

EMPLOYMENT AGREEMENT
CITY MANAGER – CITY OF LAGUNA NIGUEL

This Employment Agreement is made and entered into as of this 16th day of July 2019, by and between the City of Laguna Niguel, a municipal corporation (the "City"), and Tamara S. Letourneau ("Letourneau") (individual "Party, and collectively the "Parties") (the "Agreement").

RECITALS

- A. The City of Laguna Niguel was incorporated on December 1, 1989.
- B. The City requires the services of a City Manager and the City Council has engaged in a recruitment process to select a City Manager.
- C. Letourneau has the necessary education, experience, skills and expertise to serve as the City's City Manager.
- D. The City Council desires to employ Letourneau as the City Manager and has entered into negotiations with her for the purpose of entering into an employment agreement.
- E. Letourneau desires to accept the employment as City Manager.
- F. This Agreement is entered into pursuant to the authority of and subject to the provisions of Government Code Section 53260 *et seq.*

AGREEMENT

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

1. **Employment**

City hereby appoints Letourneau as the City Manager and employs her in that position and Letourneau hereby accepts that appointment and employment. City shall, during the term of employment, pay to Letourneau the compensation and provide to Letourneau the benefits set forth in this Agreement.

2. **Duties**

2.1 Letourneau shall serve as City Manager and perform those duties and have those responsibilities that are commonly assigned to a City Manager of a city in California. The duties and responsibilities of the City Manager shall include the duties and responsibilities that are set forth in the Laguna Niguel Municipal Code, including, but not limited to, Section 2-4-1 *et seq.*, and such other duties and responsibilities as the City Council may from time to time reasonably assign to the City Manager.

2.2 Letourneau will devote all necessary time and effort to fulfill the obligations of the City Manager's position. The City acknowledges that Letourneau is reasonably expected to

be available but does not have regularly set hours of work. Letourneau's work schedule will vary in accordance to the work required to be performed.

3. Term of Employment

3.1 Term

This Agreement shall become effective as of August 12, 2019. Under this Agreement, Letourneau's term of employment as City Manager shall continue until terminated either by the City or Letourneau as provided for in this Agreement.

3.2 At-Will Employment

Consistent with Government Code Section 36506, Laguna Niguel Municipal Code Section 2-4-1, and Laguna Niguel City Council Resolution No. 2004-790, the Parties expressly agree that the position of City Manager is an "at-will" employee, and that the City Manager serves at the will and pleasure of the Council. Nothing in this Agreement, any statute, ordinance, regulation or rule shall prevent, limit, or otherwise interfere with the right of the City Council to terminate, without cause or reason, the employment of Letourneau.

The City Council may, in its absolute discretion, terminate the employment of Letourneau as City Manager and terminate Letourneau's employment with the City without cause or reason at any time and without providing prior notice to Letourneau. The City Council is not required to provide a notice of causes or reasons for the termination and is not required to provide any type of hearing regarding the termination, including any type of "Skelly" hearing. If Letourneau is terminated, Letourneau shall have no right of appeal or grievance procedure.

3.3 Procedures for Termination Without Cause

To terminate Letourneau's employment, the City, acting through the City Council, shall give Letourneau a written notice of the termination. The termination must be approved by three (3) members of the City Council at a regular meeting held in accordance with the Ralph M. Brown Act (California Government Code Section 54950 *et seq.*). If Letourneau's employment is terminated pursuant to this subparagraph, the City shall pay severance compensation as provided for in paragraph 5.0 of this Agreement. The City shall not be obligated to pay any other compensation damages for such termination.

3.4 Resignation

Letourneau may resign from her employment as City Manager at any time upon giving thirty (30) days written notice to the City Council, however, that notice shall not be required in the event Letourneau resigns pursuant to a request for resignation by the City Council.

3.5 Change in City Council Membership

Notwithstanding the other termination provisions of this Agreement, City agrees not to initiate termination of City Manager's employment within ninety (90) days following any change in membership of the City Council.

3.6 Automatic Termination

This Agreement, and Letourneau's employment, shall automatically terminate, and Letourneau shall not be entitled to any severance compensation upon the happening of any of the following events:

- 3.6.1 Upon mutual agreement in writing by both Parties to terminate this Agreement.
- 3.6.2 Upon resignation given to the City by Letourneau, except if the resignation is in response to a request for resignation from the City Council.
- 3.6.3 Upon retirement from full time public service with the City, pursuant to applicable PERS laws, rules and regulations. If Letourneau retires, Letourneau will provide three (3) months advance notice. Letourneau's actual retirement date will be mutually established.
- 3.6.4 Upon death of Letourneau.
- 3.6.5 When Letourneau has been unable to perform substantially all of the essential terms of her position, with or without reasonable accommodation, due to illness or other disability for a period of three continuous (3) months.

