

EMPLOYMENT AGREEMENT CITY OF FULLERTON CITY MANAGER

This EMPLOYMENT AGREEMENT ("Agreement") is made effective as of May 10, 2022 ("Effective Date") and is entered into by and between the CITY OF FULLERTON, a California municipal corporation ("City") and ERIC J. LEVITT ("Levitt") an individual (sometimes collectively referred to herein as "the Parties").

RECITALS

WHEREAS, the City desires to employ the services of Levitt as City Manager of the City of Fullerton ("City Manager"); and

WHEREAS, the City desires to provide certain benefits, establish certain conditions of employment, and to set working conditions of City Manager; and

WHEREAS, the City desires to (1) secure and retain the services of Levitt and to provide inducement for him to remain in such employment, and (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security; and

WHEREAS, Levitt accepts the City Council's March 15, 2022, offer of employment.

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

SECTION 1: Term

Subject to City's right to terminate Employee's employment at any time, as provided for in this Agreement, the Term of this Agreement and Levitt's at-will employment shall commence on May 10, 2022, and shall continue thereafter subject to termination by Levitt or City pursuant to Section 8 and 9 of this Agreement.

SECTION 2: Duties and Authority

City agrees to employ Levitt as City Manager to exercise the powers and authority and to perform the functions and duties specified in the Fullerton Municipal Code and all relevant resolutions, rules, regulations, procedures, applicable job description(s) and state codes, as they currently or may in the future exist. Levitt shall exercise such power and authority and perform such other functions and duties, not inconsistent with this Agreement, as City, by its City Council, may legally assign. The Parties agree that City's employment of Levitt, pursuant to this Agreement, is subject to and conditioned upon Levitt completing a medical examination and finalization of the background check review, subject to applicable federal and state laws. Execution of this Agreement by the City constitutes an admission that City has received and has no objections to Levitt's background check. Levitt further agrees he shall complete a medical examination prior to May 10, 2022.

SECTION 3: Compensation, Performance Objectives and Performance Evaluation

- A. Base Salary. City agrees to pay Levitt an annual base salary of \$250,000 (Two hundred fifty thousand dollars) ("Base Salary"), subject to deductions and withholding of any and all sums required for federal or state income tax, pension contributions, and all other taxes, deductions or withholdings required by then current state, federal or local law, prorated and paid on the City's biweekly payroll cycle. City shall also deduct sums Levitt is obligated to pay because of participation in plans or programs described in Section 4 of this Agreement.
- B. City, by its City Council, and Levitt shall set mutually agreed upon performance objectives for each year under this Agreement. Such performance objectives shall be agreed by the Parties as necessary for the proper operation of the City in the attainment of the City Council's policy objectives and shall further establish a relative priority among the agreed objectives. These objectives shall be reasonably attainable within the limitations of the City Council approved operating and capital budgets, authorized appropriations and staffing levels. The initial performance objectives shall be discussed and agreed upon no later than one year following the Effective Date.
- C. City, by its City Council, shall conduct an annual evaluation of Levitt's performance during the period in which this Agreement remains in effect, beginning in 2023. Such evaluation shall be shared and discussed with Levitt in closed session as allowed under applicable law. Any public report of Levitt's evaluation shall be made in accordance with an agreement by the Parties as to format and content.
- D. The Parties agree to reexamine Levitt's Base Salary no less frequently than annually during the period in which this Agreement remains in effect.
- E. On June 1, 2022, City shall pay Levitt a one-time moving allowance in the amount of \$10,000 for the cost of relocating. Relocation costs include, for example, packing, moving, storage costs, unpacking, and insurance charges incurred in relation to the relocation, and any costs incurred to locate housing. This moving allowance is subject to and contingent upon a relocation to a location within the City of Fullerton. Levitt shall also be solely responsible for any taxes associated with this one-time moving allowance.

