

SETTLEMENT AGREEMENT
AND
RELEASE OF ALL CLAIMS

THIS SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS (this "Agreement") is entered into effective April 20, 2018, (the "Effective Date") between Jamie Polley ("Employee") and the City of Shakopee ("Employer").

1. Meaning of Terms.

- (a) As used in this Agreement, "Employer" shall mean the City of Shakopee, its past, present, and future entities, subsidiaries, and current or former related entities, and all of its past, present, and future successors and assigns.
- (b) As used in this Agreement, "Employee" shall mean Jamie Polley, her heirs, executors, administrators, agents, attorneys, assigns, and any one claiming through any of them.

2. Consideration and Contract Termination.

- (a) In consideration of Employee's (1) separation by mutual agreement, (2) years of service with Employer, (3) release of all claims and potential claims arising out of and related to her employment with Employer, Employer agrees to pay and perform, and Employee agrees to accept, the following severance arrangements, conditioned upon the (a) Employee's compliance with this Agreement, (b) expiration of any right to consider or right of rescission, (c) delivery of a fully signed original of this Agreement and Employee's attached resignation letter:
 - 1. Wages in the amount of \$14,000 in a lump sum, subject to all usual and customary payroll taxes and withholdings.
 - 2. Payment in lump sum the amount of \$5,561.84 reflecting unused and accrued leave, subject to all usual and customary payroll taxes and withholdings.
 - 3. Payment in the amount of \$6,000 to Marshall Tanick, Meyer Njus and Tanick.
- (b) Except for the payments set forth above in this Agreement, Employee shall have no claim for wages, pay, prerequisites, or other compensation from Employer, and the rights, privileges, and benefits afforded Employee as a result of her employment.
- (c) Employer shall provide Employee a positive letter of reference in the form attached hereto as Exhibit C. Employer will provide the reference letter in response to potential employer inquiries made to Employer.

- (d) Employee shall be solely responsible for the payment of any income, employment, or other taxes which may be due or payable as a result of the foregoing amounts and will indemnify and hold harmless Employer from the same.

Employee acknowledges the sufficiency of the above consideration and further acknowledges that the payments are in full satisfaction of any compensation or other benefits due her as a result of the early separation of her employment with Employer. The parties acknowledge that the amounts payable are fair and reasonable in light of all the circumstances. Employee also acknowledges that, except as provided for in this Agreement, she has no right to any employment-related benefits, including salary, vacation, banked vacation, retirement or deferred compensation, benefits, and prerequisites of whatever kind and that the payments made under this Agreement fully satisfy any amounts due to her, whether under the Contract or otherwise. Employee shall have no claim to any compensation or rights beyond that which is explicitly provided for in this Agreement. Employee acknowledges that she forfeits the right to apply for any open employment position with Employer at any point in the future.

3. Irrevocable Resignation.

Employee hereby voluntarily agrees to separate her employment by mutual agreement and resigns her employment with Employer effective April 20, 2018 (the "Resignation Date"). Employee expressly understands and agrees that her separation is irrevocable upon the signing of this Agreement by both parties. Employer hereby accepts Employee's resignation.

4. Benefit Plans.

Employee's entitlement to any benefits afforded by any Employer benefit plans, including, without limitation, health, accident, life, and compensation insurance plans and retirement plans, are governed solely by their applicable plans and policies which are incorporated herein by this reference.

5. Return of Property and Cooperation.

On or before the Resignation Date, Employee will return to Employer any and all data, documents, and property of Employer, including, but not limited to, City of Shakopee clothing/gear, files, records, computer software, computer access codes, desktop computers, laptop computers, cellular phones, palm pilots or PDAs, company IDs, company credit cards, and company property keys or passkeys, together with all proprietary, confidential, and other company information of Employer, and will not retain any copies, duplicates, or excerpts thereof.