4. Acts Entitling Letourneau to Severance Compensation

Letourneau shall be entitled to severance compensation in the amounts set forth in Paragraph 5 upon the occurrence of any one of the following events:

- 4.1 The City terminates Letourneau without cause.
- 4.2 The City reduces Letourneau's salary or other benefits in a greater percentage than applicable across-the-board reductions made by the City for other Executive and Management employees in the City and Letourneau elects to give sixty (60) days written notice of her resignation to the City Council. The written notification of resignation must be given within sixty (60) days of the reduction in Letourneau's salary or other benefits.
- 4.3 The City Council requests the resignation of Letourneau, and Letourneau resigns pursuant to that request.
- 4.4 The city manager form of government is abandoned by action of the City Council, vote of the people, state legislation, or by any other means.
- 4.5 The position of City Manager is eliminated by action of the City Council, vote of the people, state legislation, or by any other means.

5. Severance Compensation

5.1 Any other term of this Agreement notwithstanding, the maximum severance that Letourneau may receive under this Agreement shall not exceed the limitations provided in Government Code Sections 53260 – 53264, or other applicable law.

5.2 The payment of severance compensation pursuant to this paragraph shall, at the option of Letourneau, be in a lump sum equivalent to three (3) months base salary, or shall be payable in three (3) equal monthly installments.

5.3 Letourneau and her dependents shall also receive continuing health insurance plan coverage for three (3) months from the effective date of the termination. Pursuant to Government Code Section 53261, the continuing eligibility of Letourneau and her dependents for health insurance plan coverage shall terminate should Letourneau obtain other employment.

5.4 Should Letourneau die before receiving all of the severance compensation provided for under this Agreement, the lump sum payment or the monthly installments elected by Letourneau, and any benefits under Paragraph 5.3, shall be paid and provided to Letourneau's heirs, administrators, representatives or executors as provided by law. If at the time of Letourneau's death she has not elected a method of payment, payment of severance compensation shall be by equal monthly installments.

5.5 Compliance with Government Code Section 53243 *et seq.* (Assembly Bill No. 1344).

- 5.5.1 In the event City determines to place Letourneau on paid leave pending an investigation, Letourneau shall fully reimburse such pay to the City if she is subsequently convicted of a crime involving the abuse of her office or position.
- 5.5.2 In the event the City determines to fund all or part of a legal criminal defense for Letourneau, she shall fully reimburse such funds to the City if she is subsequently convicted of a crime involving an abuse of her office or position.
- 5.5.3 Regardless of the term of this Agreement, if this Agreement is terminated, any cash settlement related to the termination that Letourneau may receive from the City shall be fully reimbursed to the City if Letourneau is convicted of a crime involving an abuse of her office or position. (Government Code Section 53243.2.)
- 5.5.4 For purposes of this section, "abuse of office or position" shall be as defined in Government Code Section 53243.4.

6. Salary

6.1 City agrees to pay Letourneau an annual base salary of \$240,000 payable in equal installments at the same time and in the same manner that other City employees are paid. This salary shall be effective as of August 12, 2019.

6.2 The annual base salary shall be reviewed each fiscal year during the term of employment in approximately July of the year to determine whether Letourneau shall receive an

increase in the annual base salary that year. The City Council may grant, in its sole discretion, an increase in the annual base salary.

7. **Other Benefits**

7.1 **Car Allowance**

City agrees to provide Letourneau with a monthly car allowance of \$625.00 per month.

7.2 **Performance Bonus**

Each fiscal year, commencing with the fiscal year that starts on July 1, 2020, the City Council may grant to Letourneau a performance bonus. Whether or not to grant a bonus and the amount of any such bonus shall be in the sole discretion of the City Council. The decision by the City Council regarding the performance bonus shall be made for each fiscal year at the time the City Council is providing the performance evaluation of Letourneau required by Paragraph 9.0 of this Agreement.

It is the understanding and intent of the Parties that performance bonuses are not reportable compensation to the State Public Employees Retirement System (“PERS”), and are not to be included in the calculation of Letourneau’s PERS retirement allowance.

Performance bonuses are not added to the annual base salary.

7.3 **Retirement**

Letourneau shall be a member of the City’s retirement plan adopted and existing pursuant to 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 Letourneau and Letourneau shall pay the full amount of the employee’s required contribution.