SECTION 4: Retirement and Health Benefits

- A. Retirement. Levitt is classified as a "new" member of CalPERS as defined by the Public Employees' Pension Reform Act (PEPRA). Levitt shall be enrolled in the City of Fullerton's CalPERS plan for miscellaneous employees with the benefit formula determined by the City's contract with CalPERS. The City's contribution and Levitt's contribution towards CalPERS shall be made as outlined in the Executive Compensation Resolution.
- B. Medicare. Levitt shall pay the designated employee contribution for Medicare in accordance with applicable law.
- C. Health Insurance. Levitt's enrollment in City sponsored health coverage shall be subject

to the following terms:

1. Levitt shall be eligible to enroll in City sponsored medical, dental and vision plans during the term of this Agreement.
 2. The City's contributions to plans selected by Levitt shall be subject to the following maximum monthly City contributions:
 - a. Medical insurance - \$1,500 per month
 - b. Dental insurance - \$ 145 per month
 - c. Vision insurance - \$25 per month
 3. Levitt shall not be eligible to receive payment for the cash value difference between the maximum monthly City contribution and the premium of the plan and tier of coverage he enrolls in.
 4. Levitt's salary shall be reduced by the amount of any necessary payroll deduction for health insurance premiums in excess of the agreed City contribution on a before tax basis.
 5. Levitt may choose to opt out of participation in the City's medical insurance plans. Upon the City's receipt of written notice by Levitt that he wishes to opt out and appropriate proof of alternate coverage, the City will remove Levitt from coverage on the City's plan as soon as possible and shall thereafter deposit \$125 per pay period into a retiree health savings account (RHSA) or directly to Levitt in lieu of contributions to medical insurance as provided in (C)(2)(a) above. The per pay period amount shall be paid directly to Levitt during any period between exercising the opt-out provision and appropriate implementation of the RHSA.
 - a. If during the term of this Agreement, Levitt elects to re-enroll in City sponsored health coverage, he shall no longer be eligible for this RHSA contribution. Levitt's re-enrollment in City sponsored health coverage shall be subject to the following terms:
 - i. Enrollment may only occur at the City's Open Enrollment or upon any qualifying event recognized by the City's health insurers.
 - ii. The City's contributions to the medical plan selected by Levitt shall be at the rate specified in Section C(2)(a) and C(3) above.
- D. Retiree Health. In lieu of Levitt's eligibility for a contribution to health insurance after retirement from the City, the City agrees to make contributions of \$125 each pay period that this Agreement is in effect into a retiree health savings account in a plan to be implemented by the City as soon as possible following the Effective Date of this Agreement.
- E. Life Insurance. Levitt shall be eligible for group life insurance equal to his annual base salary up to the annual base salary maximum set in the group policy, which at the Effective Date of this Agreement is \$200,000. Levitt is eligible to purchase voluntary

City group term life insurance through payroll deduction.

- F. Long-Term Disability Insurance. The City shall pay 100% of the premium for Levitt to be eligible for the City's long term disability insurance coverage.
- G. Consolidated Omnibus Budget Reconciliation Act Of 1985. In the event Levitt is eligible to remain on a City health or dental insurance plan following separation from employment other than retirement, the City may pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) charge Levitt for selected coverage the maximum rate permissible by law (presently 102% of the premium for an active employee).
- H. Medical Examination. Levitt is eligible for reimbursement of up to \$750 per year for the cost associated with undergoing a comprehensive medical examination. Funds not utilized for this purpose may be carried over from one year to the next up to a maximum accrual of \$2,000. Upon submission of certification of completion of a current comprehensive medical exam, all or part of these amounts may be converted to taxable income to pay for expenses which qualify under an IRC §125 Medical Reimbursement Account, or for reimbursement of Levitt's enrollment in a health club or in a related "wellness" program – e.g., smoking cessation, stress reduction or weight control.
- I. City Contribution to a Deferred Compensation Plan. City shall annually deposit a lump sum amount of \$6,000.00 into a 457 Deferred Compensation Plan for Levitt payable by December 1, 2022, and each December 1st thereafter, during the term of the Agreement, subject to the annual elective deferral limit allowed by law.

SECTION 5: Vehicle Use

Vehicle Use. Levitt shall receive \$275 per pay period for the use of his personal vehicle on City business. Levitt agrees that in exchange for such allowance, he shall be solely responsible for all costs related to purchase, maintenance, operation, upkeep, and insurance for his vehicle. Further, Levitt agrees he shall use a personal vehicle for City business and shall have sole responsibility for ensuring that such a vehicle is available for all his business needs, except that in the event Levitt is required to travel for City business, he may rent a vehicle, at the City expense, when travel is beyond 60 miles.