From and after the Resignation Date, Employee agrees to make herself reasonably available to Employer, at no cost, to respond to requests by Employer for information concerning facts or events relating to Employer or its operations that may be within Employee's knowledge. Employee recognizes that she may have specialized information and knowledge that is or may be important to Employer in the event Employer is involved in disputes, claims, or litigation or may have been involved in incidences or events which relate to disputes, claims, or litigation of which Employee

has knowledge or information. Employee agrees to cooperate with Employer in connection with any such event, and Employer will reimburse any reasonable expenses Employee incurs. Employee understands that she is to conduct no business on behalf of Employer unless specifically directed to do so.

6. Release.

- (a) **Release of Employer by Employee:** Employee hereby waives any legal rights and releases and forever discharges Employer, its officers, employees, agents, board members, attorneys, and insurers, and all of their predecessors, successors, and assigns (all collectively referred to herein as the "Released Parties") from any and all liability, debts, sums of money, demands, claims, suits, actions, charges, damages, judgments, levies, or executions, whether known or unknown, liquidated, fixed, contingent, direct or indirect, which have been, could have been, or could be raised against the Released Parties which relate in any way to the Contract, Employee's employment by Employer, or termination of that employment, except to the extent waiver or release is specifically prohibited by law and except for his right to enforce this Agreement according to its terms. This is a full and final waiver and release of all such claims which she has or may have against the Released Parties, including, but not limited to, claims based on alleged breach of employment contract or any other tort, contract, equitable, or other common law theories, and including, but not limited to, any claims for additional compensation, back pay, or benefits of any type (except in accordance with the terms of this Agreement), and including, but not limited to, any claim for attorney fees or costs, for reinstatement to active employment or reemployment (except to the extent specifically prohibited by law), or for compensatory or punitive damages under any applicable statutes or common law theories.
- (b) Without limiting the generality of the foregoing, Employee's release of claims includes any claims she may have for any of the following:
1. wages, bonuses, penalties, welfare benefits, or separation benefits;
 2. defamation of any kind, including, but not limited to, libel, slander and self-publication defamation, invasion of privacy, negligence, emotional distress, breach of express, implied, or oral contract; estoppels, fraud, intentional or negligent misrepresentation, breach of any implied covenants, wrongful prosecution, assault or battery, negligent hiring, supervision, or retention;
 3. improper discharge (based on contract, common law, or statute, including any federal, state, or local statute or ordinance prohibiting discrimination or retaliation in employment);
 4. violation of any of the following:
 - the United States Constitution;
 - the Minnesota Constitution;
 - the Minnesota Human Rights Act, Minn. Stat. § 363A.01 et seq.;
 - any claim arising under Minn. Stat. Chapters 177 and 181;

- Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq.;
 - the Age Discrimination in Employment Act, as amended, 29 U.S.C. § 621 et seq.;
 - Civil Rights Act of 1866, 42 U.S.C. § 1981;
 - Civil Rights Act of 1991, 42 U.S.C. § 1981a;
 - the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq.;
 - the Employment Retirement Income Security Act of 1976, 29 U.S.C. § 1001 et seq.;
 - the Family and Medical Leave Act, 29 U.S.C. § 2601 et seq.;
 - the National Labor Relations Act, 29 U.S.C. § 151 et seq.;
 - the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.;
 - the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 et seq.;
 - the Sarbanes-Oxley Act, 15 U.S.C. § 7201 et seq.;
 - the Genetic Information Nondiscrimination Act of 2008, Pub. L. No. 110-233, 122 Stat. 881 (codified as amended in scattered sections of 29 U.S.C. and 42 U.S.C.); or
 - any other federal, state or local statute prohibiting discrimination in employment or granting rights to Employee arising out or related to her employment with Employer, the Contract, or the performance of services for Employer;
5. any claim for discrimination or harassment based on sex, race, color, creed, religion, age, national origin, marital status, sexual orientation, disability, genetic information, status with regard to public assistance, or any other legally-protected status; and
 6. any claim for retaliation under Minn. Stat. Chapter 176 or any other claim for retaliation.

