

FULL AND FINAL RELEASE AND AGREEMENT UPON RESIGNATION

This Full and Final Release and Upon Resignation (“Release”) is made this 17th day of August 2023, between Beverli Marshall (hereinafter “Employee”) to the City of Glenwood Springs (hereinafter the “City”) (collectively the “Parties”).

WHEREAS, Employee was employed with the City until their resignation on August 17, 2023, and

WHEREAS, Employee and City are desirous of resolving any issues between them, including those related to the Employee’s employment and the separation of Employee’s employment.

NOW, THEREFORE, Employee, for the following described consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby

REMISE, RELEASE AND FOREVER DISCHARGE the City, its current and former elected and appointed officers, officials, employees, agents, servants, attorneys, insurers, and representatives (collectively, the “Releasees”), of and from any and all actions, claims and demands, which exist as of the date of this Release, whatsoever, which Employee now has or may hereafter have, of any kind, including all actions, claims and demands arising out of Employee’s employment with City, complaints and/or discipline involving Employee, the separation of Employee’s employment with the City, or any other claim involving Releasees.

I. CONSIDERATION TO EMPLOYEE

The consideration to Employee is as follows:

1. The City shall pay Employee the gross sum of \$99,919.89. The net amount of this payment will be less based upon applicable deductions and withholdings.¹ This payment consists of the following:

- (a) Five (5) months of severance pay in the amount of \$89,583.35; and
- (b) 100 hours of accrued and unused PTO in the amount of \$10,336.54.

Employee acknowledges and agrees such payment is in partial consideration for the promises and covenants contained within this Release.

II. CONSIDERATION TO THE RELEASEES

1. Employee is released from their employment with the City, effective August 17, 2023.

¹ Employee warrants that they have been paid all other wages and benefits to which she was entitled.

2. Employee will not apply for or in any manner seek employment in any position or otherwise work, including as a volunteer or an independent contractor, in any capacity for or with the City. To the extent Employee applies for re-employment or work in any capacity, the City is not obligated to consider their request.

3. Employee warrants that no litigation or administrative charge has been filed by them against the Releasees. Employee further warrants that through this settlement she has been fully compensated for any claims they allege they may have and recognizes such contentions are strongly disputed and contested by the City. Employee acknowledges that the City denies that it owes Employee anything other than what is expressly articulated in this Agreement. Employee acknowledges that by accepting the above described consideration she is waiving any right to further consideration, damages, attorney fees or court costs and agreeing that she has been fully compensated.

4. Employee represents and acknowledges that she will have been paid all wages to which she was entitled under the Fair Labor Standards Act, City policy, and any applicable state and local laws. Employee agrees that no further compensation from that Release, other than what is referenced in paragraph 1 under Consideration to Employee, is owed by the City.

5. Employee waives any rights, to the extent any exist, to additional notice of termination or a hearing associated with the termination of their employment pursuant to Colorado statute or other applicable law.

III. WARRANTY OF EMPLOYEE CONCERNING CONSIDERATION RECEIVED

Employee warrants as follows:

1. No promise or agreement not herein expressed has been made to Employee; that in executing this Release Employee is not relying upon any statement or representation made by the parties hereby released or said parties' agents and servants concerning any matter or thing, but is relying solely upon their own judgment and knowledge and that of their attorney; that the above mentioned consideration is received by Employee in full settlement and satisfaction of all the aforesaid claims and demands, whatsoever, whether said claims be in tort, contract, by statute or otherwise; including but not limited to, those that could form the basis for administrative charges with the EEOC and/or CCRD, Title VII of the Civil Rights Act of 1964, 42 USC §1983, the Americans with Disability Act, the Rehabilitation Act, the First, Fourth, Fifth or Fifteenth Amendments, the Fair Labor Standards Act, the Family Medical Leave Act, the Employee Retirement Income Security Act of 1974, any applicable Colorado act, including but not limited to the Colorado Anti-Discrimination Act and CRCP 106, as well as common law and other actions for claims including, but not limited to, breach of contract, breach of good faith and fair dealing, breach of implied contract, due process, promissory estoppel, defamation, or personal injury.

