

## SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is hereby made and entered into by and between JONATHAN EVANS ("Employee") and the CITY OF RIVIERA BEACH, FLORIDA (hereinafter referred to as "Employer"), as well as TERENCE DAVIS, DAWN PARDO, and LYNNE HUBBARD (collectively, the "Individual Defendants"). In exchange for the mutual promises set forth below and intending to be legally bound, the Employer, the Employee, and the Individual Defendants agree to the following terms and conditions:

- A. Employee was employed as a City Manager for said Employer.
- B. Employee was terminated from employment with Employer effective September 20, 2017. Employer agrees to rescind said termination effective September 20, 2017 and acknowledges that there was no evidence of misfeasance or malfeasance by Employee. Employer and Employee hereby mutually agree that Employee shall no longer be employed by Employer effective September 20, 2017 by mutual consent.
- C. If Employee accepts the terms and conditions of this Agreement, Employee shall receive the gross amount of \$190,000.00, as the Settlement Amount. The payment of such Settlement Amount is more fully set forth in Paragraph G.
- D. It is agreed and understood that neither the offer or acceptance of this Agreement nor the payment of any money or provision of benefits hereunder constitute or will be construed as an admission of liability or of any wrongdoing or violation of laws, rules or policies by the Employer, the Individual Defendants, or the Employee.
- E. Employee hereby releases and discharges the Employer and the Individual Defendants (and all of their affiliates, successors, assigns, directors, officers, insurers, Commissioners, employees, attorneys, and agents) from and against any and all liability to Employee upon claims, causes of action or obligations of every nature whatsoever, whether known or unknown, arising out of or relating to Employee's employment, employment contract, separation from employment, termination of employment contract, or any other act, event, failure to act or things which have occurred or were created at any time before or upon the date on which this Agreement becomes effective. Without limiting the generality hereof, this release covers claims or causes of action based upon any alleged breach of Employee's employment contract dated February 15, 2017; all torts (such as, for example, negligence, fraud, defamation, wrongful discharge, invasion of privacy, deprivation of liberty or property interests); express and implied contracts (except this Agreement); federal, state or local statutes and ordinances, including those which regulate employment practices (such as, for example, the Age Discrimination in Employment Act, Family Medical Leave Act, Federal Civil Rights Acts (including but not limited to 42 U.S.C.A Sections 1981 – 1988, 2000a-6, and 2000e-17); the Americans with Disabilities Act; the Genetic Information Nondiscrimination Act; the National Labor Relations Act; the Older Worker Benefit Protection Act; The Florida Civil Rights Act; any state or federal Whistleblower's Act; Public Employee Relations Act; Title VII of the Civil Rights Act; the Civil Rights Act of 1991; the Reconstruction Era Civil Rights Act of 1866; the Employee Retirement Income Security Act; the Public Health Services Act; Sarbanes-Oxley; the Rehabilitation Act of 1973; the Health Insurance Portability and Accountability Act; the Equal Pay Act; the Worker Adjustment and Retraining Notification Act; the Occupational Safety and Health Act; the Consolidated Omnibus Budget Reconciliation Act; the Florida Civil Rights Act; the Florida Equal Pay Act; the Patient Protection and Affordable Care Act; any claims under Fla. Stat. 448.08 for unpaid wages and waivable rights under the Florida Constitution; and any and all amendments to such acts); claims under Fla. Stat. 440.205; any and all claims raised or that could have been raised in EEOC Charge Number 510-2018-04191 and/or any and all claims raised or that could have been raised the Complaint filed in the United States District Court for the Southern District of Florida Case Number 9:18-CV-80687-ROSENBERG/REINHART; any and all claims for violation of any statutory or administrative rules, regulations or codes; any and all claims based on state or federal constitutional issues, any right or entitlement to any individual relief including damages, attorney's fees, and costs which may be available through local, state, or federal regulatory agencies such as the EEOC; expenses, costs, fees, and/or attorneys' fees, incurred or claimed in connection with any alleged claims; and every other source



of legal rights and obligations which may validly be waived or released, except rights created or preserved expressly in this Agreement. The Release contained herein is intended to be a **GENERAL RELEASE** of any and all claims to the fullest extent permissible by law. As used in this General Release, the term "claims" will include all claims, covenants, warranties, promises, undertakings, actions, suits, causes of action, obligations, debts, accounts, attorneys' fees, judgments, damages, expenses, losses, and liabilities, of whatsoever kind or nature, in law, in equity or otherwise.