7. Acknowledgement.

Employee acknowledges that the payments made to the date of this Agreement and payments identified in this Agreement represent payment of all compensation owing to her by virtue of her employment.

Employee agrees that, without limiting the remedies of Employer, should Employee commence, continue, join in, or in any other manner attempt to assert through litigation or proceeding the release of her claims as set forth in this Agreement (a "Release Challenge"), or in the event of a breach of this Agreement by Employee or the failure of Employee to perform her obligations under this Agreement, Employer shall not be required to make any further payments to Employee and may recover prior payments made to Employee, along with reasonable attorney's fees and cost incurred by Employer.

8. No claims.

This Agreement is intended as a full, final, and complete release of all claims that Employee may or might have against the Released Parties and as full, final, and complete settlement and release of any and all claims arising from or connected with the Contract or Employee's employment with Employer. This Agreement extends to all consequences, effects, and results of any such released claims.

Nothing in this Agreement shall be construed, however, as prohibiting Employee from filing a lawsuit to test the validity under the Older Workers Benefit Protection Act of the waiver of his rights under the federal Age Discrimination in Employment Act. Moreover, nothing in this Agreement shall be construed as prohibiting Employee from filing a charge with the Equal Employment Opportunity Commission or the Minnesota Department of Human Rights or participating fully in investigations by those entities. However, Employee acknowledges that the release she executes herein waives her right to file a court action or to recover individual remedies or monetary damages in any EEOC or any state agency filed court action.

Nothing in this Agreement shall be interpreted as prohibiting Employee from filing a charge or cooperating with or disclosing information to any government entity charged with enforcing Equal Employment Opportunity Law, such as the EEOC or Minnesota Department of Human Rights.

Employee agrees and understands that, except as may be required by subpoena, court order, or other force of law, she shall not in any way assist any third party (an individual or entity which is not a party to this Agreement) in commencing or prosecuting any action or proceeding against the Released Parties, including, but not limited to, any administrative agency claims, charges, or complaints or any lawsuit against any Released Party, or their operations, or in any way participate or cooperate in any such action or proceeding, including any trial, pretrial preparation, pre-litigation fact-gathering, or administrative agency proceeding connected with any and all matters, except as may be required by law or under a subpoena or court order. Absent legal compulsion, this Agreement bars Employee and her representatives from testifying, providing documents or information, advising, providing a written statement, counseling, or providing any other form of assistance to any person or entity who wishes to make or who is making any claim against a Released Party; provided, however, this Paragraph and this Agreement do not prohibit Employee from bringing claims or commencing any action related to enforcement by Employee of this Agreement.

9. Compliance with Older Workers Benefit Protection Act of 1990 and Minnesota Human Rights Act.

This Agreement is subject to the terms of the Older Workers Benefit Protection Act of 1990 ("OWBPA") and Minnesota Human Rights Act ("MHRA"). The OWBPA provides that an individual cannot waive a right or claim under the Federal Age Discrimination in Employment Act and any corresponding state law (collectively the "ADEA") unless the waiver is knowing and voluntary. The MHRA provides that no claim may be waived under the MHRA unless the waiver is also knowing and voluntary pursuant to the terms of the OWBPA and MHRA. Employee

acknowledges and agrees that he has executed this Agreement voluntarily and with full knowledge of its consequences. In addition, Employee hereby acknowledges and agrees as follows:

This Agreement has been written in a manner that is calculated to be understood, and is understood, by Employee:

