

SEVERANCE AGREEMENT AND RELEASE OF ALL CLAIMS

This Agreement is made and entered into this ___th day of _____ 2018, by and between Coconino County, a political subdivision of the State of Arizona, hereinafter called "Employer," and Cynthia Seelhammer, hereinafter called "Employee."

WITNESSETH:

WHEREAS, Employee was employed as County Manager for Coconino County since August 5, 2013;

WHEREAS, Employee has decided to voluntarily resign from county employment;

WHEREAS, Employer and Employee mutually agree that it is in their best interest to accept Employee's voluntary and irrevocable resignation;

WHEREAS, the Agreement is necessary to memorialize the mutual agreements of the parties and to resolve any potential claims.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1. Resignation

Employee hereby gives notice of her resignation from employment effective January 9, 2018, and Employer accepts the voluntary resignation of Employee, under the terms and conditions of this Agreement.

Section 2. Employee

- A. In recognition of Employee's work devoted exclusively to Coconino County and pursuant to A.R.S. § 11-251.11, Employer agrees to pay in lump sum, subject to applicable withholding, to Employee, \$88,600.02, an amount equivalent to six (6) months of current pay, from the effective date of Employee's resignation.
- B. Employer shall pay Employee's COBRA costs for six (6) months following Employee's enrollment in COBRA.
- C. Employer shall pay to Employee in lump sum \$8,790.14, the balance of her vacation accruals as of the effective date of Employee's resignation.
- D. Employer shall contribute \$10,000 to Employee's deferred compensation plan.
- E. No later than thirty (30) days following the execution hereof, Employer shall provide Employee the opportunity to purchase her County-issued iPad and laptop at a depreciated price.

- F. Payments pursuant to Subsections A, C, and D of this Section 2 shall be paid upon execution hereof. Payments pursuant to Subsection B of this Section 2 shall be paid timely on a monthly basis.

Section 3. Waiver and Release

- A. Employer and Employee agree that the Employment Agreement previously entered into by the parties on June 20, 2017, is terminated and that the terms of this Agreement supersede the terms of said Employment Agreement.
- B. Employee acknowledges that as an at-will employee she has no right to a hearing pursuant to Coconino County Personnel Policy.
- C. Employee, on behalf of herself, her marital community property, her heirs and assigns, by executing this Agreement hereby releases and discharges Coconino County, its officers, employees in their official and individual capacities, agents, assigns, and respective insurers from and against any and all losses, liabilities, claims, expenses, demands, and causes of action, of every kind and nature whatsoever in law or in equity, contracted or tort, known or unknown, suspected and unsuspected, disclosed and undisclosed, fixed and contingent, whether direct or by way of indemnity, contribution or otherwise, including by way of illustration, but not of exclusion, all claims for wages, compensation benefits, damages, disbursements or any other claim arising from or relating to Employee's employment with the County and all claims for personal injury or other claims encompassing any basis or theory whatsoever including discrimination, harassment, or allegations of defamation, libel or slander through the date of Employee's resignation.
- D. By way of example only and without limiting the immediately preceding paragraph, this release is applicable to any cause of action, right, claim, or liability under the following employment statutes, as amended: Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Americans with Disabilities Act, the Arizona Civil Rights Act, the Arizona Employment Protection Act, the Family and Medical Leave Act, and under any other employment law or statute, or any common law principle, including but not limited to wrongful discharge, breach of implied or express contract, breach of the covenant of good faith and fair dealing, intentional or negligent infliction of emotional distress, defamation, or any other tort.

Employee agrees not to file and/or to take all steps necessary to withdraw or dismiss with prejudice any administrative action, lawsuit, or other proceeding that Employee may have initiated against County, whether process has been accomplished or not. This waiver and release does not impair Employee's right to file an administrative charge with the EEOC or to participate in an investigation by the EEOC. However, Employee agrees that if she or any other person, organization, or entity asserts any claim on her behalf, Employee will not seek or accept any personal relief in such action. Employee further agrees that this Agreement may be pleaded as a complete bar to any action or suit before any administrative body, arbitrator, or court with respect to any complaint, charge, or claim arising under any federal, state, local or other law relating to any possible claim that

existed or may have existed as a result of Employee's employment or termination of employment with the County. This Waiver and Release does not waive any claims by Employee for unemployment compensation benefits, workers compensation benefits, claims under the Fair Labor Standards Act, health insurance benefits under the Consolidated Omnibus Budget Reconciliation Act (COBRA), or claims with regard to vested benefits under a retirement plan governed by Employee Retirement Income Security Act (ERISA)