7.4 **ICMA-RC Retirement**

City shall pay, on behalf of Letourneau, \$10,000 per year to the ICMA RC 457 Deferred Compensation Plan during the term of this Agreement. Payment shall be made in equal amounts each pay period. The City shall take all steps necessary to provide for Letourneau’s participation in said Plan.

7.5 **Health and Dental Benefits**

City shall provide Letourneau and her dependents with medical, health and dental insurance coverage in the same manner and with the same coverage as City provides to its Executive and Management employees.

7.6 Life Insurance

City shall provide Letourneau with life insurance coverage by a term life insurance policy that is in the amount of \$250,000, and City shall pay the full amount of the premiums for said life insurance coverage. Letourneau shall name the beneficiaries of the policy.

7.7 Vacation

Letourneau shall accrue vacation days at the rate of twenty (20) days per year. Unused vacation leave accrued from one fiscal year may be carried over to the following fiscal year; provided however, the vacation leave accrual shall not exceed three hundred and sixty (360) hours.

No more than twice in each fiscal year, Letourneau may request to be paid in-lieu of using accrued vacation. Such payment shall be limited to no more than 60 hours per fiscal year; provided, however, that Letourneau shall have taken at least an equal number of hours of paid vacation leave during the six (6) month period preceding the request. Such payment shall be made upon request, unless the City has determined it is not economically or operationally feasible for employees generally. In such case, payment shall be made as soon as feasible.

As of the effective date of this Agreement, Letourneau shall have five (5) days of accrued vacation.

7.8 Executive Leave

Letourneau shall be entitled to ten (10) days of executive leave each fiscal year, or portion thereof, during her term of employment. Any executive leave unused during a fiscal year shall expire at the end of that year and shall not be carried over into succeeding fiscal years. Upon separation, Letourneau shall not be entitled to any payment for unused executive leave.

7.9 Sick Leave

Letourneau shall receive twelve (12) days per year excused absences at full pay for sick leave purposes. She shall be entitled to use sick leave and be entitled to payment for unused sick leave, as provided by the City Council for Executive and Management employees.

As of the effective date of this Agreement Letourneau shall have five (5) days of accrued sick leave.

Upon separation Letourneau shall not be entitled to payment for any unused sick leave.

7.10 Disability Insurance

The City shall provide Letourneau with whatever short term disability or long term disability insurance programs or similar programs as it provides to other City Executive and Management employees.

7.11 Subject to adopted City policies, the City shall pay for or provide Letourneau reimbursement for all actual and necessary business expenses.

7.12 General City Benefits

Letourneau shall be entitled to receive all benefits as they now exist or may hereinafter be provided to other Executive and Management employees of the City, except when such other benefits are inconsistent with or contrary to provisions of this Agreement.

8. Professional Development

In addition to those benefits covered under paragraph 7.0 of this Agreement, City desires to encourage Letourneau's continuing professional development and agrees to budget and pay for those professional dues and subscriptions, and travel and subsistence expenses for such conferences, seminars, courses, institutes, and meetings that Letourneau deems desirable for her professional development and for the good of the City.

9. Performance Evaluation

The City shall review and evaluate the performance of Letourneau after six months from date of hire, after one year from date of hire, and at least once annually thereafter at a time mutually agreed to between the City Council and Letourneau. Said review and evaluation shall be conducted in accordance with procedures and forms and with respect to specific criteria to be developed jointly by Letourneau and the City Council. Said review and evaluation shall be private and confidential, and the results shall be summarized and discussed in closed session, to the extent permitted by law, or through some other mutually acceptable closed format. The parties agree that the primary purposes of such evaluation are to facilitate open and frank discussion, define roles and expectations, identify performance strengths and weaknesses, and to provide an opportunity for Letourneau to take affirmative action to address weaknesses and areas needing improvement.

10. Exclusive Employment

Letourneau shall devote all of her time, energy and efforts to the City, and shall accept no outside employment, but the foregoing shall not limit Letourneau in teaching, writing, lecturing, or consulting, but only to the extent that such activities do not interfere with her duties as set forth in this Agreement.

11. Termination for Cause

Notwithstanding any provision of this Agreement to the contrary, City may terminate Letourneau's employment for cause at any time and without prior notice, and if Letourneau is terminated for cause, she shall not be entitled to payment of severance compensation or any other compensation or damages. "Cause" shall include the following reasons:

11.1 Letourneau violates Paragraph 3.4 (Resignation Without Providing the Required Notice) or Paragraph 10.0 (Exclusive Employment) of this Agreement.

