



**SETTLEMENT AGREEMENT AND GENERAL RELEASE**

This Settlement Agreement and General Release ("Agreement") is made and entered into on this 15 day of JANUARY, 2016, by and between Ms. Karen Sowada ("Ms. Sowada") and the City of Clearwater, Florida, defined to mean the City of Clearwater, Florida, its governing body, elected officials, employees, and agents, all in their official and individual capacities, and all of the City's subsidiaries, subdivisions and affiliated entities (collectively, "City"). The purpose of this Agreement is to provide for the general release of any and all claims which Ms. Sowada has or may have had against the City at any time related to her employment with the City up to and including the effective and enforceable date of this Agreement, and to provide for the payment of consideration for that general release.

**RECITALS**

WHEREAS, Ms. Sowada initiated a complaint with the Florida Commission on Human Relations concerning her termination of employment with the City, Case No. 2015-01087 ("FCHR Complaint"), and has appealed her termination through the City Civil Service Rules and requested a hearing before the Department of Administrative Hearings, Case No. 15-003837 ("DOAH Appeal"), alleging violations of rights protected by the City Civil Service Rules, statute(s), regulation(s), common law, the Constitution of the State of Florida and/or the Constitution of the United States;

WHEREAS, the City denies the allegations and denies any rule, ordinance, statutory, common law, constitutional or regulatory violations, and affirmatively states that Ms. Sowada has failed to state any claim upon which relief can be granted;

WHEREAS, all parties to the Agreement agree that neither the fact of this Agreement, nor any term or provision hereof shall be construed as an admission by any

party or the City to the merit or viability of any claims or defenses asserted by any party to the agreement, or an admission of liability by the City; and

WHEREAS, so as to avoid further expense and in recognition of the positions of the parties to the above case, the parties to the Agreement wish to settle and compromise the FCHR Complaint, DOAH Appeal, and/or any other claims Ms. Sowada has against the City, known or unknown (collectively, "Complaints"), thereby terminating all complaints, claims, and appeals;

IT IS HEREBY AGREED, by and between the parties as follows:

1. In consideration for the full and complete settlement of Ms. Sowada's complaints, claims, and appeals Ms. Sowada shall receive the payment of the sum of Eighty One Thousand Five Hundred Dollars (\$81,500.00), which shall be paid by the City. The parties agree that Ms. Sowada has indicated that of the settlement amount, \$1,500 is designated as attorneys' fees, which may be deductible per applicable Internal Revenue Service code, and for which the City will issue IRS form 1099 to Ms. Sowada and her attorney. The remaining portion of the settlement not designated as attorneys' fees, or \$80,000, is to be included on an IRS form W-2 as ordinary income and will be subject to applicable withholding based on the current IRS form W-4 on file. The parties agree that the City makes no representations and/or interpretation of IRS code and attorneys' fee deductions, and that Ms. Sowada's duty to correctly report income to the IRS is her responsibility alone. The draft will be payable to "Karen Sowada, C/O Ryan D. Barack, Kwall Showers Barack & Chilson, PA." Nothing contained in this agreement, inclusive of paragraphs 4 and 8, shall imply a release of Ms. Sowada's pension, which is an earned and vested benefit and therefore protected by law.

2. Ms. Sowada agrees that the money set forth herein constitutes adequate and ample consideration for the rights and claims she is waiving under this Agreement.

3. It is further understood and agreed that the above agreed upon terms are not to be construed as an admission of any liability, such liability having been expressly denied. No inducements or representations have been made by any agent or attorney of any party hereby released as to the legal liability or other responsibility of any party claimed responsible. It is agreed that this release applies to known or unknown injuries, costs, expenses, and/or damages alleged to have been suffered or incurred by Ms. Sowada due to the actions or inactions of the City as stated in the Complaints, and is intended to be a full and complete disposition of the entire claim(s) and/or cause(s).

4. In consideration for the amount in paragraph 1 of the Agreement, Ms. Sowada, her heirs, successors and assigns, agrees to release and hereby releases and forever discharges the City, its governing body, elected officials, employees, and agents, all in their official and individual capacities, and all of the City's subsidiaries, subdivisions and affiliated entities from all actions, claims, demands, setoffs, suits, causes of action, controversies, disputes, equitable relief, compensatory and punitive damages, costs and expenses (including those which arose or could have arisen from the facts alleged or claims made in the Complaints), which Ms. Sowada has against the City related to her employment with the City, whether known or unknown, from the beginning of time until the effective date of this Agreement, including but not limited to those: at law; in tort; in equity; or any other federal, state or local laws, regulations, or ordinances relating to wrongful termination. The listing of types of claims and/or causes of action being waived in this paragraph is intended to be illustrative rather than exhaustive. **THUS, MS. SOWADA ACKNOWLEDGES AND AGREES THAT THIS RELEASE IS A FULL AND FINAL BAR TO ANY AND ALL CLAIMS OF ANY TYPE, KNOWN OR UNKNOWN THAT SHE HAS AGAINST THE CITY RELATED TO HER EMPLOYMENT WITH THE CITY.** Notwithstanding the foregoing, the City and Ms. Sowada acknowledge and agree that Ms. Sowada has vested rights to deferred compensation, including but not limited to

pension and or other retirement benefits which are not impacted by this agreement. Ms. Sowada agrees that she will voluntarily dismiss any and all civil or administrative actions against the City, such voluntary dismissals being filed with 10 days of the execution of this agreement.