2. Employee further represents and warrants that it is her clear intention to fully and forever release Releasees from any and all claims, even if there may presently

exist a mistaken belief on the part of Employee as to the present nature and extent of their claims through the date of the execution of this agreement; that a portion of the consideration provided to Employee hereunder is being provided for Employee's voluntary assumption of the risk that their injuries or damages, if any, may worsen or increase or give rise to new legal claims for relief or claims for further damages in the future; that this Release was arrived at in good faith, at arm's length and after negotiation; that the above mentioned consideration is received by Employee in full settlement and satisfaction of any claims which Employee may have for attorney's fees or costs; that the Employee is over the age of 18 years and legally competent to execute, appreciate and fully understand this Release; that no claims for loss of consortium exist; AND THAT BEFORE SIGNING AND SEALING THIS RELEASE AND HAS EXECUTED THIS RELEASE WITH FULL KNOWLEDGE AND UNDERSTANDING THEREOF.

3. Employee further warrants that there are no assignees, subrogees or other third parties who have a right to participate in this settlement or receive any of the consideration provided hereunder. Employee agrees to indemnify, defend and hold forever harmless the Releasees of and from any and all further claims which may be made against the releasees by any person, firm or corporation acting for Employee or asserting a derivative claim from Employee.

4. Employee further warrants that t not received benefits or payments from Medicare or Medicaid related to matters covered or relevant to this Release.

IV. NO ADMISSION OF LIABILITY

Employee acknowledges that Releasees strongly deny any liability or wrongdoing on their part and that this Release is not to be construed, in any way, as an admission of liability, but is only a settlement done for economic reasons.

V. INCOME TAX CONSEQUENCES

Employee warrants that no opinions or statements have been made to them by any Releasee, or any Releasee's agents or agent or employee, relating to any income tax consequences of the payments made under this Release. Employee agrees to indemnify, defend, and hold harmless the Releasees from any and all claims with respect to the income tax consequences of the payment made under this Release asserted by any taxing authority, including the United States Government or its Internal Revenue Service.

VI. OLDER WORKER BENEFIT PROTECTION ACT AND AGE DISCRIMINATION AND EMPLOYMENT ACT

Employee acknowledges that they have been advised that:

1. This Release does not apply to any claims that may arise after the effective date of this Release. The effective date is 7 days after the date Employee signs this Release;

2. Employee has been and hereby is advised of Employee's right to consult with legal counsel prior to executing this Release. Employee acknowledges that they have been advised to so consult and that they have consulted legal counsel;

3. Employee has 21 calendar days to consider this Release and this release shall remain open until September 7, 2023 at which point if it has not been signed and returned to the Mayor c/o Karl Hanlon, City Attorney at 201 14th Street, Suite 200, Glenwood Springs, CO 81601, it will automatically become void, although Employee may choose to voluntarily execute it earlier; and

4. Employee has 7 calendar days following the execution of this Release to revoke it. Written notice of such revocation shall be provided to the Mayor with a copy to the City Attorney, via email at ingrid.wussow@cogs.us and kjh@mountainlawfirm.com on or before 5:00 pm on the 7th calendar day from execution.

VII. MISCELLANEOUS PROVISIONS

1. Colorado (Open) Records Act. Employee understands and agrees that under Colorado's Public (Open) Records Act, C.R.S. § 24-72-200.1, et seq. (the "Act"):

- a. Subject to certain exceptions in the Act, the City shall deny the right of public inspection to Employee's personnel files;
- b. This Release and Agreement is a public record; and
- c. "Personnel files" exclude, among other things, "any amount paid or benefits provided incident to termination of employment."

2. This Release contains the entire understanding of the parties hereto with respect to its subject matter and supersedes all prior oral and written understandings and agreements between the parties.

