

GENERAL RELEASE AND SEPARATION AGREEMENT

This General Release and Separation Agreement ("Separation Agreement ") is dated this 9th day of November, 2015, and is entered into between the City of Broken Arrow, Oklahoma, a municipal corporation ("City") and Jeffrey Glen Jenkins ("Jenkins"). Jenkins is currently employed by the City of Broken Arrow as an Assistant City Manager. The City and Jenkins agree that Jenkins shall resign effective November 12, 2015, and this Separation Agreement shall govern the parties' obligations towards one another from November 9, 2015, forward.

A. CONSIDERATION

The parties agree that City will pay Jenkins the following consideration in exchange for his resignation and for the release included herein:

1. **Severance Pay:** Jenkins is offered a \$62,493.19 final gross payment of salary, subject to and reduced by the usual and appropriate state and federal withholding taxes and any other customary payroll deductions, to be paid in a lump sum no later than November 20, 2015.
2. **Health and Welfare Benefits:** Health, Dental, Vision and Welfare Benefits will continue until November 30, 2015. Health benefits will be available under COBRA beginning December 1, 2015, and Jenkins shall be responsible for making all COBRA payments. City will pay its proportional share of health, dental, vision and welfare benefits for six (6) months in the amount of \$7,540.14 to Jenkins no later than November 20, 2015.
3. **Paid Leave:** In addition to the severance pay under paragraph A(1), Jenkins will be paid for all accrued leave except sick leave through November 12, 2015, subject to and reduced by the usual and appropriate state and federal withholding taxes and any other customary payroll deductions.

4. Car Allowance & Mobile Communication: City shall pay Jenkins' automobile and mobile phone allowance through November 12, 2015, on which date such payments shall cease.

Jenkins agrees that these payments and benefits are sufficient consideration in return for this Separation Agreement, the General Release, and in accordance with the Employment Agreement.

B. GENERAL RELEASE

1. "CLAIMS" as used throughout this Separation Agreement means any and all matters relating to Jenkins' employment with the City, the end of Jenkins' employment relationship with City, this Separation Agreement, and any and all claims, grievances, debts, liabilities, demands, obligations, promises, acts, agreements, costs, expenses, damages, actions, and causes of action, whether in law or in equity, whether known or unknown, suspected or unsuspected, arising from Jenkins' employment with and/or end of employment with the City, as well as any and all claims pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended by the Civil Rights Act of 1991, which prohibits discrimination in employment based on race, color, national origin, religion or sex; the Civil Rights Act of 1996, 42 U.S.C. §§ 1981, and 1983 and 1985, which prohibits violations of civil rights; the Age Discrimination in Employment Act of 1967, as amended, and as further amended by the Older Workers Benefit Protection Act, 29 U.S.C., § 621, *et seq.*, which protects certain employee benefits; 85 Okla. Stat. §5, *se seq.*, which prohibits retaliation based upon exercise of rights under Oklahoma's Workers' Compensation Act; the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12101, *et seq.*, which prohibits discrimination against the disabled, the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601, *et seq.*, which provides

medical and family leave; the Fair Labor Standards Act, 42 U.S.C. § 201 *et seq.*, including the Wage and Hours Laws, any and all claims relating to the payment of any compensation and/or wages; any and all claims related in any way to and all other federal, state or local laws or regulations prohibiting employment discrimination. This release also includes, but is not limited to, a release by Jenkins of any and all claims for breach of contract, mental pain, suffering and anguish, emotional upset, impairment of economic opportunities, unlawful interference with employment rights, defamation, intentional or negligent infliction of emotional distress, fraud, wrongful termination, wrongful discharge in violation of public policy, breach of any express or implied covenant of good faith and fair dealing, and all other common law contract and tort claims.

2. Jenkins and the City enter into this Separation Agreement with a full knowledge and understanding of the obligations set forth herein. Each party has had an opportunity to consult with his or its respective attorneys and has chosen to be bound presently and in the future by the releases and attendant affirmative obligations assumed herein.
3. RELEASE: Jenkins hereby generally and completely releases, acquits, and discharges City, the City Council, the individual City Council Members, and any City employee from any and all CLAIMS.

