

SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS (“Agreement”) is entered into between Stacy Irwin (“Irwin”) and Kimberly Ferreiro (“Ferreiro”) (Irwin and Ferreiro are, collectively “Plaintiffs”), and the City of Seattle, and all of its agents, employees, and representatives (“the City”) (collectively referred to as “the Parties”).

RECITALS

A. Stacy Irwin and Kimberly Ferreiro (the “Plaintiffs”) filed a Lawsuit against the City, now pending in King County Superior Court, Cause No. 21-2-11739-9 SEA;

B. The Parties desire to enter into this “Settlement Agreement” or “Agreement” in order to provide payment in full settlement and discharge of all claims or disagreements which are, or might have been, the subject matter of the Lawsuit, upon the terms and conditions set forth below;

C. As a consequence of this Agreement, the Plaintiffs agree that they will move to dismiss their Lawsuit with prejudice and act to ensure its dismissal. Hereafter, the term “Lawsuit” shall refer to the Lawsuit filed in Cause No. 21-2-11739-9 SEA.

AGREEMENT

The Parties agree as follows:

1.0 Mutual General Releases

1.1 General Releases by Irwin and Ferreiro. In consideration of this Agreement, including the payment and other terms set forth in Section 2, Irwin and Ferreiro, individually and collectively, and on behalf of themselves and their marital community, heirs, executors, administrators, assigns, trusts, trustees, attorneys, and agents in their individual and representative capacities, hereby completely release and forever discharge and waive any and all demands, obligations, actions, causes of action, rights, damages, costs (including payment of attorney fees), losses of services, expenses and compensation of any nature whatsoever against the City of Seattle, whether based on a tort, contract, statutory, or any other theory of recovery, which either Irwin or Ferreiro now have or may have in the future, which are the subject of the Lawsuit or which relate in any manner to either or both of Irwin’s or Ferreiro’s employment with the City, separation from employment with the City, including, but not limited to, claims of wrongful and/or constructive discharge, harassment, retaliation, or discrimination, violations of the Washington Public Records Act, RCW 42.56 et seq., and violations of the City’s Whistleblower Protection Code, SMC 4.20.800 et seq., and any and all known or unknown claims for property damage.

1.1.1. Without limiting the scope of the foregoing general release by Irwin and Ferreiro in any manner, the foregoing general release includes: (i) any and all claims arising out of or in any way related to Irwin and/or Ferreiro's employment with the City or the termination of that employment; (ii) any and all claims related to Irwin and/or Ferreiro's compensation or benefits from the City, including salary, bonuses, commissions, vacation pay, sick pay, expense reimbursements, retirement benefits, and severance pay; (iii) any and all claims for breach of contract, wrongful termination, constructive discharge or breach of the implied covenant of good faith and fair dealing; (iv) any and all tort claims; (v) any and all claims for harassment, retaliation, defamation, attorneys' fees or discrimination arising under or in connection with any local, state or federal laws, including without limitation the Age Discrimination in Employment Act of 1967 ("ADEA"); the Older Worker Benefit Protection Act ("OWBPA"); the Civil Rights Act of 1964 (including Title VII of that Act); the Equal Pay Act of 1963; the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990 ("ADA"); 42 USC 1981, 1985, 1986, and 1988; the Washington Law Against Discrimination (RCW 49.60); the Washington Prohibited Employment Practices Law (RCW 49.44); the Washington Minimum Wage Act (RCW 49.46); the Washington Family Care Act (RCW 49.12); the Washington Paid Family and Medical Leave Act (Title 50A RCW); Washington's Little Norris-LaGuardia Act (RCW 49.32); the Fair Labor Standards Act of 1938 ("FLSA"); the Family and Medical Leave Act of 1993 ("FMLA"); the Worker Adjustment and Retraining Notification Act ("WARN"); the Employee Retirement Income Security Act of 1974 ("ERISA"); and the National Labor Relations Act ("NLRA"); (vi) any and all claims arising out of or in any way related to the Washington Public Records Act, RCW 42.56, et seq.; and (vii) any and all claims arising out of or in any way related to the City's Whistleblower Protection Code, SMC 4.20.800 et seq.

