

**CITY OF FULLERTON
CITY MANAGER/ FULLERTON LIBRARY BOARD OF TRUSTEES APPOINTEE
AMENDED AND RESTATED EMPLOYMENT AGREEMENT**

This Amended and Restated Employment Agreement ("Agreement") is made and entered into this 29th day of August, 2019 ("Effective Date") by and between the City of Fullerton, a California municipal corporation (hereinafter "City"), the Fullerton Library Board of Trustees (hereinafter "Board") and Judith B. Booth (hereinafter referred to as "Booth").

RECITALS

WHEREAS, Booth began serving the City as Library Director under an Employment Agreement with the City and the Board dated May 25, 2017, consistent with Chapters 2.09 and 2.16 of the Fullerton Municipal Code; and

WHEREAS, the City Manager of the City of Fullerton (hereinafter "City Manager"), is duly authorized under Resolution 2017-66 to amend the Employment Agreement on behalf of the City of Fullerton; and

WHEREAS, the City Manager and the Board entered into an Amended and Restated Employment Agreement with Booth effective January 24, 2019; and

WHEREAS, the City Manager and the Board have determined it is appropriate to again amend the agreement and to continue to provide certain benefits, conditions of employment, and working conditions for Booth; and

WHEREAS, City of Fullerton Resolution No. 2017-66 provides that such amended or continued benefits, conditions of employment and working conditions shall be set forth in an Employment Agreement Amendment.

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

1. Amendment and Restatement of Prior Employment Agreement

The Amended and Restated Employment Agreement entered into between the City of Fullerton, the Board, and Booth on January 24, 2019 including all amendments, revisions, and changes to the terms thereto, is hereby amended in its entirety and restated herein.

2. Appointment Date and Duties

Booth was appointed to the Library Director classification effective May 26, 2017 (hereinafter "Appointment Date") to perform the functions and duties of the Library

Director as set forth in the Class Specification for Library Director attached hereto as Exhibit "A" and incorporated herein by this reference, and to perform other permissible and proper duties and functions consistent with the position of the Library Director as the Board and the City Manager may from time to time assign.

3. Base Salary History

The base salary Booth has earned while serving in this classification is acknowledged by the Parties to have been as follows:

- A. Upon Appointment Date: \$120,000 per year
- B. Effective July 14, 2018: \$123,600 per year (\$59.423 per hour)

The parties agree that this base salary assignment was appropriately set within the then current City Council parameters for salary range assignments.

4. Term and Conditions

- A. All ordinances, resolutions, policies, rules, regulations, procedures and benefits ("City Rules") which apply to Executive employees shall apply to Booth, including, but not limited to, Resolution No. 2017-66, Compensation for Executive Employees (hereinafter "Executive Compensation Resolution") as it currently exists or may hereafter be amended or superseded.
- B. Pursuant to and consistent with the Executive Compensation Resolution and Resolution No. 8485, Municipal Code Sections 2.33.010 and 2.33.020 (attached) shall not apply to Booth with respect to the City's disciplinary and appeals procedures. Booth serves at the pleasure of the Fullerton Library Board of Trustees and the City Manager and may be discharged without cause provided that she is given six months written notice. As an alternative to such notice, Booth shall receive a lump sum cash payment equal to six months of her 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 Booth and her dependents are covered at the time of her separation. This requirement shall not apply if Booth is discharged as a result of an act of moral turpitude or conviction of a felony.
- C. If Booth voluntarily resigns or retires, he/she shall give the City ninety (90) calendar days written notice in advance, unless the parties otherwise agree in writing.
- D. Pursuant to Government Code section 53243.2, any cash settlement Booth may receive related to the termination of this Amendment, including, but not limited to a severance payment, shall be fully reimbursed to the City if Booth is convicted of a crime involving "an abuse of office or position," as that term is defined in Government Code section 53243.4.

5. Work Schedule

Booth will work a standard work schedule. The precise daily schedule is subject to determination by the Board and the City Manager based on the Library's and City's business needs.

