

PARTICIPATION AGREEMENT

I hereby apply for the Early Retirement Incentive Program (ERIP) from the City of Grand Rapids. For purposes of this Participation Agreement and Release of Claims, the term "City" refers to the City of Grand Rapids and includes their past, present and future officers, officials, employees, volunteers, and agents, insurers, representatives, counsel, administrators, or any of them, in both their individual and official capacities. I have read the ERIP Information Sheet in this packet and understand the terms and conditions of the ERIP and agree to be bound by those conditions.

I will be eligible for a PERA pension on the following dates:

- Full unreduced pension on _____ (date).
- Early (reduced) pension on 2/21/2016 (date)

A. Resignation or Retirement.

I understand that by signing this Agreement, I voluntarily agree to resign from my employment with the City of Grand Rapids on the following date:

October 31, 2021 (date)

I understand and agree that by participating in the Early Retirement Incentive Program and signing this Participation Agreement and Release of Claims, I may not return to employment in any permanent position with the City of Grand Rapids. I further understand and agree that if I accept another position with the City prior to my separation date, regardless of the starting date of the position, I will not be eligible for and will not receive any incentive payment under this Program.

I further understand and agree that I will sign the Release of Claims Agreement provided to me as a part of the ERIP packet on my last day of employment with the City and that my participation in the program is contingent upon the City's receipt of that signed Release of Claims agreement.

B. Benefits Paid under the Early Retirement Incentive Program.

I agree that if I have provided the City with a signed and dated Release of Claims Agreement as set forth above, in exchange for my voluntary separation, the City of Grand Rapids will provide me with the benefits and additional pay as set forth in Section 3 of the Information Sheet in this packet.

C. My Acknowledgement of the Consideration and Purpose of the Release of Claims

I received the Early Retirement Incentive Program materials authorized by the City of Grand Rapids on May 24, 2021, and reviewed them. These materials include descriptions of who is eligible for the Incentive Program and the time limitations under the Incentive Program. The City encouraged me to seek counsel from a financial advisor and lawyer before signing this Participation Agreement and Release of Claims.

I have at least forty-five (45) calendar days to consider whether to sign this Participation Agreement and Release of Claims. I understand that I may knowingly and voluntarily agree to waive the forty-five (45) calendar day consideration period by electing to sign the Participation Agreement and Release of Claims before the forty-five (45) calendar days have passed. The City encouraged me to take my time and carefully evaluate my circumstances before deciding if signing this Participation Agreement and Release of Claims is the right thing for me to do.



Signature

7-30-21

Date

Application must be submitted to the City Administrator by 12:00 p.m. on July 30, 2021

RELEASE OF CLAIMS AGREEMENT

This Release of Claims Agreement ("Agreement") is made and entered into and executed on the latest date affixed to the signatures hereto by and between the City of Grand Rapids, Minnesota (the "City") and Kelly Morris ("Employee") in consideration for the City's payment of certain benefits to Employee under the City's early retirement incentive program, for which program Employee has voluntarily applied for and chosen to participate in.

All parties hereto, in consideration of their mutual covenants and Agreements to be performed, as hereinafter set forth, agree as follows:

Article 1. Consideration

In consideration for Employee's voluntary participation in the City's early retirement incentive program and execution of this agreement, the City will pay Employee \$15,000 annually for five (5) years (60 months). To the extent an employee is eligible for payment under this provision greater than their 2021 annual salary, any amounts in excess of their 2021 annual salary will be paid in the form of a contribution toward their MSRS account. Additionally, if Employee retires prior to November 1, 2021 under this program, the City will make an additional one-time payment of \$3,500 to Employee for the same purpose.

The City will also pay Employee in full for any unused Flexible Time Off (FTO) at the time of Employee's retirement up to a maximum of 288 hours.

The payments described in this Article are the full and final compensation for any and all claims arising out of Employee's employment with the City.

Article 2. No Precedent or Past Practice

All parties to this Agreement hereby acknowledge and agree that: (1) this Agreement is solely for the purposes of resolving the matters in this Agreement; (2) the terms of this Agreement do not have any precedential value beyond this Agreement; and (3) neither this Agreement nor its terms can be introduced, referred to, or in any other way utilized in any subsequent negotiations, mediation, arbitration, litigation, or administrative hearing, except as may be necessary to enforce its provisions and terms.

Article 3. No Recall Rights

Employee agrees that he/she has no recall rights to employment with the City nor will he/she assert such rights under any applicable Labor Agreements between the City and any collective bargaining unit.

Article 4. Employee Waiver and Release

Section 4.1 Employee knowingly and voluntarily waives his right to pursue and release the City from any and all grievances, claims, demands, actions, liability, damages or rights of any kind, whether known or unknown, that he/she has asserted or may assert, directly arising out of or resulting from Employee's employment with the City to the extent such claims can be waived and released. These claims include, but are not limited to:

