

**PLEASE READ THIS SEPARATION AGREEMENT AND  
GENERAL RELEASE CAREFULLY. IT CONTAINS A RELEASE  
OF ALL KNOWN AND UNKNOWN CLAIMS. YOU ARE ADVISED  
TO CONSULT WITH AN ATTORNEY PRIOR TO SIGNING**

**SEPARATION AGREEMENT AND GENERAL RELEASE**

THIS SEPARATION AGREEMENT AND GENERAL RELEASE (hereinafter the "Agreement") is made and entered into by and between WENDY CULLEN ("CULLEN") and the City of Palm Coast, Florida (the "CITY").

**Recitals**

WHEREAS, CULLEN has elected to voluntarily resign her employment with the CITY effective; June 12, 2019.

WHEREAS, CULLEN and the CITY desire to settle fully and finally all actual and potential differences and disputes between them arising directly or indirectly from CULLEN'S employment with the CITY, from the resignation of her employment and/or from any other incident, source or cause;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the sufficiency and adequacy of which mutual consideration is hereby acknowledged, the parties resolve all disputes between them from the beginning of time to the date of their execution of this Agreement, as follows:

1. **Truth of Recitals.** The foregoing recitals are true and correct.
2. **No Admission of Liability.** Neither this settlement nor this Agreement shall be construed as any admission or adjudication of liability against the CITY and/or against the CITY's past or present elected officials, appointed officials, officers, directors, agents, representatives, employees, attorneys, employee benefit plans, trustees, fiduciaries, administrators, related entities, predecessors, successors and assignees (hereafter the "CITY et al.") as an admission or adjudication of any violation

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of local, state and/or federal law by the CITY and/or the CITY et al. or as an admission or adjudication of any wrongdoing of any kind.

**3. Release of the CITY and the CITY et al.** In consideration of the covenants and promises of the CITY as stated in this Agreement, CULLEN on behalf of herself and her family members, heirs, devisees, and assignees, hereby fully and finally releases and discharges the CITY and the CITY et al. from any and all claims, claims of unpaid interest, claims of unpaid wages, claims of recordkeeping violations, claims of unpaid overtime compensation, claims of unpaid minimum wages, claims of unpaid expenses, liquidated damages claims, claims of unpaid benefits, claims of unpaid vacation, claims of unpaid sick leave, claims of unpaid personal leave, claims of unpaid paid days off, claims of unpaid severance, claims for emotional distress or mental anguish, claims of physical injury, claims for compensatory damages, claims for punitive damages, claims of unlawful retaliation, claims for loss of consortium, charges, demands, debts, rights, damages, liens, costs, losses, suits, actions, causes of action, claims for attorney's fees and costs, in law or in equity, known or unknown, which CULLEN and/or her family members, heirs, devisees, and assignees presently have or have had against the CITY and/or the CITY et al. arising from or by reason of any matter, act, omission, cause or thing whatsoever, known or unknown, foreseen or unforeseen, anticipated or unanticipated, asserted or unasserted, from the beginning of time to the date CULLEN executes this Agreement as specified hereinafter, including without limitation, any and all claims by or on behalf of CULLEN and/or her family members, heirs, devisees and assignees that the CITY and/or the CITY et al. have ever committed any statutory violation, violation of any state or federal constitutional provision, violation of any Executive Order, violation of any local, state, federal or international law, norm or regulation, violation of common law, breach of contract, tortious act, or other wrongdoing; any and all claims of other liability or damage of any nature whatsoever which have arisen or might have arisen from any