5. Ms. Sowada and her attorneys, if any, release, waive and relinquish any claims or rights to attorney's fees, costs and expenses from the City allegedly incurred or due in the Complaints, other than those designated in paragraph 1 as part of the total settlement amount.

6. In consideration for the amount of money pursuant to paragraph 1 of the Agreement, Ms. Sowada also agrees to never apply for employment with the City for any current position or any position which may be available in the future.

7. Ms. Sowada waives the rights and claims set forth above in paragraphs 4-6 of the Agreement and she also agrees not to institute, or have instituted, a new lawsuit or administrative proceeding against the City based on any such claims or rights.

8. No promise has been made to pay or give Ms. Sowada any greater or further consideration other than as stated in this Agreement. All agreements, covenants, representations and warranties, express or implied, oral or written, of the parties hereto concerning the subject matter of this Agreement are contained in this Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any party hereto to any other party concerning the subject matter of this Agreement. All prior and contemporaneous negotiations, possible and alleged agreements, representations, covenants and warranties, between the parties concerning the subject matter of this Agreement are merged into this Agreement. This Agreement contains the entire agreement between the parties.

9. Ms. Sowada enters into this Agreement as a free and voluntary act with full knowledge of its legal consequences. Ms. Sowada has not relied upon any information or representations which are not contained in this Agreement.

10. Ms. Sowada hereby acknowledges that she has been given a period of twenty-one (21) days to review and consider this Agreement, and also acknowledges that she hereby has been encouraged by the City to obtain the advice of an attorney about the terms of this Agreement. Ms. Sowada understands that she may revoke this Agreement within seven (7) days of signing it (revocation period). Ms. Sowada further understands and agrees revocation shall only be effective upon the receipt of a written notice to the City Manager within seven (7) days after Ms. Sowada signs this Agreement. Ms. Sowada also acknowledges that this Agreement can be revoked only in its entirety and that once revoked no provision of this Agreement is enforceable and Ms. Sowada will not receive any benefits under this Agreement.

11. This Agreement shall not become effective or enforceable until after the revocation period has expired.

12. In the event of a breach of any provision of this Agreement by any of the parties: if Ms. Sowada breaches, she agrees that the City shall be entitled to recover all sums paid to her under this Agreement; In the event the City breaches this Agreement, then paragraphs 1-7 above will be null and void and Ms. Sowada will be entitled to bring suit against the City to collect on the full amount of this agreement. The parties specifically understand and agree that the prevailing party shall recover its costs and reasonable attorney's fees incurred in any legal proceeding instituted to enforce the terms of this Agreement. The parties further agree that this Agreement is governed by the laws of the State of Florida, without regard to principles of conflict of laws.

13. If any provision of this Agreement, or any part of any provision of this Agreement, is found to be invalid by a court of competent jurisdiction, such shall not affect the validity of any other provision, or part thereof, of this Agreement.

14. The City and Ms. Sowada agree that this Agreement cannot be amended or modified except by a writing executed by both of the parties hereto or their respective administrators, trustees, personal representatives, and successors.

MS. SOWADA ACKNOWLEDGES THAT SHE HAS CAREFULLY READ AND UNDERSTANDS THIS AGREEMENT CONSISTING OF SEVEN (7) PAGES, AND AGREES THAT THE CITY HAS NOT MADE ANY REPRESENTATIONS OTHER THAN THOSE CONTAINED HEREIN. MS. SOWADA ALSO ACKNOWLEDGES THAT SHE ENTERS INTO THIS AGREEMENT VOLUNTARILY, WITH FULL KNOWLEDGE OF ITS SIGNIFICANCE, AND WITHOUT PRESSURE OR COERCION. MS. SOWADA FURTHER ACKNOWLEDGES THAT SHE HAS HAD THE OPPORTUNITY TO NEGOTIATE REGARDING THE TERMS OF THIS AGREEMENT, HAS BEEN GIVEN A TWENTY-ONE (21) DAY PERIOD WITHIN WHICH TO REVIEW THIS AGREEMENT, AND HAS BEEN GIVEN A SEVEN (7) DAY PERIOD AFTER SIGNING THE AGREEMENT WITHIN WHICH TO REVOKE THE AGREEMENT.

*(remainder of page left blank intentionally, signatures on page to follow)*

IN WITNESS WHEREOF, the CITY and Ms. Sowada have executed this Agreement and General Release:

For the CITY OF CLEARWATER, FLORIDA

William B. Horne II  
William B. Horne II  
City Manager

Approved as to form:

Matthew M. Smith  
Matthew M. Smith  
Assistant City Attorney

Attest:

Rosemarie Call  
Rosemarie Call  
City Clerk



For KAREN SOWADA

Karen J. Sowada  
Karen Sowada

STATE OF FLORIDA     )  
COUNTY OF PINELLAS    )

BEFORE ME personally appeared Karen Sowada, who acknowledged that she executed the foregoing instrument. She is/is not personally known to me and did/did not take an oath. 5300.510.66.530.0

WITNESS my hand and official seal this 15 day of Jan., 2016.

Doreen Snyder  
Print/Type Name: \_\_\_\_\_  
Notary Public

