



**CITY OF BIG BEAR LAKE
EMPLOYMENT AGREEMENT**

DIRECTOR OF PUBLIC SERVICES

This EMPLOYMENT AGREEMENT (hereinafter referred to as "Agreement") is made and entered into between **Sean Sullivan** (hereinafter referred to as "Employee") and the CITY OF BIG BEAR LAKE (hereinafter referred to as "Employer"), in order to provide, in writing, the terms and conditions of Employee's employment with Employer.

NOW, THEREFORE, the parties hereto agree as follows:

1. Employment.

Employer hereby agrees to employ Employee, and Employee agrees and does accept employment, upon the terms and conditions set forth herein.

2. Duties and Obligations of Employee.

A. Employee hereby agrees to perform the functions and duties of **Director of Public Services** as set forth in Employer Resolutions, Ordinances, Rules, Regulations and Policies, and job description, and to perform such other duties and functions as the City Manager assigns. These duties include, but are not limited to: planning, organizing, and directing the operations of the City's Public Services Department. In addition, this position serves as a member of the City's management team, and provides professional supervision to their assigned Department staff.

Employee further agrees to perform all such functions and duties on a full time basis, to the best of his ability, and in an efficient and competent manner.

B. Employee will focus his professional time, ability, and attention to Employer business during the term of this Agreement. Employee shall not engage in any other business duties or pursuits whatsoever or, directly or indirectly, render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, without the prior consent of the City Manager except that:

(1) The expenditure of reasonable amounts of time not in conflict with Employer's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement.

C. All data, studies, reports and other documents prepared by Employee while performing his duties during the term of this Agreement shall be furnished to and become the property of Employer, without restriction or limitation on their use.

D. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Employee in connection with the performance of this Agreement shall be held confidential by Employee unless acting within the scope of his duties as Employee. Such materials shall not, without the prior written consent of the Employer, be used by Employee for any purposes other than the performance of his duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

3. Salary.

In consideration of the regular and additional duties to be performed by Employee under Section 2.A. of this Agreement, Employee's salary shall be **One Hundred Fifty-Eight Thousand Eight Hundred and Seventy Dollars (\$158,870)** per year, payable in installments at the same time as other employees of Employer are paid, pursuant to the procedures regularly established, and as they may be amended by Employer. The City Council may decide to periodically adjust this position's salary by adopting a Resolution that includes updates to the City's Salary Range Schedule.

4. Benefits.

A. Unless otherwise provided herein, Employee shall receive the highest schedule of benefits being received by the general employee or unrepresented unit, to the extent permitted by applicable law and adopted resolutions/ordinances, as amended from time to time.

- Employer will pay the monthly premium cost of the Health Maintenance Organization (HMO) medical plan for the Employee plus their eligible dependents.
- Employer will provide Employee with dental and vision coverage for the Employee plus their eligible dependents.
- Employer will provide a \$50,000 life insurance policy.
- Employer will provide a Longevity benefit pursuant to the current City Council adopted resolution.
- Employer will contribute a matching Deferred Compensation benefit pursuant to the current City Council adopted resolution.
- Employee is eligible for a monthly cell phone benefit pursuant to the current Electronic Tools and Services Use Policy.
- Employer will provide fifty-six (56) hours of Administrative Leave to be booked annually on January 1st. Maximum accrual shall be equal to two (2) times the annual entitlement of hours which is currently one hundred twelve (112) hours.
- Employee will accrue eighty (80) hours of Vacation Leave annually to be booked in accordance with Employer's usual payroll procedures. Forty (40) hours of Vacation Leave shall be advanced to Employee upon commencement of employment. Maximum accrual shall be equal to two (2) times the annual entitlement of hours which is currently one hundred sixty (160) hours. The Employee's vacation accrual will increase in relation to the Employee's length of continuous service.
- Employee will accrue twenty-four (24) hours personal days annually to be booked in accordance with Employer's usual payroll procedures, which is currently, to book this

accrual annually on the pay period that includes July 1st. Maximum accrual shall be equal to two (2) times the annual entitlement of hours which is currently forty-eight (48) hours.