SECTION 6: Paid Leave

- A. Holidays. Levitt shall be eligible for paid leave on City recognized holidays.
- B. Vacation. The City shall provide an initial balance of 80 hours of vacation leave upon the Effective Date of this Agreement. Thereafter, during the term of the Agreement, Levitt shall accrue vacation leave at the rate of 160 hours per year. The initial balance granted herein shall not be a credit against leave subsequently accrued. Levitt may accumulate credit up to 320 hours. Levitt is encouraged to use at least 80 hours of vacation leave per year. If Levitt is at his maximum accrual and unable to take vacation leave, 40 hours shall be converted to cash. In addition, Levitt shall be permitted to convert up to 80 hours to cash each payroll year in accordance with the City's annual

leave conversion program.

- C. Sick Leave. The City shall provide an initial balance of 40 hours of sick leave upon the Effective Date of this Agreement. Thereafter, Levitt shall earn and accumulate 3.69 hours of sick leave for each pay period he has worked at least one full regular workday or been on paid vacation. He may use such sick leave in accordance with rules applying to Executive employees. The initial balance granted herein shall not be a credit against leave subsequently accrued.
- D. Bereavement Leave. Levitt shall be eligible for bereavement leave of up to 27 hours in accordance with the rules applying to Executive employees.
- E. Executive Leave. Levitt shall be entitled to 81 hours of paid Executive Leave per fiscal year. Such leave shall not accrue from year to year. Unused Executive Leave shall be lost at the end of each fiscal year and shall not be converted to any other form of compensation.

SECTION 7: General Business Expenses

- A. City recognizes that Levitt may incur expenses of a non-personal, job-related nature that are reasonably necessary to Levitt's service as City Manager. City agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to City's regular reimbursement requirements, or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be supported by documentation meeting City's normal requirements and must be submitted within time limits established by City.
- B. City agrees to budget and pay for professional dues, membership, and subscriptions necessary for Levitt's participation in such organizations as the Parties may agree to as necessary and appropriate.
- C. City agrees to pay the cost of a surety bond as required under the Fullerton Municipal Code.
- D. City agrees to budget and to reimburse or pay for reasonable costs for attendance and participation in meetings, institutes, training programs, conferences, conventions, and similar gatherings that support leadership development and the advancement of Parties' mutually agreed upon goals, and which are related to Levitt's duties or City's operations and held in the continental United States. For purposes of this paragraph, reasonable expenses are limited to the reasonable and actual cost of registration, coach-class airfare (where applicable), ground transportation and meals. Reasonable expenses will also include the reasonable and actual cost of lodging for meetings greater than 60 miles outside the City of Fullerton boundaries.
- E. The expenses to be budgeted and paid in Section 7, Paragraphs A, B, and C above, are exclusive of reasonable expenses related to events, participation in organizations, or attendance at events or meetings on behalf of the City as required by the City Council. City will separately budget and pay for membership and participation in

community, civic or other organizations or events in which City requires Levitt to participate.

SECTION 8: At-Will Employment Relationship

- A. Levitt is appointed by, and serves at the pleasure of, the City Council. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of City to terminate this Agreement and the employment of Levitt at any time, with or without Cause (as defined below). In the event the City Council decides to terminate this Agreement without Cause, Levitt shall be given at least 30 days written notice prior to the effective date of the termination. However, City and Levitt agree that termination without cause may not be exercised by the City during any period commencing ninety (90) days prior to a City Council general election or recall election and ending ninety (90) days following certification of such City Council general election or recall election. In the event City elects to terminate this Agreement prior to the stated term, City shall pay Levitt for all services through the effective date of termination and Levitt shall have no right to any additional compensation or payment, except as provided in Section 9, Severance and Benefit Payoff at Termination, and General Release Agreement, below.
- B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Levitt to resign from his employment with City, subject only to Levitt providing forty-five (45) calendar days' prior written notice to City of the effective date of his resignation. Upon the effective date of resignation, Levitt forfeits all compensation and benefits owing for the remainder of the term of this Agreement, as well as any potential severance pay. The City acknowledges that Levitt shall be eligible for payout of the cash value of accrued vacation leave at the time of separation.