alleged acts, omissions, events, circumstances or conditions related to CULLEN'S past employment with the CITY, or her treatment by the CITY and/or the CITY et al.; any and all claims asserted by CULLEN or that could have been asserted by CULLEN in any claim, complaint, suit or charge against the CITY and/or the CITY et al. (including, without limitation, any complaints made to any local, state or federal agency), for or on account of any matter or thing whatsoever occurring up to and including the date of CULLEN'S execution of this Agreement; any and all claims arising out of alleged violations of any alleged employment or other contractual promise or covenant, express or implied, or any tort; any and all claims, including but not limited to those based upon the following laws and their supporting regulations, if any: (1) Any federal or state constitutional provision or amendment, including without limitation, the First, Fourth, Fifth and/or Fourteenth Amendments to the United States Constitution; (2) Title VII of the Civil Rights Act of 1964; (3) The Civil Rights Act of 1991; (4) Sections 1981 through 1988 of Title 42 of the United States Code; (5) any Executive Order; (6) the Rehabilitation Act of 1973; (7) the Americans with Disabilities Act ("ADA"); (8) the Age Discrimination in Employment Act ("ADEA"); (9) the Employee Retirement Income Security Act of 1974 ("ERISA"); (10) the Family and Medical Leave Act ("FMLA"); (11) the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"); (12) the American Recovery and Reinvestment Act of 2009 ("ARRA"); (13) Florida's Public Sector Whistleblower Protection Act (Section 112.3187, et seq., Florida Statutes); (14) the Florida Civil Rights Act (Section 760.01, et seq., Florida Statutes); (15) the Fair Labor Standards Act ("FLSA"); (16) the Occupational Safety and Health Act ("OSHA"); (17) the Worker Adjustment and Retraining Notification Act ("WARN"); (18) the Sarbanes-Oxley Act of 2002; (19) Chapter 448, Florida Statutes; (20) the minimum wage amendment under the Florida Constitution; (21) Florida Workers' Compensation Law; (22) Florida's statutory provision regarding retaliation/discrimination for filing a Workers' Compensation claims (Section 440.205, Florida

Statutes); (23) Florida's Wage Discrimination Law (Section 448.07, Florida Statutes); (24) Florida's law prohibiting discrimination on the basis of the sickle cell trait (Section 448.075, et seq., Florida Statutes); (25) Florida's HIV/AIDS anti-discrimination law (Section 760.50, Florida Statutes); (26) the Immigration Reform and Control Act; and (27) state law causes of action, whether statutory or based upon common law, including, but not limited to, those for wrongful termination, invasion of privacy, battery, assault, false imprisonment, defamation, libel, slander, intentional or negligent infliction of emotional distress, fraud, fraud in the inducement, breach of express or implied contract, and breach of any express or implied covenant of good faith and fair dealing, the validity, existence or occurrence of which is expressly denied by the CITY and the CITY at al. Further, CULLEN represents and warrants that she has not sustained any work-related injury or personal injury in the course of her employment with the CITY; and that no cause exists for, and she is unaware of any valid basis for, a claim for workers' compensation benefits against the CITY.

4. **Promise to Forego Legal Action and to Indemnify.** In consideration of the covenants and promises of the CITY as stated in this Agreement, CULLEN on behalf of herself and her family members, heirs, devisees, and assignees, promises never to file any lawsuits, charges, or complaints (including, without limitation, any complaints with any federal, state, or local agency) and to never institute or participate as a claimant in any legal, equitable or administrative proceedings asserting any claims or rights that are released in Paragraph 3 hereinabove. If CULLEN and/or any of her family members, heirs, devisees, and/or assignees institute any legal, equitable or administrative proceeding or files any lawsuit, charge and/or complaint based on claims or rights that are released under this Agreement, then CULLEN will indemnify and hold the CITY and the CITY et al. harmless from any liability imposed as a result of such action or proceeding and from all attorney's fees, costs, and expenses incurred in defending any such action or proceeding. CULLEN represents and warrants that

she has filed no administrative, civil or criminal charges, actions or complaints against the CITY and/or the CITY et al. with any court or other entity, including without limitation, any federal, state or local governmental agency, and that she has no intention to file an administrative, civil or criminal charge, action or complaint against the CITY and/or the CITY et al.