1.1.2. Because the foregoing general release includes claims against the City under the Age Discrimination in Employment Act and the Older Worker Benefit Protection Act, Plaintiffs acknowledge and agree that they have twenty-one (21) days after delivery of this Settlement Agreement to consider its terms, after which time the offer of this Settlement Agreement shall expire and may no longer be accepted. Plaintiffs may accept the Settlement Agreement before expiration of the 21 days, in which case Plaintiffs shall waive the remainder of the consideration period. To accept, Plaintiffs must sign this Settlement Agreement and deliver it to counsel for the City, by email. Plaintiffs shall have a period of seven (7) days after delivering the signed Settlement Agreement to the City's counsel to revoke their acceptance. To revoke, Plaintiffs must deliver a notice revoking their acceptance to the City's counsel. If the Settlement Agreement is revoked by Plaintiffs, then Plaintiffs will not be entitled to the settlement payment

described in this Settlement Agreement, and any releases granted by Plaintiffs to the City and by the City to the Plaintiffs will be void.

- 1.1.3. This general release and discharge shall also apply to the City's past, present and future officers, attorneys, agents, servants, employees, representatives of whatever type, and assigns.
 - 1.1.4. This general release is part of and essential to a fully binding and complete settlement between Irwin and Ferreiro and the City. Irwin and Ferreiro agree that they will file a dismissal with prejudice of the Lawsuit as set forth in Section 3, below. Irwin and Ferreiro represent that they have not filed any other lawsuit or claim against the City, either jointly or individually, and, in the event that any such lawsuit has been filed on their behalf, Irwin and Ferreiro each promise to immediately seek the dismissal, with prejudice, of any such lawsuit or claim.
 - 1.1.5. Irwin and Ferreiro each expressly agree that they will not institute or prosecute, or cause to be instituted or prosecuted, any action, lawsuit, or proceeding against the City, and/or its past, present and future officers, attorneys, agents, servants, employees and assigns, which relates to, or arises out of, any claim, right, or cause of action of any kind, known or unknown, arising out of or related to their employment with and/or resignations from the City, and will pay the City's costs and attorney's fees in the event that such an action is brought. Nothing in this provision shall prohibit Plaintiffs or the City from taking such steps as necessary to enforce the terms and conditions of this Agreement.
 - 1.1.6. Irwin and Ferreiro acknowledge and agree that the release and discharge set forth above is a general release. Irwin and Ferreiro, jointly and individually, expressly waive and assume the risk of any and all claims for damages which exist as of the Effective Date, but of which they do not know or suspect to exist, and which, if known, would materially affect their decision to enter into this Agreement. Irwin and Ferreiro further agree that they have accepted payment of the sums specified herein as a complete compromise of matters involving disputed issues of law and fact. Irwin and Ferreiro assume the risk that the facts or law may be other than they believe.
- 1.2 **General Release by the City.** The City hereby unconditionally releases, waives, and forever discharges Irwin and Ferreiro from any and all claims, counterclaims, causes of action, suits, damages, and demands of any form whatsoever, relating to the Lawsuit, Plaintiffs' employment by the City, and/or Plaintiffs' separation from employment with the City.

2.0 Payments and Other Agreements

In consideration of the release set forth above, and other agreements by Irwin and Ferreiro in this Agreement, the City agrees to the following:

- 2.1** The City of Seattle shall pay the sum total of TWO MILLION THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$2,300,000.00) (“the Settlement Sum”), as a settlement of all claims as set forth above, inclusive of any expenses, costs and/or attorney fees, pursuant to the terms set forth in Paragraphs 2.1.1.a through 2.1.3 below.
 - 2.1.1.a** \$25,000 of the Settlement Sum shall be characterized as wages paid to Stacy Irwin and shall be subject to all regular payroll withholdings, excluding retirement deductions. \$5,000 of the wages represents back pay in settlement for all wage claims by Ms. Irwin and are for the period of 07/10/21 through 01/01/22. \$20,000 of the wages represents front pay from 01/02/22 until anticipated retirement. This portion of the Settlement Sum reflects a one-time payment. This payment shall be reported to the Internal Revenue Service using a W-2 form. Payment shall be made to Stacy Irwin.
 - 2.1.1.b** \$25,000 of the Settlement Sum shall be characterized as wages paid to Kimberly Ferreiro and shall be subject to all regular payroll withholdings, excluding retirement deductions. \$5,000 of the wages represents back pay in settlement for all wage claims by Ms. Ferreiro and are for the period of 10/02/21 through 03/26/22. \$20,000 of the wages represents front pay from 03/28/22 until anticipated retirement. This portion of the Settlement Sum reflects a one-time payment. This payment shall be reported to the Internal Revenue Service using a W-2 form. Payment shall be made to Kimberly Ferreiro.
- 2.1.2** \$2,250,000 of Settlement Sum will be characterized as non-wage, general damages and attorney fees. Non-wage payments shall be reported to the Internal Revenue Service using a 1099 form. Payment shall be made to Susan Mindenbergs in Trust for Stacy Irwin and Kimberly Ferreiro.
- 2.1.3** After the City Attorney’s Office fulfills its reporting obligations to the City Council pursuant to SMC 5.24.020 the City shall pay the Settlement Sum to Plaintiffs within 30 days of the Plaintiffs’ execution of this Agreement and receipt by the City of a valid W-9 from Plaintiffs and their attorneys. Upon receipt of the Settlement Sum, Irwin and Ferreiro will file a dismissal with prejudice of the Lawsuit as set forth in Section 3, below.