6. Salary

Effective _____, 2019, Booth will be compensated for services rendered, no less than \$126,072 per year (\$60.611 per hour).

7. CalPERS

Booth shall continue to be enrolled in the City of Fullerton's CalPERS plan for miscellaneous employees with the benefits determined by the City's contract with CalPERS at the time of Booth's hire. The City's contribution and Booth's contribution towards CalPERS shall be made in accordance with the Executive Compensation Resolution or any successor resolutions.

8. Retiree Medical

Booth is entitled to City Contributions for Medical Insurance after Retirement for Employees Hired on or Before September 1, 2017 as set forth in the Executive Compensation Resolution or any successor resolutions

Effective the 2019 payroll year, pursuant to the authority provided in the Executive Compensation Resolution, the City Manager authorizes the \$750 per payroll year benefit provided in Section 18 A of the Executive Compensation Resolution, to be converted into a City contribution to a retiree health savings account on behalf of Booth in the amount of \$28.84 per pay period.

9. Vacation Accrual

Booth shall accrue vacation accrual rate will follow the Executive Compensation Resolution.

10. Sick Leave

Booth shall accrue sick leave in accordance with the Executive Compensation Resolution.

Booth is not eligible for annual conversion of sick leave to cash as provided by the Executive Compensation Resolution.

Booth is eligible for conversion of sick leave to CalPERS service credit as provided by the Executive Compensation Resolution.

11. Executive Leave

Booth will accrue Executive Leave at the rate of 81 hours per year in accordance with the Executive Compensation Resolution.

12. Other benefits

Booth shall be entitled to other benefits as provided to Executive employees within the Executive Compensation Resolution including, but not limited to, participation in City sponsored health plans and City contributions towards coverage in such plans, annual reimbursements for medical examinations and health screenings, vehicle use allowances and paid holidays.

13. No reduction in benefits

City shall not at any time during the term of this Amendment reduce the base salary, compensation, or other financial benefits of Booth 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 6 above.

14. Indemnification

City shall defend, hold harmless and indemnify Booth 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 her employment as the Booth 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.

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

Booth 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 Booth in any such liability claim, demand or legal action. In that regard, Booth 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 provision shall survive the termination of the Amendment.

15. Other Terms and Conditions of Employment

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

16. 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:

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

To Booth:

Library Director
Address on record with the
Human Resources Dept.

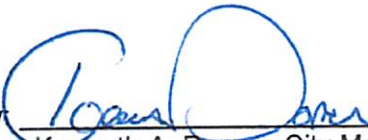
To Library Board:

Board President
City of Fullerton Library Board of Trustees
353 West Commonwealth Ave.
Fullerton, California 92832

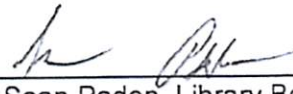
17. General Provisions

- A. This Agreement constitutes the entire agreement between the parties.
- B. If any provision or portion thereof contained in this Amendment is held unlawful, the remainder of this Amendment, or portion thereof, shall be deemed severable and shall not be affected and shall remain in full force and effect.
- C. In the event of any legal action between the parties hereto to enforce the provisions of this Amendment, the prevailing party shall be entitled to reasonable legal fees and costs as fixed by the Court.

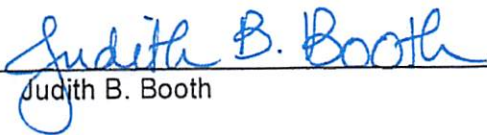
IN WITNESS WHEREOF, the City has caused this Agreement to be signed and duly executed on its behalf by its City Manager, Library Board of Trustees President, and Booth has signed and executed this Amendment, the date and year first written above.

By: 
Kenneth A. Dornier, City Manager

Date: 8-20-19


By: 
Sean Paden, Library Board Trustee President

Date: 8-29-19

By: 
Judith B. Booth

Date: 8/29/19

Approved as to Form:


Richard D. Jones, City Attorney

Dated: 8/20/19