SECTION 9: Severance and Benefit Payoff at Termination, and General Release Agreement

- A. The purpose of this Section 9 is to allow the parties to terminate this Agreement as expeditiously and smoothly as possible so that in exchange for the City's providing the severance described in this Section, Levitt will release the City from any claims against the City. The City, at its sole and absolute discretion, may terminate this Agreement (thereby terminating Levitt's Employment) with or without Cause, by the affirmative votes of a majority of the members of the City Council at a closed or open meeting of the City Council at any time during the term of this Agreement other than those periods during which termination without Cause is precluded under Section 8. The City Council may request Levitt's resignation and, if Levitt so agrees, the resignation shall be considered a termination of employment without Cause. If the City terminates this Agreement without Cause, and if Levitt signs, delivers to the City Council, and does not revoke, the General Release Agreement in the form attached hereto as Exhibit A, City shall pay Levitt beginning on the effective date of termination a lump sum benefit in compliance with Government Code Section 53260 equal only to six times the monthly value of his then applicable Base Salary (Section 3(A)) plus six times the monthly value of deferred compensation (Section 4(I)) and shall provide six (6) months of medical coverage as provided in Section 4 as long as Levitt is already enrolled and receiving medical coverage through the City medical benefits plan at time of termination.

(collectively, "Severance"). The City acknowledges that Levitt shall be eligible for payout of the cash value of accrued vacation leave at the time of separation.

B. If City terminates this Agreement (thereby terminating Levitt's Employment) with Cause, as determined by the affirmative votes of a majority of the members of the City Council at a meeting of the City Council, Levitt shall not be entitled to any additional compensation or payment, including Severance, except that the City acknowledges that Levitt shall be eligible for payout of the cash value of accrued vacation leave at the time of separation. If the City Council intends to terminate with Cause, based on a reason or reasons set forth in subpart 5 or 6, immediately below, the Council shall first deliver to Levitt a written Notice of Intent to Terminate, stating the reason or reasons for the proposed termination, and providing a thirty (30) day period for Levitt to cure. If, in the City Council's independent judgment, Levitt cures the identified reason or reasons for Cause termination, Levitt shall not be terminated therefor. As used in this Agreement, Cause shall mean any of the following:

1. Indictment, conviction or plea of nolo contendere to any felony or other crime involving moral turpitude;
2. Material breach of City policy or this Agreement, which breach Levitt has not cured, to the extent curable, to the satisfaction of the City Council within sixty (60) days after receiving notice of such breach;
3. Fraud, embezzlement, misappropriation of funds or disclosure of confidential information;
4. Misconduct or gross negligence that results, or reasonably could be expected to result, in financial damage to the City;
5. Failure to cooperate with an official investigation authorized by the City Council or City Attorney, or initiated by a governmental authority, in either case related to the City, its business, Council members or City employees; or
6. Acceptance of employment from another source which is inconsistent with full time employment as Fullerton's City Manager and/or in violation of this Agreement.

C. If Levitt terminates this Agreement (thereby terminating Levitt's employment), Levitt shall not be entitled to any additional compensation or payment, including Severance. The City acknowledges that Levitt shall be eligible for payout of the cash value of accrued vacation leave at the time of separation.

SECTION 10: Employee's Obligations and Hours of Work

Levitt shall devote his full professional energies, interest, abilities, and productive time to the performance of this Agreement and utilize his best efforts to promote City's interests. Levitt's duties may involve expenditures of time in excess of the regularly established workday or in excess of a forty (40) hour workweek and may also include time outside normal office hours (including attendance at City Council meetings and various community

meetings, forums or workshops). Levitt's base salary includes compensation for all hours worked. Levitt shall be classified as an exempt employee for purposes the Fair Labor Standards Act and shall not be entitled to any form of compensation for overtime. In recognition of the significant time Levitt will need to devote outside normal office hours to business activities of City and the exempt, salaried nature of the employment, Levitt is permitted to exercise a flexible work schedule. However, consistent with this flexibility and Levitt's participation in activities out of the office, Levitt will generally be expected to keep office hours at City Hall, during normal business hours.

SECTION 11: Confidentiality and Non-Disparagement

- A. Levitt acknowledges that in the course of his employment contemplated herein, Levitt 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 Levitt that is not public information or would be exempt from public disclosure as confidential, protected, exempt or privileged information. Levitt 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.
- B. Except as otherwise required by law, in the event the City terminates Levitt with or without Cause, the City and Levitt agree that no member of the City Council, the City management staff, nor Levitt shall make any written, oral, or electronic statement to any member of the public, the press, or any City employee concerning Levitt's termination except in the form of a joint press release or statement, which is mutually agreeable to City and Levitt. The joint press release or statement shall not contain any text or information that is disparaging to either Party. Either Party may verbally repeat the substance of the joint press release or statement in response to any inquiry. However, nothing in this Agreement prevents Levitt from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that you have reason to believe is unlawful.
- C. The obligations of City and Levitt under this Section 11 shall survive the termination of this Agreement.