- Employee will accrue eighty-eight (88) hours of sick leave annually to be booked in accordance with Employer's usual payroll procedures. Unused sick leave may be accrued without limit. After the completion of five (5) years of continuous service, the Employee is eligible to cash out twenty-five percent (25%) of accrued sick leave upon termination.
- Employee shall be entitled to the paid holidays that are designated and approved by City Council. Paid holidays will be automatically accrued in a holiday leave bank if the Employee is required to work on a City observed holiday or that holiday falls on the Employee's scheduled day off.
- All accrued leave hours in excess of the annual maximum accrual will be automatically paid to Employee as supplemental compensation in the first pay check the accrual exceeds the maximum hours. Employee shall also have the option to cash out accrued leave balances at their discretion in accordance with Employer's usual payroll procedures, provided the total number of hours cashed out in a fiscal year does not exceed the number of hours that can be accrued annually in each leave bank.

B. Vehicle Allowance. Employer agrees to pay Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of six hundred dollars (\$600) per month, as a vehicle allowance to be used to purchase, lease, or own, and operate and maintain, a vehicle. Employee shall be solely responsible for paying for liability, property damage, and comprehensive insurance coverage upon said vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair and regular replacement of said vehicle.

C. Retirement. City agrees to enroll Employee into the San Bernardino County Employees' Retirement Association (SBCERA) under the same terms as other miscellaneous employees of the City.

Pursuant to the Public Employees' Pension Reform Act of 2012, (also known as "PEPRA"), unit members who first became employed by the City on or after January 1, 2013, and who are "new members" as that term is defined in PEPRA, shall be subject to the Tier 2 SBCERA formula of 2.5% @ age 67. In addition, "new members" shall contribute from their pensionable compensation fifty percent (50%) of total "normal cost" as dictated by SBCERA. New members shall also be subject to all other applicable provisions of PEPRA.

If the Employee establishes reciprocity with SBCERA, then the Employee shall be subject to the Tier 1 SBCERA formula of 2% @ age 55. The Employee's SBCERA Member Contribution Rate will be based upon their "entry age" as indicated by the Employee's prior reciprocal pension system.

5. Term.

Employment under this contract shall commence on April 12, 2021 and continue until terminated pursuant to Section 6 of this Agreement. Unless otherwise provided for by a subsequent written

agreement between the Parties, the terms and conditions of this Agreement shall apply to any extended term of this Agreement.

6. Termination of Agreement and Severance Pay.

A. Nature of Employment. The parties hereby expressly agree that the employment relationship created by this Agreement is "at will" and that Employee serves at the will and pleasure of the City Manager. Except as provided hereinafter, nothing in this Agreement, any statute, ordinance, or rule shall prevent, limit or otherwise interfere with the right of the City Manager to terminate, without cause or right of appeal or grievance, the services of Employee at any time. Accordingly, Employee agrees that this Agreement sets forth the only terms and conditions applicable to the termination of his employment and that he hereby waives any rights he would otherwise have there under.

B. By City Manager Not For Cause. Except as provided hereinafter, at any time, the City Manager may terminate Employee for any reason, without cause, by providing Employee one hundred twenty (120) days advance written notice. City Manager shall have the option, in his/her complete discretion, to terminate Employee at any time prior to the end of such notice period, provided Employer pays Employee all compensation due and owing through the last day actually worked, plus an amount equal to the base salary Employee would have earned through the balance of the above notice period. Thereafter, all of Employer's obligations under this Agreement shall cease. The City Manager may discipline, demote, or dismiss Employee without cause notwithstanding anything to the contrary contained in or arising from any statements, policies, or practices of Employer relating to the employment, discipline, or termination of its employees.

C. By City Manager For Cause. At any time, and without prior notice, the City Manager may terminate Employee for Cause (as defined below). Employer shall pay Employee all compensation then due and owing through the last day worked; thereafter, all of Employer's obligations under this Agreement shall cease. Termination shall be for "cause" if Employee: (1) acts in bad faith and to the detriment of the Employer; (2) refuses or fails to act in accordance with any material direction or order of the City Manager; (3) exhibits in regard to his employment unfitness or unavailability for service, unsatisfactory performance, misconduct, dishonesty, habitual neglect, or incompetence; (4) is convicted of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; or (5) breaches any material term of this Agreement.