- a. Claims for breach of contract, fraud or misrepresentation, deceit, assault and battery, defamation, all forms of unlawful discrimination and/or harassment, negligence, intentional or negligent infliction of emotional distress, mental anguish, humiliation, embarrassment, pain and suffering, reprisal, unfair labor practices, breach of the covenant of good faith and fair dealing, promissory estoppel, negligence or other breach of duty, wrongful termination of employment, retaliation, breach of public policy, vicarious liability, invasion of privacy, interference with contractual or business relationships, reprisal; and
- b. All claims and rights arising under the Veterans Preference Act, Minn. Stat. § 197.46; any applicable Labor Agreement; the City's Personnel Policy Manual; the Minnesota Human Rights Act, Minn. Stat. §§ 363A.01-41; Title VII of the Civil Rights Act, 42 U.S.C. §§ 2000e – e-17; the Family and Medical Leave Act, 29 U.S.C. §§ 2601-54; the Americans with Disabilities Act, 42 U.S.C. § 12101-117; the Rehabilitation Act of 1973, 29 U.S.C. § 701-96i; the Workers' Compensation Act, Minn. Stat. §§ 176.01-.861; the Public Employment Labor Relations Act, Minn. Stat. §§ 179A.01-.30; the Equal Pay Act ("EPA"), the Lilly Ledbetter Fair Pay Act of 2009, the Minnesota Occupational Health and Safety Act, Minn. Stat. §§ 182.65-.676; the Minnesota Whistleblower Act, Minn. Stat. §§ 181.931-.935; the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34; and the state and federal Fair Labor Standards Acts, 29 U.S.C. §§ 201-19, Minn. Stat. §§ 177.21-.35; claims for continued health insurance coverage under Minn. Stat. § 299A.465, or other federal, state or local civil rights laws prohibiting discrimination, and any other claims for unlawful employment practices; and common law.
- c. Claims for alleged injuries or damages or compensation for bodily injury, personal injury, wage loss benefits, reinstatement, medical expenses, emotional distress, fines, penalties, punitive damages, attorney's fees, costs and expenses, interest, and claims of injunctive relief.

Section 4.2 Employee waives his right to contest any recall or failure to recall Employee to employment with the City under Minn. Stat. § 197.46 and any applicable Labor Agreement.

Article 5. Consideration and Rescission

Section 5.1 Employee has 21 days in which to consider this Agreement pursuant to the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34, 5/25/2021 *gml*
Employee was provided a copy of this Agreement on 7/30/2021.

Section 5.2 Employee has the right to rescind the release of the claims set forth in Article 4 of this Agreement with regard to claims arising under the Minnesota Human Rights Act, Minn. Stat. §§ 363A.01-41, within 15 calendar days of execution of this Agreement, and with regard to his rights arising under the Age Discrimination in Employment Act, 29 U.S.C.

§§ 621-34, within 7 calendar days of execution of this Agreement. The two rescission periods shall run concurrently. In order to be effective, the rescission must:

- A. Be in writing;
- B. Be delivered to Tom Pagel, City Administrator, 420 North Pokegama Avenue, Grand Rapids, MN 55744; and
- C. If delivered by mail, the rescission must be postmarked within the required period, properly addressed to Tom Pagel, as set forth above, and sent by certified mail, return receipt requested.

This Agreement will be effective upon the expiration of the 15-day period if there is no rescission. If Employee rescinds this Agreement in accordance with this article, he/she will not be permitted to participate in the City's early retirement incentive program, will not receive the payment(s) set forth in Article 1 of this Agreement and he/she will be obligated to return any benefits and payments if already received pursuant to this agreement.

Article 6. Amendment, Modification, or Termination

This Agreement or any of its terms may only be amended, modified, or terminated by a written instrument signed by or on behalf of all of the parties hereto or their successors in interest.

Article 7. Entire Agreement

This Agreement constitutes the entire agreement among the parties hereto. No representations, warranties, covenants, or inducements have been made to any party concerning this Agreement, other than the representations, covenants, or inducements contained and memorialized in this Agreement. This Agreement supersedes all prior negotiations and oral and written agreements and understandings with respect thereto.

Article 8. Binding Effect

This Agreement is binding upon, and inures, to the benefit of the successors, executors, administrators, heirs and legal representatives of the parties hereto. This Agreement is not assignable by any party. Any purported assignment by any party shall be null and void and not operate to relieve such party of its obligations hereunder.

Article 9. Governing Law and Severability

Section 9.1 This Agreement is governed by the laws of the State of Minnesota, both as to interpretation and performance. The rule of construction of interpreting a contract against its drafter will not apply to this Agreement.

Section 9.2 If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable by any branch of government with authority over such provision or portion thereof, the remainder of this Agreement shall be deemed

severable, shall not be affected, and shall remain in full force and effect.

Article 10. Voluntary and Knowing Action

Employee acknowledges that: (1) he/she has read and understands the contents of this Agreement; (2) he/she has been given a fair opportunity to discuss and negotiate the terms of this Agreement; (3) he/she is advised to consult an attorney before signing this Agreement; (4) he/she was represented by an attorney prior to signing this Agreement; (5) he/she agrees with the Agreement's provisions and is voluntarily and without duress entering into this Agreement; and (6) he/she has been given at least 21 days to consider this Agreement. If Employee signs the Agreement before the expiration of the 21 day period, it is because he has decided voluntarily that he does not need any additional time to decide whether to sign the Agreement.

Article 11. Effective Date

This Agreement is not effective nor executed until the latest date affixed to the signatures hereto.

By: 
EMPLOYEE

Dated: 7-30-21

Accepted on behalf of the City of Grand Rapids

By: _____
Mayor

Dated: _____

By: _____
City Administrator

Dated: _____