

## SETTLEMENT AGREEMENT AND FULL RELEASE OF CLAIMS

**Between:** City of Ontario, Oregon, and its elected officials, agents, employees, volunteers, officers, insurers, and all others acting for or on behalf of City of Ontario, hereinafter individually and collectively referred to as “the City”;

**and:** Sam D’Addabbo, hereinafter referred to as “Employee”.

### RECITALS

In February 2018, the City adopted Resolution #2018-112 that included a residency requirement for all employees hired after that date;

In December 2018, Employee was hired by the City as a police officer;

In November 2019, the City acted to enforce the Resolution against Employee; Employee and his union objected to the enforcement of the policy against him;

In early 2020, Employee applied for a home loan and his lending company contacted the City to verify Employee’s employment status with the City; in its response, the City verified Employee’s employment and also notified the lending company of the residency requirement;

Employee alleges that the City’s response was inappropriate, which resulted in additional costs for him associated with financing his residence; the City disputes Employee’s allegations and asserts that its response to the lending company was accurate and appropriate;

The City and Employee seek to avoid any unnecessary litigation regarding these issues and any/all other issues between the parties, and have reached a mutually agreeable resolution to this dispute.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises between the parties, IT IS AGREED as follows:

**1. Agreement Does Not Constitute Admission of Liability or Wrongdoing.** This Agreement is a compromise of disputed claims and no aspect of this Agreement shall operate or in any way be construed as an admission by the City, or any person connected with the City, that it acted wrongfully with respect to Employee or any other person or that Employee has any rights whatsoever against the City or any person connected with the City. The City specifically disclaims and denies any liability to Employee or that it engaged in any wrongdoing related to Employee.

**2. Agreement Not For Precedent.** The parties understand and agree that this Agreement and its terms will not be offered, referred to, or considered as precedent by any party for any purpose whatsoever, including any future dispute, claim, grievance, arbitration, lawsuit, or any other proceeding involving the City, except in a proceeding seeking to enforce the terms of this Agreement.

**3. No Complaint Filed.** Employee represents that he has not filed any grievances, complaints, charges, or claims against the City, or any of the City's employees, officials, agents or subsidiaries with any court, agency, or other tribunal or forum.

**4. Settlement Payment.** The City agrees by way of compromise and settlement of all of Employee's claims to pay Employee the gross amount of Six Thousand Dollars (\$6,000), which will be reflected on a 1099 form. The payment will be made in a check issued to Employee within fourteen days of the effective date of this Agreement as set forth in paragraph 16. Employee agrees and understands this payment is made in settlement of, and in full satisfaction of all of Employee's potential claims of any nature whatsoever. Employee acknowledges that this payment is a full and fair payment for the release of any and all of Employee's claims, whether such claims have been asserted or are as yet unasserted. Employee acknowledges that he is not owed or entitled to any other compensation, except his normal wages and benefits he continues to earn as an employee of the City.

**5. Payment of Applicable Taxes; Employee's Indemnification of City.** Employee is and shall be solely responsible for all federal, state, and local taxes that may be owed by Employee by virtue of the receipt of any portion of the monetary payment provided under this Agreement. Employee agrees to indemnify and hold City harmless from any and all liability, including, without limitation, all penalties, interest, and other costs that may be imposed by the Internal Revenue Service or other governmental agencies regarding any tax obligations that may arise from the City's treatment of the settlement payment made to Employee under this Agreement. Employee acknowledges that City has provided no advice concerning tax issues in connection with the negotiation of this Agreement.

**6. The City's Promises Satisfy all of Employee's Claims and Release the City.** In consideration for the City's promises described herein, and as a material inducement to the City to enter into this Agreement, Employee releases the City and its individual employees, elected officials, administrators, representatives, agents, and insurers, individually and collectively, from any and all claims related to his employment or dealings with the City. This includes any claims he has asserted or could have asserted against the City, based upon facts occurring up to and including the effective date of this Agreement. This release includes, but is not limited to, any claims, actions, grievances or suits, known or unknown, suspected or unsuspected:

- (a) for pay, backpay, overtime, minimum wage, wage penalties, attorney fees, costs and disbursements (including such fees, costs and disbursements actually incurred), liquidated damages and prejudgment interest under

state and federal wage and hour laws, Oregon Revised Statutes (ORS) Chapters 652 and 653, and the Fair Labor Standards Act;