C. JENKINS' AFFIRMATIONS

This Separation Agreement advised Jenkins and Jenkins agrees to the following:

1. This Separation Agreement is written in laymen's terms, and he understands and comprehends it terms.
2. He does not waive any rights or claims that may arise after the date this Separation Agreement is executed.

3. He is receiving consideration beyond anything of value to which he is already entitled.
4. He has been given a reasonable period of time to consider this Separation Agreement.

D. ABSTAIN FROM LEGAL ACTION

Jenkins specifically agrees never to file or initiate a charge, complaint, grievance and/or a lawsuit asserting any claims that are released in paragraph B.

E. NON-ADMISSION

By making this Separation Agreement, City does not admit that it has done anything wrong with respect to Jenkins or his employment with the City of Broken Arrow.

F. DAMAGES

If Jenkins violates any provision of his obligations outlined in this Separation Agreement, City is relieved of all obligations outlined in paragraph A and may seek to recover consideration paid with any damages incurred due to Jenkins' breach of this Separation Agreement. Further, Jenkins will pay for all costs incurred by City or any of its officers or employees in pursuing claims, including reasonable attorneys' fees.

G. CONSTRUCTION OF THIS AGREEMENT

All parties specifically charge and require that any court, agency, or trier of fact engaged in review or interpretation of this Separation Agreement shall give effect to its whole and/or specific parts, so as to enforce this Separation Agreement and its obligation, regardless of any local rule of construction. In furtherance of this, all parties specifically charge the trier of fact to give effect to the intent of the parties, even in so doing, reformation of specific provisions of the Severance Agreement is required, consistent with the terms of the Severance Agreement. This Release is to be interpreted in accordance with the laws of the State of Oklahoma.

H. TERMS OF THIS SEPARATION AGREEMENT ARE SEVERABLE

If any portion of this Separation Agreement is found to be unenforceable, then both Jenkins and City desire that all other portions that can be separated from it or appropriately limited in scope shall remain fully valid and enforceable.

I. NON-DISPARAGEMENT

The parties agree that their professional and personal reputations are important and should not be impaired by either party. City agrees not to disparage the professional or personal reputation of Jenkins and Jenkins agrees not to disparage the professional or personal reputation of City, the City Council, the individual City Council Members or any of the City's Employees.

J. RETURN OF PROPERTY AND TRADE SECRETS

Jenkins shall remain the Assistant City Manager of Broken Arrow, Oklahoma, until November 12, 2015. Jenkins promises to return to City all City property in his possession now or discovered any time in the future, including but not limited to keys and access cards to City Hall and the City Manager's Office. City promises to return all of Jenkins' personal property in its possession now or knowingly discovered any time in the future to the last known address of Jenkins. Jenkins understands it is his responsibility to provide the City's Human Resources office with any change in address and/or telephone number through January 1, 2016, for the purposes of distribution of Internal Revenue Service Form W-2.

K. CONSIDERATION PERIOD

By noting his initials at the conclusion of this paragraph, Jenkins acknowledges that he received a copy of this Separation Agreement on November 9, 2015, and was offered a period of seven (7) days to consider it.

L. REVOCATION PERIOD

Jenkins may revoke this Separation Agreement within seven (7) days of his signing it. Revocation can be made by delivering a written notice of revocation to the Acting Human Resources Director, Jannette McCormick. *For such revocation to be effective, notice must be received no later than 5:00 p.m. on the seventh calendar day after Jenkins signs this Separation Agreement.* If Jenkins revokes this Separation Agreement, it shall not be effective or enforceable.

M. TORT CLAIM DEFENSE

The City shall defend, hold harmless, and indemnify Jenkins in the manner specified by the Oklahoma Governmental Tort Claims Act against any tort, professional liability claim, or other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring during Jenkins' tenure in the good faith performance of the duties of office.

JENKINS ACKNOWLEDGES THAT HE HAS READ THIS SEPARATION AGREEMENT, UNDERSTANDS IT AND IS VOLUNTARILY ENTERING INTO IT.

PLEASE READ THIS SEPARATION AGREEMENT CAREFULLY.

Date

Employee Signature

Address

City, State, Zip

Phone # Alternate Phone #

Date

Mayor of the City of Broken Arrow, Oklahoma

APPROVED AS TO FORM:

City Attorney