3. This Release shall be binding upon Employee, their heirs, administrators, personal representatives, assigns and subrogees, if any, as well as all other persons, firms or corporations acting on Employee's behalf or asserting a derivative claim.

4. Employee and the City agree that each shall bear their own costs, including attorneys' fees related to this action.

5. The parties have participated and had an equal opportunity to participate in the drafting of this Release. No ambiguity shall be construed against any party based upon a claim that either party was a drafter.

6. This Release shall be construed and interpreted in accordance with the laws of the State of Colorado, without regard to its choice of law rules or principles.

7. Facsimile and electronic signatures shall suffice as originals.

Paul Marshall
Employee

STATE OF COLORADO)
) SS.
COUNTY OF)

Subscribed and sworn to before me on this 17th day of August 2023. Witness my hand and official seal.

My Commission expires August 24, 2026

HANNAH THIMSEN SIMMONS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20184034101
MY COMMISSION EXPIRES AUGUST 24, 2026

Alej
Notary Public

08/24/2023 16:21 | GLENWOOD SPRINGS
 jacob.carr | PERSONNEL ACTION ENTRY PROOF
 | P 1
 | pmactpen

TYPE	SUPPT REASON ENTRY DATE EFFCT DATE	SSN	EMPLOYEE
T300 TERMINATION MARSHALL, BEVERLI	RESIGNATION 08/24/2023 08/17/2023		694

COMMENT:
NOTES:

CHANGES

 MASTER RECORD UPDATED - NAME: MARSHALL, BEVERLI A STATUS: I JOB CLASS: 1000
 LOC: 112 GROUP/BU: CMGR
 ORG: 01112 OBJ: 51110 PROJ:

CHANGED FIELD VALUE	ORIGINAL VALUE	NEW
Active Status	A	I
Inactive Reason		VOLN
Inactive Date		
08/17/2023		
Terminated Reason		VOLN
Terminated Date		
08/17/2023		
Supervisor	12	0
Email	yvette.gustad@cogs.us	
beverli.marshall@gmail.com		
Advice Delivery	E	B
Alternate Email	beverli.marshall@gmail.com	
yvette.gustad@cogs.us		

ESS ACCESS UPDATE - REASON CODE: VOLN USER ID : BEVERLI.MARSHALL

Carr **

** END OF REPORT - Generated by Jake



CITY OF GLENWOOD SPRINGS
 101 8TH STREET
 GLENWOOD SPRINGS, CO 81601

Personnel Action Change Form

HUMAN RESOURCE DEPARTMENT

Action:	LEAVE	Entry Date:	08/14/2023	Effective Date:	08/11/2023
Description:	LEAVE			Entered By:	yvette.gustad
Reason:	ADMIN LEAVE			Position Number:	1000001
Name:	BEVERLI A MARSHALL			Employee Number:	694
Address:				Race:	OTHER RACE
City/State/Zip:				Gender:	F
Leave Date:		Hire Date:	03/20/2023	Service Date:	03/20/2023
		Return Date:		Length:	

NEW	PRIOR
Job:	Job: 1000 - CITY MANAGER
Position:	Position: 1000001 - CITY MANAGER
Department:	Department: 112 - ADMINISTRATION
Status Code:	Status Code: FT - FULL TIME
GL:	GL: 01-10-112-00000-00000-51110-
Salary Group:	Salary Group: CMGR - CITY MANAGER
Grade / Step:	Grade / Step: 001 / 0
Start:	Start: 03/20/2023
End:	End: 12/31/9999

	JOB CLASS	ORG CODE	HOURLY RATE	PERIOD PAY	ANNUAL SALARY
Prior	1000 - CITY MANAGER	01112	\$103.37	\$8,269.23	\$215,000.00
New					

Additional Pay:

ADMINISTRATION

Remarks:

Notes:

Workflow Status: **APPROVED**

Approved By: **yvette.gustad - 08/14/2023**