

**FIRST AMENDMENT TO THE
EMPLOYMENT AGREEMENT
CITY OF FULLERTON CITY MANAGER**

This FIRST AMENDMENT TO THE EMPLOYMENT AGREEMENT – CITY OF FULLERTON CITY MANAGER ("First Amendment") is made effective as of February 6, 2019 ("Amendment Effective Date") and is entered into by and between the CITY OF FULLERTON, a California municipal corporation ("City") and KENNETH A. DOMER ("Domer"), an individual (sometimes collectively referred to herein as "the Parties").

RECITALS

WHEREAS, the City and Domer entered into an Employment Agreement ("Agreement") effective July 24, 2017 for Domer to serve as City Manager of the City of Fullerton ("City Manager"); and

WHEREAS, the City and Domer desire to amend certain provisions of the Agreement; and

WHEREAS, the amendments contained herein do not adjust compensation or benefits, adjusting only dates in Section 3 and eliminating the mutual disparagement clause in Section 11 of the Agreement.

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

1. Subsections (C) through (E) of Section 3 of the Agreement are deleted in their entirety and replaced with the following:

- C. City, by its City Council, shall conduct an evaluation of Domer's performance each June during the period in which this Agreement remains in effect. Such evaluation shall be shared and discussed with Domer in closed session as allowed under applicable law. Any public report of Domer's evaluation shall be made in accordance with an agreement by the Parties as to format and content.
- D. The Parties agree to reexamine Domer's Base Salary no less frequently and no later than each June during the period in which this Agreement remains in effect.
- E. At the discretion of the City Council, following each June performance evaluation, Domer shall be eligible for a lump sum payment in an amount not to exceed 3% of Base Salary. Award of any such performance bonus shall be made by City Council resolution. Payment of such lump sum shall be made in the form agreed by the Parties in a manner that shall not be reportable to

CalPERS as a part of "total compensation earnable" to the extent allowable under the law.

2. Section 11 of the Agreement is deleted in its entirety and replaced with the following:

SECTION 11: Confidentiality

Domer acknowledges that in the course of his employment contemplated herein, Domer will be given or will have access to confidential and proprietary documents and information, relating to the City, its residents, businesses, employees, and customers ("Confidential Information"). Such Confidential Information may include, but is not limited to, all information given to or otherwise accessible to Domer that is not public information or would be exempt from public disclosure as confidential, protected, exempt or privileged information. Domer shall hold the Confidential Information in trust for City's benefit, and shall not disclose the Confidential Information to others without the express written consent of City. The obligations of City and Domer under this Section 11 shall survive the termination of this Agreement.

3. All terms and provisions of the Agreement not amended hereby, either expressly or by necessary implication, shall remain in full force and effect. From and after the Amendment Effective Date, all references to the Agreement shall include the terms contained in this First Amendment.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed on the dates reflected below each signature.

CITY OF FULLERTON

KENNETH A. DOMER

Jesus Silva, Mayor

Kenneth A. Domer

Dated: _____

Dated: _____

Approved as to Form:

Richard D. Jones, City Attorney

Dated: _____

Attest:

Lucinda Williams, City Clerk

Dated: _____