F. The Employee makes the following representations to the Employer, each of which is necessary before the Employer will make payment of the Settlement Amount to the Employee under this Agreement:

- (1) that the payments and other benefits which the Employer has agreed to provide, as stated herein, are payments and benefits to which he would not be entitled if it were not for this Agreement;
- (2) that no consideration, promises, agreements or representations have been made to encourage him to sign this Agreement, except those that are contained in this Agreement;
- (3) that he has read and understands each and every provision of this Agreement and any waiver pursuant to this Agreement is knowing and voluntary;
- (4) that he has been advised by the Employer that he should consult an attorney of his own choosing before signing this Agreement and that he has, in fact, consulted Wenzel Fenton Cabassa, P.A. and Bonar, Bucher & Rankin, PSC.;
- (5) that he has not filed any complaints or initiated any other legal proceedings against the Employer before the date of signing this Agreement, other than EEOC Charge Number 510-2018-04191 and that, by accepting the terms of this Agreement, he hereby withdraws her Charge of Discrimination, Number 510-2018-04191 and will voluntarily dismiss with prejudice the Complaint filed in the United States District Court for the Southern District of Florida Case Number 9:18-CV-80687-ROSENBERG/REINHART.
- (6) that he has not assigned, transferred or purported to assign or transfer any claims released in this Agreement to any person, association or entity.
- (7) that he has accurately reported all hours worked and has been paid in full for all time worked in accordance with the law and is owed no wages, whether in the form of straight time, overtime, or liquidated damages.
- (8) that he has not suffered an occupational disease or disability or any on-the-job-related accident or injury of the type that might have entitled him to file a Workers' Compensation claim, whether temporary, permanent, partial or total.
- (9) that he was provided and received all paid and unpaid leaves of absence to which he was entitled.
- (10) that he assumes the risk for any mistake of fact now known or unknown and that he understands the significance of this Agreement.
- (11) that he has the mental capacity to enter into this Agreement.
- (12) that he has returned all Employer-issued property in his possession.
- (13) that he has submitted any and all expense reports or other expenditures believed to be reimbursable by Employer, including required receipts or other backup, prior to executing this Agreement.



