaldi, City Attorney
c/o Best, Best & Krieger LLP
18101 Von Karman Ave., Unit 1000
Irvine, CA 92612

Kiff

Dave Kiff
City of Laguna Beach
505 Forest Avenue
Laguna Beach, CA 92651

Or

To the address on file with the City's
Human Resource Department

20. **Arbitration.** Any controversy or claim arising out of the interpretation or performance of this Agreement, or otherwise pertaining to this Agreement or Kiff's 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 Kiff 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.

21. Assignment. This Agreement is not assignable by either the City or Kiff. The City and Kiff acknowledge that this Agreement is a personal services agreement for the personal services of the City Manager.

22. General Provisions

a. The text herein shall constitute the entire agreement between the Parties. No representations have been made or relied upon except as set forth herein. The Agreement is deemed to have been prepared by all of the Parties hereto, and any uncertainty or ambiguity herein shall not be interpreted against the drafter, but rather, if such ambiguity or uncertainty exists, shall be interpreted according to the applicable rules of interpretation of contracts under the law of the State of California. The use of section headings in this Agreement is provided for convenience only and will not have any impact on the interpretation of particular provisions.

b. If Kiff dies or becomes incapacitated during the Term of this Agreement, any accrued and unpaid wages provided by the terms of this Agreement shall be paid by City to Kiff's spouse or if no spouse, to Kiff's dependents. The Agreement shall be binding upon, or shall inure to the benefit of, the respective heirs, executors, administrators, successors and assigns of the Parties; provided, however, that Kiff may not assign Kiff's obligations hereunder.

c. If any provision or portion hereof contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion thereof shall be deemed severable and shall not be affected and shall remain in full force and effect.

d. This Agreement represents the entire understanding of the City and Kiff 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 at a regular public meeting and Kiff, and signed by the Mayor and Kiff.

e. Kiff is expected to conform to the ICMA Code of Ethics. Kiff 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 his official duties or that would tend to impair the independence of his judgment or action in the performance of his official duties. Kiff 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 Kiff's employment with the City.

f. This Agreement shall be construed in accordance with the laws of the State of California and the parties agree that venue shall be in the state court in the County of Orange, California.

g. Kiff acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in the Agreement.

{Remainder of page intentionally left blank; signatures to follow}

IN WITNESS WHEREOF, the City and Kiff have executed this Agreement as of the day and year first above written.

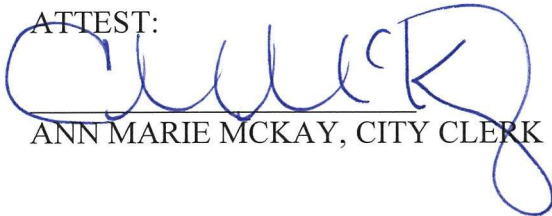
KIFF

DAVE KIFF

CITY OF LAGUNA BEACH

By: 
SUE KEMPF, MAYOR

ATTEST:


ANN MARIE MCKAY, CITY CLERK

APPROVED AS TO FORM:


MEGAN K. GARIBALDI, CITY ATTORNEY

IN WITNESS WHEREOF, the City and Kiff have executed this Agreement as of the day and year first above written.

KIFF

Dave Kiff
Dave Kiff (Apr 30, 2024 11:28 PDT)

DAVE KIFF

CITY OF LAGUNA BEACH

By: _____
SUE KEMPF, MAYOR

ATTEST:

ANN MARIE MCKAY, CITY CLERK

APPROVED AS TO FORM:

MEGAN K. GARIBALDI, CITY ATTORNEY