

SEPARATION AGREEMENT AND GENERAL RELEASE

This Separation Agreement and General Release ("Agreement") is hereby made and entered into by and between CARMEN DAVIS ("Employee") and CITY OF LAKE WORTH BEACH (hereinafter referred to as "Employer"). In exchange for the mutual promises set forth below and intending to be legally bound, the Employer and the Employee agree to the following terms and conditions:

- A. Employee was employed as a City Manager of said Employer; and
- B. Employee is separated from employment effective _____, without cause. As such, the Employer shall have no obligation to employ Employee under any circumstances in the future.
- C. Employee recognizes that her last day of work is _____. However, if Employee accepts the terms and conditions of this Agreement, Employee shall receive Severance Pay in a gross amount equivalent to 20 weeks of Base Salary and the value of Benefits as defined in VIII(B)(1) of the Employment Agreement (less required withholding for federal, state and local taxes) as set forth in Paragraph G of this Agreement.
- D. It is agreed and understood that neither the offer or acceptance of this Agreement nor the payment of any money or provision of benefits hereunder constitute or will be construed as an admission of liability or of any wrongdoing or violation of laws, rules or policies by the Employer or the Employee.
- E. Employee hereby releases and discharges the Employer (and all of its affiliates, successors, assigns, directors, officers, insurers, board members, employees, attorneys and agents) from and against any and all liability to Employee upon claims, causes of action or obligations of every nature whatsoever, whether known or unknown, arising out of or relating to Employee's employment, separation from employment, or any other act, event, failure to act or things which have occurred or were created at any time before or upon the date on which this Agreement is signed and becomes effective. Without limiting the generality hereof, this release covers claims or causes of action based upon all torts (such as, for example, negligence, fraud, defamation, wrongful discharge, invasion of privacy); express and implied contracts (except this Agreement); federal, state or local statutes and ordinances, including those which regulate employment practices (such as, for example, the Age Discrimination in Employment Act, Family Medical Leave Act, Federal Civil Rights Acts (including but not limited to 42 U.S.C.A Sections 1981 – 1988, 2000a-6, and 2000e-17); the Americans with Disabilities Act, the National Labor Relations Act; the Older Worker Benefit Protection Act, The Florida Civil Rights Act; any state or federal Whistleblower's Act; Public Employee Relations Act; Title VII of the Civil Rights Act; the Civil Rights Act of 1991; the Reconstruction Era Civil Rights Act of 1866; the Employee Retirement Income Security Act; the Patient Protection and Affordable Health Care Act; the Genetic Information Nondiscrimination Act; the Public Health Services Act; Sarbanes-Oxley; the Rehabilitation Act of 1973; the Health Insurance Portability and Accountability Act; the Equal Pay Act; the Worker Adjustment and Retraining Notification Act; the Occupational Safety and Health Act; the Consolidated Omnibus Budget Reconciliation Act; the Florida Civil Rights Act; the Florida Equal Pay Act; any claims under Fla. Stat. 448.08 for unpaid wages and waivable rights under the Florida Constitution; and any and all amendments to such acts); any and all claims for violation of any statutory or administrative rules, regulations or codes; any right or entitlement to any individual relief including damages, attorneys' fees, and costs which may be available through local, state, or federal regulatory agencies such as the EEOC; expenses, costs, fees, and/or attorneys' fees, incurred or claimed in connection with any alleged claims; and every other source of legal rights and obligations which may validly be waived or released, except rights created or preserved expressly in this Agreement.