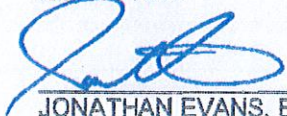
- (14) that he will withdraw his Charge now pending before the Miami District Office of the Equal Employment Opportunity Commission within 5 days of this Agreement becoming effective and shall provide a copy of such withdrawal to Torcivia, Donlon, Goddeau & Ansay, P.A. Employee also will dismiss the Complaint filed in the United States District Court for the Southern District of Florida Case Number 9:18-CV-80687-ROSENBERG/REINHART within 5 days of this Agreement becoming effective and shall provide a copy of such dismissal with prejudice to Torcivia, Donlon, Goddeau & Ansay, P.A.
- (15) that he will indemnify Employer and hold Employer harmless for all taxes, payroll or otherwise, including attorneys' fees and costs, and any interest and penalties for which Employer may be found liable as a consequence of having paid monies to Employee or his counsel pursuant to this Agreement. Employee understands that Employer will be sending his counsel appropriate tax forms related to this transaction and Employee agrees to be responsible, solely and exclusively, for payment of any and all taxes related to this transaction.
- (16) that he is not aware of any liens and/or pending legal claims applicable to the Settlement Amount and agrees to defend, indemnify and hold harmless Employer, its board members, agents, insurers, attorneys, or representatives, against any lien, claim or action asserted against the Settlement Amount and that he will be solely responsible to satisfy any liens or pending legal claims asserted against the Employee, or Employer, its board members, agents, insurers, attorneys, or representatives, as against the Settlement Amount.
- (17) Employee acknowledges that this Agreement and the Settlement Amount referenced in Section G, below, not only satisfies any and all payments required and/or outstanding under Employee's employment contract dated February 15, 2017, including but not limited to any unused vacation and/or sick time, retirement and deferred compensation benefits, severance pay, and/or any other possible payment or benefit described therein, but also goes over and above what may have been required under said contract.
- G. In exchange for the general release and other promises and acknowledgments made by Employee in this Agreement, the Employer agrees to make payment to Employee the gross Settlement Amount equal to One Hundred Ninety Thousand Dollars and No Cents (\$190,000.00). Such payment shall be made as outlined below on August 6, 2018. Such payment shall be delivered to his attorney, Luis A. Cabassa, Esquire, Wenzel Fenton Cabassa, P.A., at 1110 North Florida Avenue, Suite 300, Tampa, Florida 33602 via tracked delivery company such as FedEx or UPS. Such payment shall be made, inclusive of attorney's fees and costs, as follows:
- (1) The gross amount of \$57,000.00, less applicable withholding/taxes, payable to EMPLOYEE and reported on a W-2 Form;
  - (2) The gross amount of \$57,000.00 for payable to EMPLOYEE and reported on a 1099 Form;
  - (3) The gross amount of \$38,000.00, payable to Wenzel Fenton Cabassa, P.A. and reported on a W-9 Form; and
  - (4) The gross amount of \$38,000.00, payable to Bonar, Bucher & Rankin, PSC and reported on a W-9 Form.
- H. Employee hereby agrees that he will not seek employment with Employer at any time in the future. Employee further agrees that he will neither apply for any position with Employer nor will Employee accept any position offered to him by Employer.
- I. Employee and Employer agree not to file any claims waived by this Agreement.
- J. The Release in Paragraph E above shall inure to the benefit of the Employer, Employee, and the Individual Defendants and each of their successors, assigns, affiliates, devisees, heirs, administrators and representatives.



- K. This Agreement constitutes the entire agreement by and among the parties hereto and there are no agreements or commitments by or among the parties, either verbal or written, except as expressly set forth herein.
- L. Should any part, term, or provision of this Agreement be declared or be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining parts, terms, or provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term, or provision shall be deemed not a part of this Agreement.
- M. The Agreement shall be governed exclusively by Florida Law and venue for any action herein shall be in the courts of Palm Beach County.
- N. The parties agree that this Agreement shall be construed as jointly prepared by the parties so that any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other.
- O. The rights, responsibilities, and duties of the parties, and the agreements herein, shall continue to bind the parties in full force and effect until each and every obligation has been fully performed.
- P. This Agreement may be executed in counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement, all of which taken together shall constitute one and the same Agreement. In the event an executed version of this Agreement is transmitted by facsimile or is scanned and emailed, the Agreement shall be effective and binding as if it were the originally executed document. However, Employee will deliver original documents to Torcivia, Donlon, Goddeau & Ansay, P.A. as soon as possible.
- Q. Employer will present this Agreement to the Riviera Beach City Council during the August 1, 2018, Riviera Beach City Council meeting, which, if accepted, must be paid by August 6, 2018.

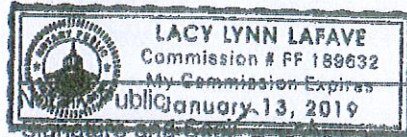
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written below.

**EMPLOYEE:**

  
\_\_\_\_\_  
JONATHAN EVANS, Employee      7/30/2018  
Date

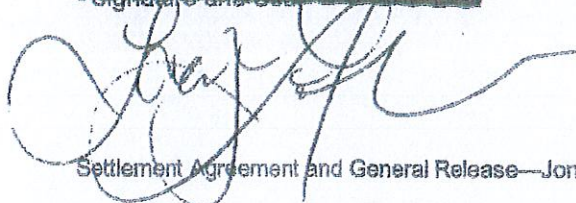
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of July 2018 by **JONATHAN EVANS**, who is personally known to me, or has produced DL as identification and did/did not take an oath.