In the event that Employee is terminated by the City Manager for cause, Employee will be presented with written notice of the basis for said cause. Upon receipt of said written notice, Employee, within five (5) business days, may request a hearing before the City Council. The issue at the hearing shall be limited solely to whether or not there is sufficient evidence to support a finding of termination for cause such that Employee would not be entitled to advance notice and/or compensation as provided in Section 6(B). Under no circumstances shall the Employee be entitled to reinstatement as a result of such hearing.

D. Resignation. At any time, Employee may resign from his employment for any reason, with or without cause, by providing the City Manager with thirty (30) days' advance written notice. The City Manager shall have the option, in his/her complete discretion, to make

Employee's termination effective at any time prior to the end of such notice period, provided Employer pays Employee all compensation due and owing through the end of the notice period.

E. Benefits Upon Termination. All benefits to which Employee is entitled shall cease upon Employee's termination, unless explicitly continued either under this Agreement, under any specific written policy or benefit plan of the Employer, or unless otherwise required by law.

F. Termination Obligations. Employee agrees that all property, including, without limitation, all equipment, tangible proprietary information, documents, records, notes, contracts, and computer generated materials furnished to or prepared by Employee incident to his employment belongs to the Employer and shall be returned promptly to the Employer upon termination of Employee's employment. Employee's obligations under this subsection shall survive the termination of his employment and the expiration of this Agreement.

G. Government Code Section 53243. Pursuant to Government Code Section 53243, Employee is required to fully reimburse the City for any paid leave salary offered by the City to the Employee pending an investigation if Employee is convicted of a crime involving an abuse of office or position.

H. Government Code Section 53243.1. Pursuant to Government Code Section 53243.1, Employee is required to fully reimburse the City for any funds provided to Employee for his legal criminal defense if Employee is convicted of a crime involving an abuse of office or position.

I. Government Code Section 53243.2. Pursuant to Government Code Section 53243.2, regardless of the term of the Agreement, if the contract is terminated, any cash settlement related to the termination that Employee may receive from the City shall be fully reimbursed to the City if Employee is convicted of a crime involving an abuse of office or position.

J. For purposes of this Agreement, "abuse of office or position" shall have the same meaning as set forth in Government Code Section 53243.3 which currently defines "abuse of office or position" as either of the following: (a) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority; or (b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67) or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

7. Pursuant to Government Code Section 53244, if Employee is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of, or in the performance of, his official duties, he 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 he may be entitled under any public retirement system in which he is a member. The forfeiture provided by this section shall be in addition to, and independent of, any forfeiture of public retirement system rights and benefits pursuant to Sections 7522.70, 7522.72, or 7522.74 of the Government Code. Upon conviction, Employee shall notify the City.

8. Performance Review. The City Manager or designee shall endeavor to conduct an annual performance review of Employee on the anniversary date of this Agreement. The City Manager's or designee's decision to conduct, or failure to conduct, an annual performance review under this section shall not affect any other term of this Agreement.

9. Action by Employer. All actions required or permitted to be taken under this Agreement by the Employer, including, without limitation, exercise of discretion, consents, waivers, and amendments to this Agreement, shall be made and authorized only by the City Council, the City Manager, or a designated representative specifically authorized in writing to fulfill these obligations under this Agreement.

10. Notices. Any notice or other communication under this Agreement must be in writing and shall be effective upon delivery by hand, upon facsimile transmission to Employer (but only upon receipt of a written confirmation of receipt), or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to Employer or Employee at the addresses or fax numbers below. Employee shall be obligated to notify Employer in writing of any change in his address. Notice of change of address shall be effective only when done in accordance with this Section.

