

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is by and between Jessica Kingston ("Kingston") and the City of Saint Paul (the "City"). Kingston and the City are collectively referred to as "the parties."

RECITALS

WHEREAS, Kingston has asserted claims against the City arising out of her employment at or with the City;

WHEREAS, the City denies it has engaged in any wrongdoing or that it may be liable on any grounds;

WHEREAS, the parties desire to resolve their differences rather than engage in formal and protracted litigation; and

WHEREAS, the parties have agreed to a full settlement of all issues and disputes between them.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and provisions of this Agreement, the parties agree as follows:

1. **End of Employment.** Kingston agrees that she will be placed on a paid leave of absence effective August 23, 2018, through the end of her term in office. Kingston agrees that she will not seek reappointment of her position through 2024. Kingston agrees that she will not conduct any City business during her leave of absence. Kingston agrees that the City may at its discretion appoint an Interim and/or Acting Director of Human Rights and Equal Employment Opportunity. Kingston's medical benefits and pension contributions will continue through October 31, 2018.

2. **Complete Release by Kingston.** In exchange for the consideration stated and acknowledged herein, Kingston agrees for herself, her predecessors, successors, and anyone

claiming through or under her, to forever release and discharge the City, its predecessors, successors, affiliated agencies and assigns, and all past, present and future officers, representatives, agents, attorneys, insurers, and employees (collectively, the "Released Parties"), from any and all claims that Kingston now has, whether latent, patent, disclosed or undisclosed, asserted or unasserted, known or unknown, foreseeable or unforeseeable, against the Released Parties. This release includes, without limitation, all claims arising out of or relating to Kingston's employment with the City, including, but not limited to, discrimination, harassment, retaliation, compensation, wage, and bonus claims of any kind, personal injury claims of any kind, breach of contract, violation of any federal, state, or local law, including, without limitation, the Fair Labor Standards Act, the Minnesota Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act, the Employee Retirement Income Security Act, the Family and Medical Leave Act of 1993, the Equal Pay Act, the Minnesota Human Rights Act, defamation, wrongful termination of employment, intentional or negligent infliction of emotional distress, negligence, defamation, whistleblower claims, and any other claims for unlawful employment or compensation practices, claims in common law, and all claims for damages and attorneys' fees. Kingston agrees that she has been paid or has received all leave (paid or unpaid), compensation, wages, bonuses, commissions, benefits, severance, and/or reimbursement for expenses incurred on the job to which she may be entitled and that no other leave (paid or unpaid), compensation, wages, bonuses, commissions, benefits, severance and/or reimbursements are due to her, aside from benefits and pay set forth herein.

Kingston acknowledges and agrees that this is intended to be and is a full and general release of all of her claims against the Released Parties. Kingston agrees that she will not initiate

or threaten to initiate litigation or administrative proceedings to enforce any claims or rights which Kingston released in this section. Excluded from this covenant are any claims challenging the validity of this release or any claims which cannot be waived by law, including, without limitation, the right to file a charge with or participate in any investigation conducted by the Equal Employment Opportunity Commission (“EEOC”) or any state or local agency. Kingston agrees to waive, however, her right to any monetary recovery should the EEOC or any state or local agency pursue any claims on Kingston’s behalf. Kingston also agrees to seek withdrawal of any charges or complaints filed with the Minnesota Department of Human Rights and the Equal Employment Opportunity Commission to the fullest extent permitted by law. Kingston agrees that all of her allegations are set forth in any prior charges, complaints, or correspondence that have been provided to the City and its attorneys.

3. **Consideration.** Subject to this Agreement, the City agrees to pay Kingston the total sum of \$250,000.00 (the “Settlement Payment”) in full settlement of all possible claims that Kingston has or may have against any of the Released Parties and agrees to pay the full mediation fees. This consideration shall be paid in three checks as follows:

- (a) One check shall be made payable to “Jessica Kingston” in the amount of \$110,000.00, which shall be reported on an IRS Form 1099 (Box 3).
- (b) One check shall be made payable to “Jessica Kingston” in the amount of \$110,000.00, less applicable withholdings, which shall be reported on an IRS Form W2.
- (c) One check shall be made payable to Kingston’s attorneys, “Shannon Law LLC” in the amount of \$30,000.00 which shall be reported on an IRS Form 1099.

This Settlement Payment is contingent on Kingston executing and not rescinding this Agreement as discussed in paragraph 9, and on the City Council approving this Agreement, at which time this Agreement will be effective. Once and if the Agreement is effective, the City shall use its best efforts to deliver the Settlement Payment to Kingston's attorneys within a "reasonable time" following the effective date of the Agreement and receipt by the City of a W-9 form for Kingston's attorneys. A "reasonable time" is defined as no more than 14 business days.