- (b) under state and federal statutory law, all claims of any kind of discrimination, harassment, retaliation and whistleblowing on the basis of any protected status including race, sex, age, religion, marital status, sexual orientation, gender, gender identity, family relationship, disability and national origin under ORS, the Public Employee Collective Bargaining Act, Title VII of the Civil Rights Act of 1964, as amended, the 1991 Civil Rights Act, all claims under the Equal Pay Act, the Age Discrimination in Employment Act (ADEA), the Rehabilitation Act of 1973, the Americans With Disabilities Act, the Family and Medical Leave Act, the Oregon Family Leave Act, the Oregon Paid Sick Leave Law, ORS Chapter 659A, the Employee Retirement Income Security Act, the state and federal racketeering acts, Executive Order 11246, as amended, all federal and state retaliation statutes, and all federal and state civil rights statutes or ordinances (including 42 USC §§ 1981-1988) as well as any and all other federal, state or local statutes, charters, ordinances, regulations, constitutions or executive orders;
- (c) under any employment contract, collective or individual (express or implied, oral or written), or any other employment contracts which might otherwise have governed the employment relationship;
- (d) under the common law, including but not limited to claims for wrongful termination, intentional, reckless or negligent infliction of emotional distress, interference with contract or economic relations, breach of implied covenant of good faith and fair dealing, defamation, negligent supervision and breach of promise of specific treatment in specific situations; and
- (e) for fraud in the inducement of this Agreement as well as any other claim that Employee and/or the Union might assert to rescind this Agreement.

**7. Covenant Not to Sue.** Employee promises never to file any complaint, grievance or other legal action based on a claim released by this Agreement. Employee further promises never to seek or accept any damages, remedies or other relief for himself (any right to which he hereby waives) by prosecuting a charge with any administrative agency, or otherwise, with respect to any claim released by this Agreement.

**8. Agreement as Defense.** Employee understands and agrees that if he ever asserts against the City (or any other entity or person referred to in Paragraph 6 above) any grievance, complaint, action, charge or suit which he has released in accordance with this Agreement, this Agreement may be pleaded as an absolute defense.

**9. Entire Agreement.** This Agreement sets forth the entire agreement between the parties and fully supersedes any and all prior agreements and

understandings between the parties pertaining to the subject matter in this Agreement. Any amendments to this Agreement must be in writing, signed by duly authorized representatives of the parties, and specifically stating the parties' intent to amend this Agreement.

**10. Final and Binding Agreement.** This Agreement shall be final and binding upon Employee and the City and upon their respective heirs, representatives, executors, administrators, successors and assigns, and shall inure to the benefit of each party and to their respective heirs, representatives, executors, administrators, successors and assigns.

**11. Severability.** If any of the portions, terms or provisions of this Agreement are declared or determined by any court to be illegal, invalid, or otherwise unenforceable, the remaining portions, terms and provisions shall nevertheless remain in full force and effect.

**12. Governed by Oregon Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

**13. No Reliance on the City's Representations.** Employee hereby acknowledges that in executing this Agreement he has not relied upon any representation or statement by the City's representatives regarding the subject, basis or effect of this Agreement which is not expressly set forth herein.

**14. Knowing and Voluntary Acceptance of Agreement.** The parties hereby declare, represent and agree that they have carefully reviewed the terms of the foregoing Agreement, that they know the contents thereof, that each has voluntarily accepted the terms set forth herein after consultation with their respective attorneys, that no facts, evidence, event or transaction currently unknown to the parties, but which may hereinafter become known, shall affect in any way or manner the final and unconditional nature of this Agreement, and that they voluntarily sign the same as their own free act and will.

**15. Consultation with Attorney.** Employee acknowledges he has been advised that he may consult with an attorney before signing this Agreement, that he has consulted with counsel, that he understands the terms and conditions of this Agreement, and that he is receiving consideration beyond anything of value to which he is already entitled.

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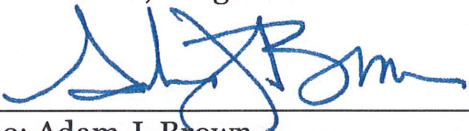
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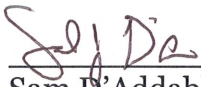
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**16. Effective Date.** The effective date of this Agreement shall be the date Employee returns the Agreement to the City after signing it.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year written below.

City of Ontario, Oregon

By:   
Name: Adam J. Brown  
Title: City Manager

  
Sam D'Addabbo

Date: May 20, 2020

Date: 5-20-2020