11.2 Conviction of a crime, whether misdemeanor or a felony, involving moral turpitude. For purposes of this paragraph, a plea of nolo contendere shall also be considered a conviction.

11.3 Letourneau is determined by a court of competent jurisdiction or the State of California Fair Political Practices Commission to have knowingly and unlawfully participated in a governmental decision in which she had a conflict of interest as defined in Government Code Section 87100 *et seq.* or Government Code Section 1090 *et seq.*

11.4 Failure to follow a lawful directive of the City Council after written notice of said failure is provided to City Manager approved by three (3) or more affirmative votes of its five (5) members.

11.5 Continued abuse of drugs or alcohol that materially affects the performance of the City Manager's duties.

11.6 Repeated and protracted unexcused absences from the City Manager's office and duties.

11.7 In the event the City terminates Letourneau for any reason or no reason, the City and Letourneau agree that no member of the City Council, nor Letourneau, shall make any written, oral or electronic statement to any member of the public, the press, or any City employee concerning the reason(s) for Letourneau's termination except in the form of a joint press release or statement, which is mutually agreeable to the City and Letourneau. Either Party may verbally repeat the substance of the joint press release or statement in response to any inquiry. Nothing herein precludes a factual City statement as to the dates of Letourneau's employment, including the date her employment concluded.

12. Indemnification

City agrees to defend, hold harmless, and indemnify Letourneau against any claims, demands or legal actions, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope and during the course of Letourneau's employment with the City, subject to Letourneau cooperating in good faith with the City with respect to defense of such claims, demands, or legal actions in accordance with the provisions of California Government Code Sections 825 and 825.6. City may compromise and settle any such claim, demand, or action and pay the amount of any settlement or judgment rendered therefrom. This covenant shall survive the termination of this Agreement.

13. Notices

Any notice to be given hereunder by either Party to the other in writing may be effected either by personal delivery or by mail. Mailed notices shall be addressed to the address of the Parties to be notified which appears below, but each Party may change its address by written notice given in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of five (5) calendar days following the date of mailing.

CITY: City of Laguna Niguel
Attn: Mayor
30111 Crown Valley Parkway
Laguna Niguel, California 92677

EMPLOYEE: Tamara S. Letourneau
at the most recent address on file in City's Human Resources Office

14. **Entire Agreement**

This Agreement represents the entire agreement between the Parties and supersedes any and all agreements, either oral or in writing, between the Parties with respect to the employment of Letourneau by City and contains all of the covenants and agreements between the Parties with respect to that employment. Each Party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either Party, or anyone acting on behalf of either Party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding on either Party.

15. **Modifications**

Any modifications to this Agreement shall be effective only if in writing and signed by both the Parties.

16. **Effect of Waiver**

The failure of either Party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other Party shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

17. **Partial Invalidity**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

18. **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of California in full force and effect as of the date of execution.

19. **Attorneys' Fees**

In the event of any legal action between the Parties to enforce the provisions of this Agreement, the prevailing party shall be entitled to attorney's fees and costs.

20. **Representations**

City and Letourneau each represent and warrant to the other that each has received legal advice from independent and separate legal counsel with respect to this Agreement, or has knowingly declined to obtain such legal advice, and further represent and warrant to each other that each has carefully reviewed this Agreement and each and every term hereof. This Agreement shall not be construed against the party or its representatives who draft it or any portion hereof.

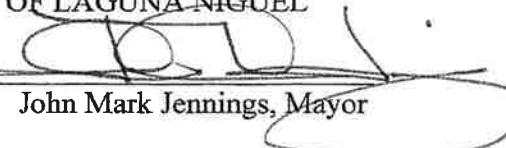
21. **Counterparts**

This Agreement may be executed on separate copies, any one of which need not contain signatures of more than one Party but all of which taken together shall constitute one and the same Agreement.

[Signatures on following Page]

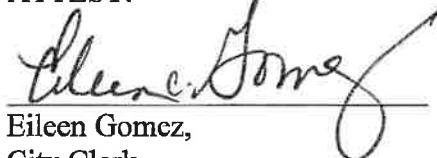
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first herein written above.

CITY OF LAGUNA NIGUEL

By: 

John Mark Jennings, Mayor

ATTEST:



Eileen Gomez,
City Clerk

APPROVED AS TO FORM BY THE
CITY ATTORNEY FOR THE
CITY OF LAGUNA NIGUEL



Kevin G. Ennis
City Attorney

By: 

Tamara S. Letourneau