- 2.2** The parties further agree to the following:
- 2.2.1** Irwin and Ferreiro each agree to never seek, apply, or accept any employment position (regular, temporary, voluntary or contractual) at any time in the future with the City of Seattle.
 - 2.2.2** Irwin and Ferreiro and their attorneys agree to withdraw all pending Public Records Act requests to the City that relate in any way to the Lawsuit or any of its subject matter no later than April 20, 2023.
 - 2.2.3** Irwin and Ferreiro each agree and by signing this Settlement Agreement certify that they will comply with the obligations set forth in Section 4.16.075 of the Seattle Municipal Code – “Prohibited Conduct after Leaving City,” except as provided by RCW 49.44.211.
 - 2.2.4** Irwin and Ferreiro and their attorneys will search for and destroy all City documents that may contain the City’s privileged information in their possession, custody, and/or control, including but not limited to information contained in any of Irwin and Ferreiro’s email accounts, cell phones, cloud accounts, computers, or in hard copy. Plaintiffs and their counsel will complete the search and destruction required by this Section 2.2.4 and certify in writing that they have done so within (14) fourteen days of the Effective Date of this Agreement.
 - 2.2.5** The City agrees that it will comply with City Personnel Rules 10.2.4 and 10.2.5 regarding any employment inquiries pertaining to Irwin and Ferreiro.
 - 2.2.6** The Parties agree that any dispute arising out of or related to this Agreement or the settlement of this matter, including but not limited to any dispute regarding the enforcement, language, meaning, or terms of this Settlement Agreement, shall be mediated by Judge Regina S. Cahan (Ret.). If mediation is unsuccessful, it shall be resolved by arbitration before Judge Regina S. Cahan (Ret.) in accordance with the JAMS Comprehensive Arbitration Rules and Procedures. If Judge Cahan is unable to serve as the arbitrator, JAMS will appoint an arbitrator pursuant to Comprehensive Rule 15. The fact that the arbitrator presided as mediator shall not provide any basis to seek the disqualification of her as the arbitrator, whether pursuant to applicable state law or otherwise, and the Parties waive the right to do so. The fact that the arbitrator presided as mediator shall not provide any basis for the award to be vacated or modified, and the Parties agree not to seek to vacate or modify the award nor to oppose confirmation on such ground.

3.0 Dismissal

The Plaintiffs agree that, as consideration for and upon receipt of, the payment of the Settlement Sum, Plaintiffs will file a motion for an Order of Dismissal With Prejudice of the Lawsuit, which shall dismiss with prejudice all claims which were brought or could have been brought in Cause No. 21-2-11739-9 SEA without costs or fees to any party. Such motion and proposed order shall be filed and submitted within (10) ten business days of the City's tender of the Settlement Sum, in the form of **Exhibit A** hereto.

4.0 Attorney's Fees

- 4.1** Each party hereto shall bear its own attorney's fees and costs arising from or relating to this Lawsuit.
- 4.2** In the event dispute resolution procedures are initiated to enforce or address any provision of this Agreement, the prevailing party shall be awarded all costs and expenses incurred in prosecuting or defending the action, including attorney and paralegal fees. In the event the City of Seattle is the prevailing party, the hourly rate to be paid to the City for the work of attorneys and paralegals in the City Attorney's Office shall be the hourly rate charged by persons in downtown Seattle law firms having similar experience.

5.0 Opportunity to Consult an Attorney and Representation of Comprehension of Document

Irwin and Ferreiro represent that they have relied upon the advice of an attorney, who is the attorney of their choice, concerning the legal consequences of this Agreement; that the terms of this Agreement have been completely explained to them by their attorney; and that the terms of this Agreement are fully understood and voluntarily accepted by Irwin and Ferreiro.

6.0 No Admissions

This settlement is the result of a compromise agreed to for the purpose of avoiding the costs and uncertainties of continuing the Lawsuit. This settlement does not constitute, and shall not for any purpose be construed as, considered to be, or offered as evidence of, any concession or admission by any of the Parties concerning any claim, fact, liability or fault. This settlement does not constitute and shall not for any purpose be construed as, considered to be, or offered as evidence of the merits, strength, or weakness of any of the Parties' claims or defenses against each other in the Lawsuit.