5. **Consideration**. In consideration of the covenants and promises of CULLEN as stated in this Agreement, the CITY shall, upon the execution of this Agreement by CULLEN and the expiration of the revocation period called for in paragraph 6 below (and provided that CULLEN does not exercise her right to revoke this Agreement): (a) shall pay CULLEN \$15,945.47, representing gross severance pay for four [4] pay periods.

6. **Age Discrimination and Employment Act/Older Workers' Benefit Protection Act**. CULLEN acknowledges and agrees that pursuant to the Age Discrimination and Employment Act ("ADEA"), and the Older Workers' Benefit Protection Act ("OWBPA"), which amended the ADEA (collectively "ADEA"), she has twenty-one (21) calendar days to consider this Agreement before signing it. CULLEN understands and acknowledges that she may sign this Agreement prior to the expiration of the 21-day period if she so chooses. Pursuant to the ADEA, CULLEN may revoke this Agreement after she executes it by providing written notification to the CITY (by and through the City Manager) of such revocation within seven (7) calendar days of the date she signs it. To be effective, any notice of revocation must be received by the City Manager by 5:00 p.m. on the seventh calendar day after the Agreement is executed by CULLEN and the City. This Agreement shall become fully binding and effective on the parties upon the expiration of the seven-day period, assuming CULLEN does not give notice of revocation in the manner provided above. CULLEN acknowledges that she had the opportunity to consult with a qualified attorney prior to executing this Agreement and that she fully understands her rights under the ADEA.

7. **Deferred Compensation.** Any amounts held for and on behalf of CULLEN under any deferred compensation plan, if any, shall be distributed according to the terms and conditions of any such plan and shall be based on the separation of CULLEN'S employment as of her resignation date, and shall otherwise be unaffected by this Agreement.

8. **Retirement Plans.** CULLEN'S post-resignation date eligibility for benefits, if any, as a past employee of the City under the City's 401(a) and/or 457(b) Retirement Plans shall be as set forth in the respective plan documents and shall be based, if applicable, on the separation of CULLEN'S employment as of her resignation date, and shall otherwise be unaffected by this Agreement.

9. **Vacation and Sick Pay.** CULLEN shall be entitled, upon separation of employment, to payment of accumulated vacation and sick pay in accordance with City Policy and Procedures 6.06 and 7.07, respectively.

10. **Voluntary Agreement.** This Agreement is freely and voluntarily executed by CULLEN. CULLEN acknowledges that she has read and understands the language of this Agreement. This Agreement has been fully negotiated in an arm's length transaction and any ambiguity contained herein shall not be construed against either party.

11. **Severable Provisions.** The provisions of this Agreement are severable. If any part is found to be unenforceable, the other provisions shall remain fully valid and enforceable and the remaining portions of this Agreement shall survive.

12. **Governing Law.** The parties agree that this Agreement is consummated in the State of Florida and that Florida law shall apply in construing any provisions hereof and in any proceeding between the parties. The parties agree that this Agreement was entered into in Flagler County, Florida. The venue of any dispute between the parties shall be in Flagler County, Florida in the court of

appropriate and competent jurisdiction.

13. **Clause Headings.** Headings within this Agreement are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.

14. **Entire Agreement.** In executing this Agreement, CULLEN does not rely on any inducements, promises or representations made by the CITY, the CITY et al. or any of their attorneys, other than those expressly set forth herein. Furthermore, no promise, inducement or agreement not herein set forth has been made to CULLEN, and this Agreement contains the entire agreement between the parties hereto.

15. **Attorneys' Fees and Costs.** Should litigation arise in law or equity due to any violation of this Agreement, the prevailing party shall be entitled to their reasonable attorney's fees and costs incurred in such action.

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\_\_\_\_\_  
**WENDY CULLEN**

ACKNOWLEDGED AND AGREED TO BEFORE ME THIS \_\_\_\_\_ day of, by WENDY CULLEN, who is \_\_\_\_\_ personally known to me or who produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**CITY OF PALM COAST, FLORIDA**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date