- (a) The release provisions of this Agreement apply to any rights Employee may have under the ADEA and MHRA.
- (b) The release provisions of this Agreement do not apply to any rights or claims Employee may have under the ADEA that arise after the date she executes this Agreement.
- (c) Employer hereby advises Employee to consult with an attorney prior to executing this Agreement.
- (d) Employer is giving Employee a period of twenty-one (21) days to consider this Agreement. Any changes made prior to Employee's signing this Agreement, whether material or immaterial, do not restart the twenty-one (21) day period. Employee may accept and sign this Agreement before the expiration of the twenty-one (21) day time period, but she is not required to do so by Employer. In the event this Agreement is not fully signed and returned within the twenty-one (21) day period, the terms and conditions set forth in this Agreement shall be deemed automatically rescinded and this Agreement and the offers of Employer hereunder shall be null and void.
- (e) For a period of fourteen (14) days following the signing of this Agreement, Employee may revoke this Agreement under the ADEA. Employee will provide written notice of any such revocation to Employer. For a period of fifteen (15) days following the signing of this Agreement, Employee may revoke her acceptance under the Minnesota Human Rights Act. This Agreement shall become effective on the sixteenth (16th) day after Employee signs it, if it has not been revoked during the revocation period. To be effective, Employee's rescission must be in writing and delivered to the Assistant City Administrator on behalf of the City of Shakopee, either by hand or by mail to:

Nathan Burkett, Assistant City Administrator
485 Gorman Street
Shakopee MN 55379

within the rescission period. If mailed, the notice must be sent by certified mail – return receipt requested during the rescission period.

10. Integration.

The parties agree that this Agreement (together with the documents incorporated by reference) states the entire agreement of the parties and supersedes all prior and contemporaneous negotiations and agreements, oral or written. Each party expressly acknowledges that the other party did not, directly or indirectly, make any promises, representations, or warranties whatsoever, express or implied, other than those contained in this Agreement. The parties further agree that this Agreement may be amended only by a subsequent writing signed by both of the parties.

11. Severability and Governing Law.

The parties agree that any provision of this Agreement that is held to be illegal, invalid, or unenforceable under present or future laws shall be fully severable. The parties further agree that this Agreement shall be construed and enforced as if the illegal, invalid, or unenforceable provision had never been a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, a provision as similar to the illegal, invalid, or unenforceable provision as is possible and legal, valid, and enforceable shall be automatically added to this Agreement in lieu of the illegal, invalid, or unenforceable provision. The parties also agree that Minnesota law shall govern the validity and enforceability of this Agreement.

12. No Admission.

The parties agree that, by entering in this Agreement, neither party admits, and specifically denies, any violation of any local, state, or federal law, common or statutory. The parties recognize that this Agreement has been entered into in order to achieve an orderly separation and nothing contained herein shall be construed to be an admission of liability or a concession of any kind.

13. Resolution of Disputes.

Any dispute between the parties concerning the interpretation, application, or claimed breach of this Agreement shall be submitted to binding, confidential arbitration to be conducted in the city of Shakopee, state of Minnesota. Such arbitration shall be conducted pursuant to the rules of the American Arbitration Association governing employment disputes (but need not be administered by AAA) before an arbitrator licensed to practice law in Minnesota and familiar with employment law disputes. Prior to submitting the matter to arbitration, the parties shall first attempt to resolve the matter by the claimant's notifying the other party in writing of the claim, by giving the other party the opportunity to respond in writing to the claim within ten (10) days of receipt of the claim, and by giving the other party the opportunity to meet and confer. If the matter is not resolved in this manner, the dispute may then proceed to arbitration at the request of either party. Without regard to outcome, the parties shall bear equally the arbitrator's fees and expenses, as well as the administrative costs, if any, of this arbitration. Should any party institute any court action against the other with respect to any claim released by this Agreement or pursue any arbitrable dispute by any method other than arbitration as provided for in this paragraph, the responding party shall be

entitled to recovery from the initiating party all damages, costs, expenses, and attorney fees incurred as a result of this action.

14. Injunctive Relief.

Each party understands that in the event of a breach or threatened breach of this Agreement, the other will suffer irreparable harm and will, therefore, be entitled to injunctive relief to enforce this Agreement in addition to any and all other legal or equitable remedies that may be available.