- E. Nothing in Section 3 C or D shall limit any right of Employee under other provisions of this Agreement. Nothing in this Agreement shall be construed as impairing Employee's rights, if any, under any retirement, pension, profit sharing, or similar plan which rights, if any, shall be governed by the terms of the applicable plan, if any. Nothing in this Agreement shall be construed as impairing Employee's rights, if any, to continue any group health or life insurance coverage, and such rights, if any, shall be governed by law in the terms of the applicable plan, if any.
- F. Employee has been made aware of her rights under the Older Workers Benefit Protection Act, 29-U.S.C. 621 et seq., and understands and agrees that she:
 - 1. Has been offered a period of at least 21 days within which to consider this Agreement before executing it, and with advice of her counsel, if any, has waived that opportunity after having what she hereby expressly acknowledges and agrees was an adequate and fair period of time within which to review and consider this Agreement.
 - 2. Has carefully read and fully understands all of the provisions of this Agreement and has agreed to accept all of the terms contained herein without any pressure or coercion by the County.
 - 3. By this Agreement, understands she is releasing County from any and all claims she may have against County accruing through the date of the Agreement.
 - 4. Knowingly and voluntarily agrees to all of the terms set forth in this Agreement.
 - 5. Knowingly and voluntarily intends to be legally bound by this Agreement.
 - 6. Had an opportunity to consult with an attorney of her choice prior to executing this Agreement.
 - 7. Has a full seven (7) days following the execution of this Agreement to revoke this Agreement and has been hereby advised in writing that this Agreement shall not become effective or enforceable until the revocation period has expired. If Employee revokes this Agreement within the time frame specified above, she agrees to do so by giving written notice to the Human Resources Department Director. In the event that Employee timely revokes this Agreement after she receives any payment or compensation specified herein, Employee agrees to return said payment or consideration with her notice of revocation.

Section 4. Compromise

As certain claims or disputes may have arisen during the course of Employee's employment, it is understood and agreed that this Agreement is a compromise and settlement of any and all

disputed claims by the parties and thus it shall not be construed to be an admission of liability or wrongdoing by any party.

Section 5. Other Communications

- A. Employer agrees to provide a positive reference regarding Employee to potential external employers, highlighting her accomplishments in the position of County Manager.
- B. The parties agree that neither they nor their representatives will disparage the other party. Disparage as used herein shall mean any communication, or writing, of false information or the communication of information with reckless disregard to its truth or falsity.
- C. Further, the parties agree to release a statement stating: "The Coconino County Board of Supervisors and County Manager have reached an understanding on the services of the County Manager and the Manager will be leaving per the terms of a severance agreement on January 9th to pursue other professional opportunities."

Section 6. Attorney Fees

Each party shall bear the cost of its own attorney fees in connection with the preparation of this Agreement. If litigation ensues to enforce this Agreement, or as a result of a material breach of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs.

Section 7. Governing Law

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

Section 8. Entire Agreement

The text herein shall constitute the entire agreement between the parties. No promise, inducement or agreement not herein expressed has been made or entered into between the parties. The parties may not change, modify or rescind this Agreement except in writing, signed by both parties.

Section 9. Severability

If any provision or any portion of this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

Section 10. Succession

This Agreement shall be binding upon and inure to the benefit of the parties, and their respective heirs, successors, and assigns.

Section 11. Counterparts

This Agreement may be executed in one or more original counterparts, which together shall have the force and effect of one original document.

COCONINO COUNTY

Matthew Ryan, Chair
Coconino County Board of Supervisors

Date of signing:_____

CYNTHIA SEELHAMMER

Cynthia Seelhammer

Date of signing:_____

Approved as to form:

Reviewed by legal counsel for Employee, if
any:

Deputy County Attorney
