

SEPARATION AND RELEASE AGREEMENT

This Separation and Release Agreement (this “Agreement”) is entered into this 8th day of April, 2021 (the “Effective Date”), by and between Theresa Coleman (“Coleman”) and the City of Bisbee, an Arizona municipal corporation (the “City”). Coleman and the City may be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

A. WHEREAS, the City currently employs Coleman as the City Manager, pursuant to the terms of an Employment Agreement City Manager, City of Bisbee, entered into on July 16, 2019 (the “Employment Agreement”); and,

B. WHEREAS, Coleman’s employment relationship with the City is covered by the Employment Agreement, together with numerous local, state and federal statutes and common laws, including anti-discrimination laws, which prohibit, among other things, discrimination on the basis of age, race, sex, religion, national origin, color, disability and citizenship status (collectively, the “Laws”); and,

C. WHEREAS, Coleman desires to resign from her Employment without the requirement to provide sixty (60) days’ notice to the City and will immediately tender her voluntary, irrevocable resignation upon execution of this Agreement; and,

D. WHEREAS, the City and Coleman desire to amicably and forever conclude any and all issues pertaining to the Coleman’s employment with the City, without any claims or admission of liability, and without setting any precedent binding on the City or Coleman in any other situation.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Separation Date. This Agreement will become effective on the Effective Date, which date shall be deemed the date Coleman tendered her voluntary, irrevocable resignation (the “Separation Date”).

2. Good Terms. The Parties acknowledge and expressly state that Coleman is resigning under good terms with the City, is eligible for rehire, and will be provided a positive reference if requested by any future potential employer of Coleman.

3. Consideration.

3.1 From and following the Separation Date and for a period of three (3)

months, Coleman will continue to be paid according to the terms of the Employment Agreement at her current regular salary and at regularly scheduled payroll periods.

3.2 Coleman shall continue to be covered under the City's health, life, disability, vision and dental insurance coverage during the three (3) month period, but shall not accrue any additional vacation, sick leave or retirement benefits following the Separation Date. Upon conclusion of the three (3) month period, Coleman shall be eligible for COBRA insurance coverage.

3.3 At the pay period immediately following the Separation Date, Coleman shall be paid all unused and accrued vacation and sick leave balances up to and including the Separation Date, as such balances are currently payable to other exempt employees of the City.

4. Mutual Release of Claims. No claims have been asserted by Coleman or the City at the time of this Agreement. However, the Parties agree, following consultation with their respective attorneys, it is in their mutual best interests to provide a release of claims.

4.1 Release by Coleman. Coleman hereby releases and discharges all of her existing rights to any relief of any kind known at the time of the Separation Date against the City, its affiliated entities, predecessors, successors, assigns, its agents, directors, officers and representatives (hereinafter the "City Released Parties") for, 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, contract or tort, known at the time of the Separation Date, 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 Coleman's employment with the City and all claims for personal injury or any other claim on any basis or theory whatsoever through the Separation Date. Coleman is not hereby waiving or releasing any rights she may have to her vested accrued employee benefits under the City's health, retirement or other applicable benefit plans as of the Separation Date.

4.2 Provision for Unknown Claims. Coleman warrants that she does not have any claim, charge, or complaint, either formal or informal, pending against the City or any of the other City Released Parties with any court, tribunal, administrative agency, governmental agency, or other such body. Coleman further waives any right to monetary recovery should any administrative or governmental agency pursue any claim on her behalf.

4.3 Acknowledgement of Rights. Coleman is aware of her rights under the Laws, and understands and agrees that she is waiving any and all rights or claims she may have under the Laws as amended. Coleman further expressly acknowledges and agrees that she has been represented by legal counsel of her choice and carefully read and fully understands all of the provisions of this Agreement and has agreed to accept all of the terms contained therein without any pressure or coercion by the City. Coleman further agrees that this Agreement may be pleaded as a complete bar to any action or suit with respect to any claim under the Laws including, but not limited to, any claim relating to her employment or termination of employment from the City.

4.4 Release by City. The City hereby releases and discharges all of its existing

rights to any relief of any kind known at the time of the Separation Date of this Agreement against Coleman, her predecessors, successors, assigns, her agents, marital communities and representatives (hereinafter “Coleman Released Parties”) for and from any and all losses, liabilities, claims, expenses, demands, and causes of action, of every kind and nature whatsoever in law or in equity, contract or tort, known at the time of the Separation Date, for actions taken in the course and scope of her employment, including, by way of illustration, but not of exclusion, all claims for compensation, damages, disbursements or any other claim arising from or relating to Coleman’s employment with the City and all claims for personal injury or any other claim on any basis or theory whatsoever through the Separation Date for her actions taken in the course and scope of her employment with the City. This release does not release Coleman from any claim against Coleman by another governmental agency for acts Coleman committed outside the course and scope of her duties as a City employee.

5. Indemnification for Acts in the Course and Scope of Employment. Notwithstanding anything herein to the contrary, to the maximum extent provided by law, the City shall defend, hold, harmless, and indemnify Coleman from any and all demands, claims, suits, actions, and legal proceedings brought against Coleman in her official capacity as an agent and employee of the City, or in her individual capacity, provided that the claim arose while Coleman was acting within the scope of her employment. In no event shall the City’s obligation hereunder exceed the authority conferred upon the City by state law.

6. Authority; No Assignment. Coleman represents and warrants that she has the authority to enter into this Agreement, and that she has not assigned any claims to any person or entity.

7. Complete Agreement. No promise, inducement or agreement not herein expressed has been made or entered into between the Parties hereto. This Agreement constitutes and embodies the full and complete understanding and agreement of the Parties hereto with respect to the matters addressed herein and supersedes all prior understandings and agreements. The Parties may not change, modify or rescind this Agreement except in writing, signed by both Parties.

8. Headings. The heading to each paragraph contained herein is for the convenience of the Parties and has no independent legal significance.

9. Governing Law. This Agreement shall be governed by the laws of the State of Arizona, and suit pertaining to this Agreement may be brought only in courts in the State of Arizona. Venue for such action shall be in the Cochise County Superior Court.

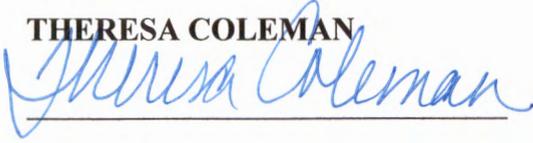
10. Drafting. The provisions of this Agreement shall be deemed prepared or drafted by any one Party or its attorneys and shall not be construed more strongly against either Party.

11. Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

[Signatures on following page.]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement effective as of the date first above written.

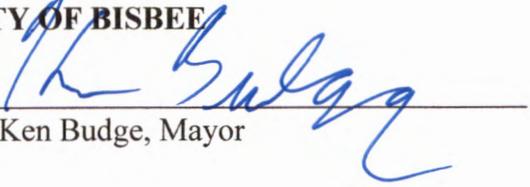
THERESA COLEMAN



CITY OF BISBEE

By: _____

Ken Budge, Mayor



ATTEST:

By: _____


Ashlee Coronado, City Clerk

jestes@gustlaw.com | gustlaw.com |
bio

IMPORTANT & CONFIDENTIAL: This
message is from the law firm of



Text Message