Employer's Notice Address:

Frank Rush, City Manager
City of Big Bear Lake
P.O. Box 10000
39707 Big Bear Boulevard
Big Bear Lake, CA 92315
Fax Number: 909-752-2811

Employee's Notice Address:

Sean Sullivan

11. Integration. This Agreement is intended to be the final, complete, and exclusive statement of the terms of Employee's employment by Employer. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of Employee, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of Employer, now or in the future, apply to Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

12. Amendments. This Agreement may not be amended or modified except by in writing signed by both parties. 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.

13. Assignment. Neither this Agreement, nor any right, privilege, or obligation of Employee hereunder shall be assigned or transferred by her without the prior written consent of the Employer. Any attempt at assignment or transfer in violation of this provision shall, at the option of the Employer, be null and void and may be considered a material breach of this Agreement.

14. Severability. If a court or arbitrator holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

15. Attorneys' Fees. In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of California.

17. Interpretation. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. Furthermore, 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.

18. Conflict of Interest. The Employee agrees that he will abide with all applicable local State and Federal rules on conflicts of interest and receipt of gifts, including, without limitation, those rules found in the California Fair Political Practices Act and related regulations and those found in Government Code Sections 1090 et seq.

19. Employee Acknowledgment. Employee 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 this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 12th day of April 2021.

CITY OF BIG BEAR LAKE

By: FRANK RUSH
Frank Rush, City Manager

SEAN SULLIVAN
Sean Sullivan, Director of Public Services



FIRST AMENDMENT TO EMPLOYMENT AGREEMENT

Parties and Date

This First Amendment ("Amendment") is entered into on the 1st Day of July, 2021, by and between the City of Big Bear Lake ("Employer") and **Sean Sullivan** ("Employee").

Salary

On or about April 12, 2021, the Employer and Employee entered into an Employment Agreement ("Agreement"), which Agreement provided for an annual salary of \$158,870.

Effective July 1, 2021, the City Council adopted revisions to the City's Salary Schedule, which increased the Director of Public Services' annual base salary to \$164,029.


Section 3 of the Agreement is hereby amended in its entirety to read as follows:


"3. Salary.

In consideration of the regular and additional duties to be performed by Employee under Section 2.A. of this Agreement, Employee's base annual salary shall be **One Hundred Sixty-Four Thousand and Twenty-Nine Dollars (\$164,029)** per year, payable in installments at the same time as other employees of Employer are paid, pursuant to the procedures regularly established, and as they may be amended by Employer."

Except as expressly provided for herein, all other provisions of the Agreement shall remain unchanged and shall remain in full force and effect.

CITY OF BIG BEAR LAKE

By: 
Frank A. Rush, Jr., City Manager

By: 
Sean Sullivan, Director of Public Services



SECOND AMENDMENT TO EMPLOYMENT AGREEMENT

Parties and Date

This Second Amendment (“Amendment”) is entered into on the 12th day of October 2021, by and between the City of Big Bear Lake (“Employer”) and **Sean Sullivan** (“Employee”).

Salary

On or about April 12, 2021, the Employer and Employee entered into an Employment Agreement (“Agreement”), which Agreement provided for an annual base salary of \$158,870.

On or about July 1, 2021, the Employer and Employee, signed a First Amendment to the Agreement due to City Council adoption of revisions to the City’s Salary Schedule, which increased the Director of Public Services’ annual base salary to \$164,029.

Effective October 12, 2021, the Employer and Employee, signed a Second Amendment to the Agreement. The Second Amendment resulted in an updated annual salary amount to \$172,245.

Section 3 of the Agreement is hereby amended in its entirety to read as follows:

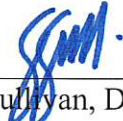
“3. Salary.

In consideration of the regular and additional duties to be performed by Employee under Section 2.A. of this Agreement, Employee’s salary shall be **One Hundred Seventy-Two Thousand Two Hundred and Forty-Five Dollars (\$172,245)** per year, payable in installments at the same time as other employees of Employer are paid, pursuant to the procedures regularly established, and as they may be amended by Employer.”

Except as expressly provided for herein, all other provisions of the Agreement shall remain unchanged and shall remain in full force and effect.

CITY OF BIG BEAR LAKE

By: 
Frank A. Rush, Jr., City Manager

By: 
Sean Sullivan, Director of Public Services