7.0 Confidentiality of Value of Settlement

The Parties agree that neither they nor their attorneys shall reveal to anyone, other than as may be lawfully required, the amount paid or other consideration given to Irwin and Ferreiro in settlement of their claims. However, Irwin and Ferreiro may confer with their attorney, tax advisers, counselors, physicians, and immediate family about such matters. In response to

questions about the value of the settlement of the case, the parties may state that “the Parties have resolved the matter” without any additional commentary revealing or suggesting the value of the settlement.

8.0 Warranty of Capacity to Execute Agreement

The Plaintiffs represent and warrant that no other person or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Agreement, except as otherwise set forth herein; that the Plaintiffs have the sole right and exclusive authority to execute this Agreement and receive the sums specified in it; and that the Plaintiffs have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Agreement.

9.0 Governing Law

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington.

10.0 Additional Documents

All Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

11.0 Taxability of Settlement

The City of Seattle takes no position as to any taxes which may be due and has advised Irwin and Ferreiro that they may be responsible for making estimated tax payments on this settlement. The City has advised Irwin and Ferreiro that it will report the settlement in its entirety to the Internal Revenue Service by issuance of either a 1099 or W-2 form. Irwin and Ferreiro and their attorney must submit to the City a W-9 form if receiving any non-wage income as a part of this settlement. Irwin and Ferreiro agree that they are solely responsible for any tax payments which may be owed as the result of the Agreement, including, but not limited to, indemnifying the City of Seattle for any tax liabilities or penalties assessed or incurred. Plaintiffs acknowledge that the City makes no representations of any kind regarding the consequences, tax or otherwise, if any, arising from payment of the Settlement Sum.

12.0 Entire Agreement and Successors In Interest

This Agreement contains the entire agreement between the Parties with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, and successors and assigns of each. This is a negotiated Settlement Agreement drafted by the Parties and their counsel, and no ambiguity shall be construed against any Party based upon a claim that that Party drafted the ambiguous language. Ferreiro and Irwin acknowledge and agree that they are not entering into this Settlement Agreement in reliance upon any oral or written promises, inducements, representations,

understandings, interpretations, or agreements, by whomever made, other than those set forth in this Settlement Agreement, and that this Settlement Agreement supersedes and replaces all prior negotiations, proposed agreements, and agreements, whether written or oral, including the CR 2A Agreement dated April 6, 2023.

13.0 Severability

It is further understood and agreed that if any of the provisions of this Agreement are held to be invalid or unenforceable, except for the releases (or any part of such releases) and other provisions of Section 1 above, the remaining provisions shall nevertheless continue to be valid and enforceable.

14.0 Counterparts

This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, equally admissible in evidence against any Party who has signed it, all of which together shall constitute one and the same agreement. Signatures delivered by facsimile or made via electronic format shall be deemed original signatures.

15.0 Unemployment Security Department

Irwin and Ferreiro agree they will make their own determination as to whether they are required to report the settlement to the Employment Security Department pursuant to WAC 192-190-040 and agree to hold the City of Seattle harmless as to the consequences of that decision. Irwin and Ferreiro agree that they are fully and solely responsible for repaying any overpayment amount, along with any penalties or interest. Irwin and Ferreiro acknowledge that the City makes no representations of any kind regarding the consequences, tax or otherwise, if any, arising from payment of the Settlement Sum. Irwin and Ferreiro agree to indemnify and hold harmless the City for any liability under RCW Title 50 arising or related to this Settlement Agreement and payments made pursuant to this Settlement Agreement.

16.0 Effective Date of this Agreement

This Agreement becomes effective on the date the City Attorney's Office fulfills its reporting obligations to the City Council pursuant to SMC 5.24.020 regarding the settlement of this matter, and all parties have signed below.

THIS AGREEMENT CONTAINS A RELEASE OF ALL KNOWN AND UNKNOWN EMPLOYMENT AND OTHER CLAIMS. PLAINTIFFS ACKNOWLEDGE THAT THEY HAVE CAREFULLY READ AND FULLY UNDERSTAND ALL ASPECTS OF THIS SETTLEMENT AGREEMENT, AND THAT PLAINTIFFS HAVE NOT RELIED UPON ANY REPRESENTATIONS OR STATEMENTS NOT SET FORTH HEREIN OR MADE BY THE CITY OF SEATTLE OR ITS REPRESENTATIVES.

CITY OF SEATTLE

Stacy Irwin
Stacy Irwin

By: Monisha D. Nell
Monisha Harrell, Senior Deputy Mayor

Date Signed: 5/5/2023

Date Signed: 05/10/2023

Kimberly Ferreiro
Kimberly Ferreiro

Date Signed: 5/5/2023