

**CITY OF FULLERTON
ASSISTANT DIRECTOR OF PUBLIC WORKS - MAINTENANCE
EMPLOYMENT AGREEMENT**

This Employment Agreement ("Agreement") is made and entered into this sixth (6th) day of March 2024 by and between the City of Fullerton, a California municipal corporation (hereafter "City"), and Richard Armendariz (hereinafter referred to as "Armendariz").

RECITALS

WHEREAS, the City desires to retain the services of Armendariz as the Assistant Director of Public Works - Maintenance to serve at the direction of the Director of Public Works; and

WHEREAS, Armendariz desires to perform the services of the Assistant Director of Public Works - Maintenance; and

WHEREAS, the City desires to provide certain benefits, establish certain conditions of employment, and set certain working conditions of the Assistant Director of Public Works - Maintenance; and

WHEREAS, the City and Armendariz desire to enter into this Agreement to specify the terms and conditions of Armendariz's employment with the City.

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

1. Duties

City hereby agrees to employ Armendariz as Assistant Director of Public Works - Maintenance beginning March 2, 2024 (hereinafter "Appointment Date" and/or "Effective Date") to perform the functions and duties of the Assistant Director of Public Works - Maintenance as set forth in the Class Specification for Assistant Director of Public Works - Maintenance 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 Assistant Director of Public Works - Maintenance may from time to time assign.

2. Term and Conditions

A. All ordinances, resolutions, policies, rules, regulations, procedures and benefits ("City Rules") which apply to Executive employees shall apply to Armendariz, including, but not limited to, Resolution No. 2023-68, Compensation for Executive Employees (hereinafter "Executive Compensation Resolution") as it currently exists or may hereafter be

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amended or superseded or as modified herein.

- 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 Armendariz with respect to the City's disciplinary and appeals procedures. Armendariz serves at the pleasure of the Director of Public Works and may be discharged without cause provided that he is given three (3) months written notice. As an alternative to such notice, Armendariz shall receive a lump sum cash payment equal to six (6) months of his then-current base salary and the City shall pay for the first six (6) months of COBRA coverage under any City sponsored medical, dental or vision plan in which Armendariz and his dependents are covered at the time of his separation. This requirement shall not apply if Armendariz is discharged for cause, which may include but is not limited to discharge due to acts of moral turpitude or conviction of a felony.
- C. If Armendariz voluntarily resigns or retires, he 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 Armendariz may receive related to the termination of this Agreement, including, but not limited to a severance payment and the cost of COBRA payments, shall be fully reimbursed to the City if Armendariz is convicted of a crime involving "an abuse of office or position", as that term is defined in Government Code section 53243.4.

3. Work Schedule

Armendariz will work a standard work schedule. The precise daily schedule is subject to determination by the Director of Public Works based on the City's business needs.

4. Salary

City agrees to compensate Armendariz for services rendered, no less than \$147,000 per year (approximately \$70.673 per hour). With continued satisfactory performance as determined by the Director of Public Works, and with approval of the City Manager, Armendariz shall be eligible for annual salary increases of 5%. In the event that the City fills the position of Water Systems Manager (FMA Salary Range 665), City agrees to adjust Armendariz's salary, if necessary, in an amount that ensures that he is compensated at 10% of above the base salary range for the Water Systems Manager. In no event shall Armendariz be compensated higher than the top of the then-current salary range for Assistant Director of Public Works - Maintenance.

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5. CalPERS

Armendariz 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 Armendariz's contribution towards CalPERS shall be made in accordance with the Executive Compensation Resolution or any successor resolutions.

6. Retiree Medical

Armendariz is entitled to City contributions to medical insurance after retirement from the City pursuant to the terms of Executive Compensation Resolution.

Pursuant to the authority provided in the Executive Compensation Resolution, the City Manager also authorizes the \$750 annual medical exam benefit provided in Section 19(A) of the Resolution, to be converted into a City contribution to Armendariz's retiree health savings account in the amount of \$28.85 per pay period.

7. Vacation Accrual

Armendariz shall accrue vacation time in accordance with the Executive Compensation Resolution. All vacation hours accrued by Armendariz prior to the effective date of this Agreement shall carry over to Armendariz in the position of Assistant Director of Public Works - Maintenance.

8. Sick Leave

Armendariz shall accrue sick leave at the rate of 3.69 hours per pay period.

9. Executive Leave

Armendariz will accrue Executive Leave at the rate of 81 hours per fiscal year in accordance with the Executive Compensation Resolution. An initial bank of 27 hours will be established for use by Armendariz for the remainder of Fiscal Year 2023-24. All Management Leave hours accrued by Armendariz prior to the effective date of this Agreement shall be forfeited.

10. Discretionary Holiday Leave (DHL)

All DHL hours accrued by Armendariz prior to the effective date of this Agreement shall carry over to Armendariz in the position of Assistant Director of Public Works - Maintenance. Use of carried-over DHL hours shall be according to the City's regular rules and procedures for DHL.

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11. Other benefits

Except as noted in this provision, Armendariz 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, and paid holidays. Armendariz shall not be entitled to a vehicle allowance.

12. 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 Armendariz 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 4 above.

13. Indemnification

City shall defend, hold harmless and indemnify Armendariz 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 Director of Public Works - Maintenance 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.

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

Armendariz 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 Armendariz in any such liability claim, demand or legal action. In that regard, Armendariz 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.

14. Other Terms and Conditions of Employment

The Director of Public Works, in consultation with Armendariz, shall establish any other terms and conditions of employment as he/she may determine from time to time, relating to the performance of Armendariz, 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.

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15. 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
303 W. Commonwealth Ave.
Fullerton, CA 92832-1775

To Armendariz:
Address on record with Human
Resources Department

16. General Provisions

- A. This Agreement constitutes the entire agreement between the parties.
- B. If any provision or portion thereof contained in this Agreement is held unlawful, 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.
- C. In the event of any legal action between the parties hereto to enforce the provisions of this Agreement, each party shall bear their own legal fees and costs.

{SIGNATURES ON FOLLOWING PAGE}

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IN WITNESS WHEREOF, the City has caused this Agreement to be signed and duly executed on its behalf by its City Manager, and Armendariz has signed and executed this Agreement, the date and year first written above.

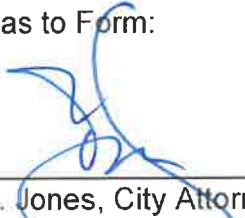
By: 
Eric Levitt, City Manager

Date: 3/6/24

By: 
Richard Armendariz

Date: 3/6/24

Approved as to Form:


Richard D. Jones, City Attorney

Dated: 3/6/24