

ASSISTANT TO THE CITY MANAGER
EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made and entered into this 3rd day of February, 2011 by and between the City of Fullerton, a municipal corporation (hereafter "City"), and Robert Ferrier (hereinafter referred to as "Ferrier").

RECITALS

The City desires to retain the services of Ferrier as the Assistant to the City Manager to serve at the direction of the City Manager, (hereinafter referred to as "City Manager").

It is the desire of the City to provide certain benefits, establish certain conditions of employment, and set certain working conditions of the Assistant to the City Manager.

The City desires to secure and retain the services of Ferrier and to provide inducement for Ferrier to remain in such employment, and to make possible full work productivity by assuring Ferrier's morale and peace of mind with respect to future security.

AGREEMENT

Now therefore, in consideration of the mutual promises, covenants, and conditions herein, the parties agree as follows:

1. Duties

City hereby agrees to employ Ferrier as Assistant to the City Manager beginning February 5, 2011 (hereinafter "appointment date") to perform the functions and duties of the Assistant to the City Manager and to perform other permissible and proper duties and functions consistent with the position of the Assistant to the City Manager, as the City Manager shall from time to time assign.

2. Term and Conditions

- A. This Agreement supplements all policies, rules, regulations, procedures and benefits which apply to Executive employees, which shall also apply to Ferrier. Where the City's policies et al conflict with the provisions of this Agreement, the provisions of this Agreement shall prevail. A copy of the current resolution, Resolution No. 10-50, Compensation for Executive Employees (hereinafter "Executive Compensation Resolution") is attached.

- B. The above paragraph notwithstanding, Municipal Code Sections 2.33.010 and 2.33.020 (attached) shall not apply to Ferrier with respect to the City's disciplinary and appeals procedures. Ferrier serves at the pleasure of the City Manager and may be discharged without cause provided that he is given six months written notice. As an alternative to such notice, Ferrier shall receive a lump sum cash payment equal to six months of his then-current base salary and the City shall pay for the first six months of COBRA coverage under any City sponsored medical, dental or vision plan in which Ferrier and his dependents are covered at the time of his separation. This requirement shall not apply if Ferrier is discharged as a result of an act of moral turpitude or conviction of a felony.
- C. If Ferrier voluntarily resigns, he shall give the City forty-five (45) calendar days written notice in advance, unless the parties otherwise agree.
- D. If Ferrier voluntarily retires, he shall give the City ninety (90) calendar days written notice in advance, unless the parties otherwise agree.

3. Salary

City agrees to compensate Ferrier for services rendered, no less than \$109,303 per year.

Ferrier's compensation shall be subject to the Gross Pay Back Deduction described in Section 5, paragraph G of the Executive Compensation Resolution and any similar provision of a resolution which supersedes this the Executive Compensation Resolution.

4. No reduction in benefits

City shall not at any time during the term of this agreement reduce the base salary, compensation, or other financial benefits of Ferrier except on the same basis as may be applicable to all executive management employees of the City. This may be done notwithstanding the provisions of Section 3 above.

5. Indemnification

City shall defend, hold harmless and indemnify Ferrier against any tort, professional liability claim or demand or other legal action, arising out of any alleged act or omission occurring within the scope of his employment as the

Assistant to the City Manager in accordance with the provisions of California Government Code Section 825. At its sole discretion, City may compromise, settle, assign legal counsel, determine litigation strategy, or pay judgment rendered in any such claim or suit.

Ferrier shall cooperate fully in the investigation and defense of any such liability claim, demand, or legal action.

Ferrier acknowledges and agrees that City's agreement to defend, hold harmless and indemnify him does not constitute an agreement to pay any punitive damages awarded against Ferrier in any such liability claim, demand or legal action. In that regard, Ferrier acknowledges and agrees that per subdivision (b) of Government Code Section 825, City may not make a determination whether or not to indemnify an employee for an award of punitive damages until such time as the award is made.

This covenant shall survive the termination of the Agreement.

6. Other Terms and Conditions of Employment

The City Manager, in consultation with Ferrier, shall establish any other terms and conditions of employment as he may determine from time to time, relating to the performance of Ferrier provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Fullerton Municipal Code, any ordinance or resolution of the City, or other applicable laws, rules or regulations.

7. Notices

Any notice required or permitted by this agreement shall be in writing and shall be personally served or be sufficiently given when served upon the other party as sent by the United States Postal Service, postage prepaid and addressed as follows:

To City:

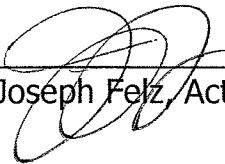
To Ferrier:

City Manager
City of Fullerton
303 West Commonwealth Ave.
Fullerton, California
92832-1775


8. General Provisions

- A. The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall become effective February 5, 2011.
- C. If any provision or portion thereof contained in this Agreement is held unconstitutional, 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. In the event of any legal action between the parties hereto to enforce the provisions of this Agreement, the prevailing party shall be entitled to reasonable legal fees and costs as fixed by the Court.

In witness whereof, City has caused this Agreement to be signed and duly executed on its behalf by its City Manager, and Ferrier has signed and executed this Agreement, the date and year first written above.

By:  _____
Joseph Feiz, Acting City Manager

Date: 2-7-11

By:  _____
Robert Ferrier

Date: 2-3-11