SECTION 12: Outside Activities

Levitt shall not engage in any activity, consulting service or enterprise, for compensation or otherwise, which is actually or potentially in conflict with, incompatible with or inimical to, or which materially interferes with his duties and responsibilities to City (Cal. Govt. Code § 1125, et seq.).

SECTION 13: Defense and Indemnification

In accordance with the provisions of California Government Code sections 995 and 995.2 as they currently exist or may hereafter be amended, City shall defend and indemnify Levitt, using legal counsel of City's choosing, against any civil action or proceeding brought against

Levitt, in his official or individual capacity or both, on account of an act or omission in the scope of his employment as City Manager, unless such act or omission was due to actual fraud, corruption, or actual malice. In the event the City determines there is a conflict of interest between the Parties and Levitt and independent counsel is required for Levitt's defense, City shall select and pay the reasonable fees of such independent counsel for Levitt's defense. Levitt shall cooperate fully in the investigation and defense of any civil action or proceeding.

Levitt acknowledges and agrees that City reserves its rights pursuant to Government Code section 825(a) not to pay any judgment, compromise, or settlement until it is established that the injury arose out of an act or omission occurring within the scope of his employment, and that City's agreement to defend and indemnify him does not constitute an agreement to pay any punitive damages awarded against him. In that regard, Levitt acknowledges and agrees that pursuant to Government Code section 825(b), 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.

SECTION 14: Other Terms and Conditions of Employment

City may fix other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Levitt, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or applicable law.

SECTION 15: Notices

Notice pursuant to this Agreement shall be given by depositing written notification in the custody of the United States Postal Service, postage prepaid, addressed as follows:

(1) City:

City of Fullerton
c/o City Clerk
303 W Commonwealth Ave
Fullerton, CA 92832

(2) Levitt: *on file*

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable in civil judicial practice. Notice shall be deemed given as of the date of personal service or five days after the date of mailing.

SECTION 16: General Provisions

A. Integration. This Agreement sets forth the final, complete, and exclusive agreement between City and Levitt relating to the employment of Levitt by City. Any prior discussions or representations by or between the parties are merged into this Agreement or are otherwise rendered null and void. The Parties by mutual written agreement may amend any provision of this Agreement. Such amendments shall be

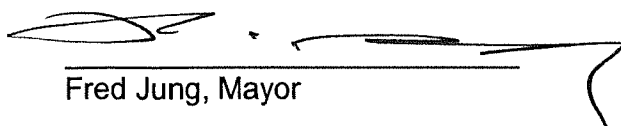
incorporated and made a part of this Agreement. The foregoing notwithstanding, Levitt acknowledges that, except as expressly provided in this Agreement, his employment is subject to City's generally applicable rules and policies pertaining to employment matters, such as those addressing equal employment opportunity, sexual harassment, and violence in the workplace, as they currently or may in the future exist, and his employment is, and will continue to be, at the will of the City Council.

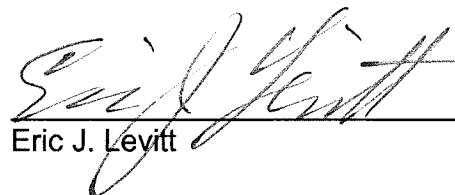
- B. Binding Effect. This Agreement shall be binding on the City and Levitt as well as their heirs, assigns, executors, personal representatives, and successors in interest.
- C. Choice of Law and Venue. This Agreement shall be interpreted and construed pursuant to and in accordance with the laws of the State of California and all applicable City Ordinances, Policies and Resolutions. Any legal action arising under or related to this Agreement shall be brought and prosecuted in the Orange County Superior Court.
- D. Severability. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.
- E. Conflict with Municipal Code. The City personnel ordinances, resolutions, rules, and policies shall apply to Levitt in the same manner as applied to other management employees, provided, however, in the event of a conflict between the provisions of this Agreement and the Municipal Code, the City Municipal Code shall prevail over this Agreement.
- F. Levitt's Independent Review. Levitt acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Levitt acknowledges that he has made an independent judgment upon the financial and legal effects of this Agreement and has not relied upon any representation of City, its officers, agents, or employees other than those expressly set forth in this Agreement. Levitt acknowledges that he has been advised to obtain, and has availed himself of, legal advice with respect to the terms and provisions of this Agreement.