15. Review of Agreement and Voluntary Execution.

Employee acknowledges that this Agreement has been explained to her by her attorneys, that she has had adequate time to consider whether to sign this Agreement, that she understands the rights she is releasing and waiving by executing this Agreement, and that she has been given an opportunity to consult with her attorneys prior to executing this Agreement. Employee agrees and represents that she has been advised of and fully understands her right to discuss all aspects of this Agreement with counsel of her choice. Employee's execution of this Agreement establishes that she has had the opportunity to seek the advice of counsel by the date she signed this document. Employee agrees she has carefully read and fully understands all the provisions of this Agreement. Employee further acknowledges that she is executing this Agreement with full, knowing, and voluntary agreement as to its terms and without coercion, intimidation, or pressure of any kind.

16. Confidential Information and Non-Disclosure.

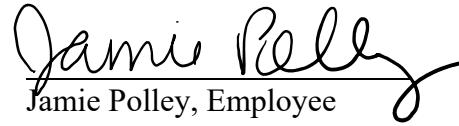
Employee and Employer shall not disclose to any person or entity and shall hold in confidence all proprietary, trade secret, or other confidential or non-public information, knowledge, or data relating to Employer, its business and affairs, its operations, or its personnel, including, without limitation, financial records and information, attorney-client communications, or other financial, commercial, business, personnel, or technical information (collectively, "Confidential Information"). Employee shall not disclose the Confidential Information without the prior written consent of Employer, except to the extent required by an order of a court having jurisdiction or under subpoena from an appropriate government agency, in which event Employee shall use best her efforts to consult with Employer prior to responding to any such order or subpoena.

17. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

EMPLOYEE HAS READ THE FOREGOING AND UNDERSTANDS THE EFFECT OF THIS AGREEMENT. SHE ACKNOWLEDGES SHE IS RELEASING HER LEGAL RIGHTS. EMPLOYEE UNDERSTANDS THAT THIS AGREEMENT IS SUBJECT TO APPROVAL BY THE CITY OF SHAKOPEE AND, UNTIL APPROVED, IS VOIDABLE BY EITHER PARTY AT ANY TIME PRIOR TO BOARD APPROVAL.

Dated this 18 day of April 2018.


Jamie Polley, Employee

Dated this ___ day of _____, 2018.

City of Shakopee

By _____

On this _____ day of _____, 2018
this agreement was approved by the City of
Shakopee

Minutes are attached.

ATTACHMENTS:

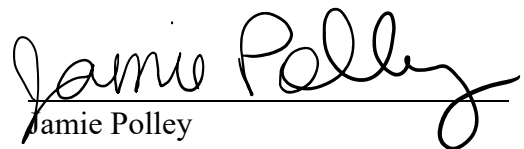
- A: Resignation Letter
- B: Waiver of 21-Day Review
- C: Letter of Reference

WAIVER OF 21-DAY REVIEW

I, Jamie Polley, understand that I may take up to twenty-one (21) days from receipt of the Settlement Agreement and Release of All Claims to review the document and determine whether to accept it. I hereby knowingly and voluntarily waive the twenty-one (21)-day review provision of this Agreement. I acknowledge and understand that this Waiver is part of the Settlement Agreement and Release of All Claims between myself, Jamie Polley, and the City of Shakopee, as such includes all rights and claims arising prior to or on the effective date of the Settlement Agreement and Release, including, but not limited to, the Age Discrimination in Employment Act of 1967, Title VII of the Civil Rights Act of 1964, and any public policies of the State of Minnesota.

Prior to executing this Waiver and the Settlement Agreement and Release of All Claims, I acknowledge that I have had an opportunity to consult with an attorney, and I fully understand the terms of this Waiver and the Agreement. I have not been compelled into signing it by anyone associated with the City of Shakopee and have entered into the Agreement and Waiver voluntarily and of my own free will.

Dated this 18 day of April, 2018.


Jamie Polley

Jamie Polley

April 20, 2018

Nathan Burkett
City of Shakopee
485 Gorman Street
Shakopee MN 55379

RE: Resignation

I hereby confirm that I am departing my job due to separation by mutual agreement. My last date of employment is April 20, 2018.


Jamie Polley