- F. The Employee makes the following representations to the Employer, each of which is necessary before the Employer will pay Severance Pay to the Employee under this Agreement:
- (1) that the payments and other benefits which the Employer has agreed to provide, as stated below, are payments and benefits to which she would not be entitled if it were not for this Agreement;
 - (2) that no consideration, promises, agreements or representations have been made to her to encourage her to sign this Agreement, except those that are contained in this Agreement;
 - (3) that she has read and understands each and every provision of this Agreement and any waiver pursuant to this Agreement is knowing and voluntary;
 - (4) that she has been advised by the Employer that she has seven (7) days from the date she signs this Agreement to rescind her acceptance of this Agreement in writing by delivering such written rescission to the Mayor within the 7-day period;
 - (5) that she has been advised by the Employer that she should consult an attorney of her own choosing before signing this Agreement;
 - (6) that she has had an adequate and reasonable period of time (at least 21 calendar days) to decide whether or not to sign this Agreement. Accordingly, failure to sign and deliver the Agreement to the City Attorney on or before **5:00 p.m. on the 25th day following the date of termination**, shall be deemed a rejection of the Agreement and she shall not be entitled to the benefits outlined herein to which she would not otherwise be entitled. Material or immaterial changes to this Agreement do not restart the running of the 21-day period.
 - (7) that she has not filed any complaints or initiated any other legal proceedings against the Employer before the date of signing this Agreement.
 - (8) that she has not assigned, transferred or purported to assign or transfer any claims released in this Agreement to any person, association or entity.
 - (9) that she has accurately reported all hours worked and has been paid in full for all time worked in accordance with the law and is owed no wages, whether in the form of straight time, overtime, or liquidated damages.
 - (10) that she has not suffered an occupational disease or disability or any on-the-job-related accident or injury of the type that might have entitled her to file a Workers' Compensation claim, whether temporary, permanent, partial or total.
 - (11) that she was provided and received all paid and unpaid leaves of absence to which she was entitled.
 - (12) that she assumes the risk for any mistake of fact now known or unknown and that she understands the significance of this Agreement.
 - (13) that she has the mental capacity to enter into this Agreement.

- G. In exchange for the general release and other promises and acknowledgments made by Employee in this Agreement, the Employer agrees to pay Employee Severance Pay equal to 20 weeks of Base Salary and the value of Benefits as defined in VIII(B)(1) of the Employment Agreement (less required withholding for federal, state and local taxes).
- H. Employee agrees (unless otherwise required by law) not to:
- (1) discuss the existence of the terms of this Agreement, subject to Section F(5);
 - (2) disclose to any third party any confidential information of the Employer;
 - (3) make any statements, whether verbal or written, that disparages or defames the Employer;
or
 - (4) file any claims waived by this Agreement.
- I. Employee agrees to indemnify, defend and hold Employer harmless from and against any cost or expense including, but not limited to, attorney's fees and costs at any level of trial and appeal, incurred by Employer with respect to its enforcement of the terms of this Agreement by any legal or equitable means. However, this provision does not apply to any claims made under the ADEA.
- J. This Agreement shall inure to the benefit of and be binding upon the Employer and Employee and each of their successors, assigns, affiliates, devisees, heirs, administrators and representatives.
- K. This Agreement constitutes the entire agreement by and among the parties hereto and there are no agreements or commitments by or among the parties, either verbal or written, except as expressly set forth herein.
- L. Should any part, term, or provision of this Agreement be declared or be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms, or provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term, or provision shall be deemed not a part of this Agreement.
- M. The Agreement shall be governed exclusively by Florida Law and venue for any action herein shall be in the courts of Palm Beach County.
- N. This Agreement and General Release shall not be construed against the party who drafted same.
- O. The rights, responsibilities, and duties of the parties, and the agreements herein, shall continue to bind the parties in full force and effect until each and every obligation has been fully performed.
- P. Employee will separately receive information regarding his eligibility to continue any medical insurance under COBRA at his sole cost and expense.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written below.

CITY MANAGER

CARMEN DAVIS

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of _____ 202_ by **Carmen Davis**, who is personally known to me, or has produced _____ as identification and did/did not take an oath.

Notary Public
Signature and Seal

My commission expires:

ATTEST

CITY OF LAKE WORTH BEACH, FLORIDA

BY: _____
Melissa Ann Coyne, City Clerk

BY: _____
Betty Resch, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
Glen J. Torcivia, City Attorney