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

CITY OF FULLERTON

ERIC J. LEVITT


Fred Jung, Mayor


Eric J. Levitt

Dated: _____

Dated: 3-19-2022

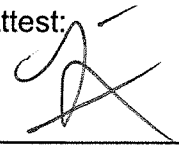
Approved as to Form:



Richard D. Jones, City Attorney

Dated: 3-16-22

Attest:



Lucinda Williams, City Clerk

Dated: 3-16-22

EXHIBIT A

GENERAL RELEASE AGREEMENT

This General Release Agreement ("Agreement") is entered into by and between ERIC J. LEVITT ("Levitt") and CITY OF FULLERTON ("City"), in light of the following facts:

- A. Levitt's employment with City concluded on _____.
- B. Certain disputes have arisen between City and Levitt.
- C. City and Levitt each deny any liability whatsoever to the other.
- D. City and Levitt wish to fully and finally resolve any and all disputes they may have with each other.
- E. Levitt is hereby informed that he has twenty-one (21) days from receipt of this Agreement to consider it City hereby advises Levitt to consult with his legal counsel before signing this Agreement.
- F. Levitt acknowledges that for a period of seven (7) days following the signing of this Agreement ("Revocation Period"), he may revoke the Agreement. This Agreement shall not become effective or enforceable until the day the Revocation Period has expired.
- G. Levitt acknowledges that the Salary Payment referenced in paragraph 1 of this Agreement represents all compensation, including salary, accrued benefit balances and reimbursed expenses, due and payable to him through the date of employment termination. Levitt also acknowledges that City has made this Salary Payment without regard to whether he signs this Agreement. The Salary Payment does not constitute consideration for this Agreement. Levitt acknowledges that the Severance referenced in paragraph 2 of this Agreement is in excess of all amounts that are due and owing to him as a result of his employment by City.
 - 1. Receipt of Salary Payment. Levitt hereby acknowledges receipt of a check or checks for all compensation owing to him, including salary, accrued benefit balances and reimbursed expenses ("Salary Payment") from City.
 - 2. Severance. Within ten (10) days following Levitt's signing, delivering to the City Council, and not revoking this Agreement, City shall pay Levitt the gross amount provided for in Section ___ of the Employment Agreement effective _____, less applicable deductions, and shall provide the months of medical benefits as provided in that same Section ___ ("Severance"). Levitt acknowledges that the Severance is in excess of all amounts due and owing him as a result of his employment by the City.
 - 3. General Release. In consideration of the Severance to be paid and provided to Levitt, and other good and valuable consideration, Levitt hereby releases and discharges

City and its past and present City Council Members, employees, representatives and agents, from all rights, claims, causes of action, and damages, both known and unknown, in law or in equity, concerning and/or arising out of his employment with City which he now has, or ever had, including but not limited to any rights, claims, causes of action or damages arising under Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of 1973, the Employee Retirement Income Security Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers Benefits Protection Act, the Family and Medical Leave Act of 1993, the Domestic Partners Act of 2003, the California Labor Code, the Private Attorneys General Act of 2004, the California Moore-Brown-Roberti Family Rights Act, the California Unruh Civil Rights Act, the California Fair Employment and Housing Act, any other federal, state, or local employment practice legislation, or any federal or state common law, including wrongful discharge, breach of express or implied contract, or breach of public policy.

Levitt hereby waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of California. Levitt understands and acknowledges the significance and consequences of this specific waiver of Section 1542. Section 1542 of the Civil Code of California states as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of City and its past and present City Council Members, employees, representatives, and agents, Levitt expressly acknowledges that this General Release is intended to include in its effect, without limitation, all claims which he does not know or suspect to exist in his favor.

Levitt further acknowledges that he has read this General Release and that he understands that this is a general release, and that he intends to be legally bound by the same.

4. Fees. Levitt and City agree that in the event of litigation relating to this General Release Agreement, the prevailing party shall not be entitled to recover his/its reasonable attorneys' fees.

CITY OF FULLERTON

ERIC J. LEVITT

Fred Jung, Mayor

Eric J. Levitt

Dated: _____

Dated: _____

Approved as to Form:

Richard D. Jones, City Attorney

Dated: _____

Attest:

Lucinda Williams, City Clerk

Dated: _____