In the event a taxing authority later determines that the payments described in this Agreement are subject to further taxation, Kingston agrees that she is and will remain solely responsible for and will pay any liability along with any associated interest, penalties, and costs attributable to such liability and will fully indemnify and hold the Released Parties harmless for any tax liability related to this Agreement.

4. **City Council Approval.** Kingston agrees and acknowledges that this Agreement is fully contingent on City Council approval and that the Agreement will be submitted for approval no earlier than September 5, 2018. The parties agree that if the City Council does not approve of this Agreement, the terms of this Agreement are null and void, and Kingston agrees she is not entitled to the Settlement Payment.

5. **Sufficiency of Consideration.** Kingston acknowledges and agrees that the Settlement Payment and other terms herein constitute full and adequate consideration for this Agreement.

6. **Voluntary and Knowing Action.** The parties acknowledge that they have been advised to and have consulted attorneys regarding the terms of this Agreement. The parties acknowledge that they have read and understand the terms of this Agreement and that they are

voluntarily and without duress entering into this Agreement with full knowledge of its implications.

7. **Non-Admission of Liability.** The parties agree that nothing in this Agreement is intended to be, nor shall be deemed to be, an admission of liability or wrongdoing, an admission of the existence of any facts upon which liability or wrongdoing could be based, or a waiver of any defense to any alleged liability or wrongdoing.

8. **Review Period.** Kingston may consider this Agreement prior to signing for up to twenty-one (21) days from the date she received it. Kingston is free to sign and return this Agreement at any time within the 21-day period, and if she does so, she understands that it is because she needs no more time to consider whether to sign the Agreement. Any changes made to the Agreement, whether material or not, will not affect or restart the 21-day period.

9. **Rescission Period.** Kingston may rescind and revoke this Agreement for any reason within fifteen (15) calendar days after signing it (“Rescission Period”). To be effective, the rescission or revocation must be in writing and hand-delivered or mailed to Ellen A. Brinkman, Briggs and Morgan, P.A., 80 South 8th Street, Suite 2200, Minneapolis, MN 55402, within the 15-day period. If mailed, the rescission or revocation must be postmarked within the 15-day period, addressed as set forth in the preceding sentence and sent by Certified Mail, Return Receipt Requested. If delivered by hand, it must be given to Ellen A. Brinkman, Briggs and Morgan, P.A., within the 15-day period. Should Kingston choose to rescind this Agreement, all terms hereof shall be canceled, and Kingston will not receive the Settlement Payment.

10. **No Re-Application/Re-hire.** Kingston agrees that she will not reapply for a position of employment with the City, and that any such application shall be rejected by the City, to the extent allowed by law, through 2024.

11. **Binding Effect.** The parties understand that this Agreement is binding upon the parties.

12. **Severability.** In case any one or more of the provisions of this Agreement should be determined invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby, except by application of the provisions of the “Savings Clause” below.

13. **Heirs, Successors, and Assigns.** This Agreement shall be binding upon Kingston and her heirs, administrators, personal representatives, and executors, and upon the Released Parties’ successors or assigns. No assignment of this Agreement shall be made by Kingston and any such purported assignment shall be null and void.

14. **Governing Law/Jurisdiction.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Minnesota. The parties agree that any disputes regarding this Agreement must be resolved in Minnesota, and the parties consent to the jurisdiction and venue of the United States District Court for the District of Minnesota.

15. **Savings Clause.** The parties agree that the scope and terms of this Agreement are reasonable. It is the parties’ intent and desire that this Agreement be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction in which enforcement is sought. If any particular provision of this Agreement shall be adjudicated to be invalid or unenforceable, the parties authorize the tribunal making such determination to edit the invalid or unenforceable provision to allow this Agreement, and the provisions thereof, to be valid and enforceable to the fullest extent allowed by law.

16. **Entire Agreement.** This Agreement sets forth the entire agreement between the parties hereto and fully supersedes any and all prior or contemporaneous agreements or understandings, written or oral, between the parties pertaining to the subject matter discussed herein.

17. **Modifications to Agreement.** No supplement, modification, or amendment to this Agreement shall be binding or effective unless executed in writing by all of the parties to this Agreement.

18. **Counterparts.** This Agreement may be executed in counterparts. An electronic signature, or signature by facsimile or PDF shall be deemed an original signature for purposes of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Settlement Agreement and Release to be executed on the date(s) set forth below.

JESSICA KINGSTON

By: Jessica Knight

Dated: 8/23/2018

THE CITY OF SAINT PAUL

By: [Signature]

Dated: 8-23-18

Its: Attorney for City