My commission expires:

January 13 2019





CITY OF RIVIERA BEACH, FLORIDA:

By: \_\_\_\_\_  
Thomas Masters  
Mayor  
Date

By: Tonya Davis Johnson 8/3/18  
Chairperson  
Date

Attest: \_\_\_\_\_  
By: Claudene L. Anthony 8/3/18  
City Clerk  
Date

As to form and legal sufficiency:  
By: Andrew DeGraffenreidt, III 8/3/18  
City Attorney  
Date

By: Karen Hoskins 8/3/18  
City Manager  
Date

**RESOLUTION NO. 74-18**

**The Mayor refused to execute the agreement; therefore, it does not have his signature  
Resolution approved by City Council on August 1, 2018**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING SETTLEMENT IN THE CASE OF JONATHAN EVANS V. THE CITY OF RIVIERA BEACH, ET AL., CASE NO.: 9:18-CV-80687 AND CLAIM OF EEOC CHARGE NO.: 510-2018-04191; AUTHORIZING GALLAGHER BASSETT TO MAKE PAYMENT IN THE AMOUNT OF \$XXXX AS COMPLETE SETTLEMENT; AND PROVIDING AN EFFECTIVE DATE.

ye

RESOLUTION NO. 74-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING SETTLEMENT IN THE CASE OF JONATHAN EVANS V. THE CITY OF RIVIERA BEACH, ET AL., CASE NO.: 9:18-CV-80687 AND CLAIM OF EEOC CHARGE NO.: 510-2018-04191; AUTHORIZING GALLAGHER BASSETT TO MAKE PAYMENT IN THE AMOUNT OF \$XXXX AS COMPLETE SETTLEMENT; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, Jonathan Evans was employed as the City Manager; and

**WHEREAS**, Mr. Evans filed a charge of discrimination against the City with the Equal Employment Opportunity Commission, Charge No. 510-2018-04191; and

**WHEREAS**, Mr. Evans also filed a complaint in the United States District Court for the Southern District of Florida against the City, Councilperson Terence D. Davis, Councilperson Lynne L. Hubbard, and Councilperson Dawn Pardo, et al, Case No. 9:18-CV-80687;

**WHEREAS**, Counsel for Mr. Evans has negotiated and mediated on the matter with counsel for the City to settle the claim for XXXX subject to City Council approval and has agreed to dismiss all claims and not to neither apply for nor accept employment with the City at any time in the future.

**NOW, THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, as follows:**

**SECTION 1.** That settlement in the matter of *Jonathan Evans v. City of Riviera Beach, Case No. 9:18-CV-80687, EEOC Charge No. 510-2018-04191* is hereby approved in the total amount of \$XXXX, which includes attorney's fees and costs.

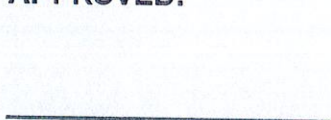
**SECTION 2.** That Gallagher Bassett Services, Inc., is authorized to make payment on behalf of the City, after receiving appropriate releases from Mr. Evans.

**SECTION 3.** That this resolution shall take effect immediately upon its passage and approval by the City Council.

**PASSED and APPROVED** this 1st day of August, 2018.

RESOLUTION NO.: 74-18  
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APPROVED:

  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
TONYA DAVIS JOHNSON  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
LYNNE L. HUBBARD  
CHAIR PRO TEM

  
\_\_\_\_\_  
JULIA BOTEL  
COUNCILPERSON

  
\_\_\_\_\_  
TERENCE D. DAVIS  
COUNCILPERSON

\_\_\_\_\_  
KASHAMBA MILLER ANDERSON  
COUNCILPERSON

MOTIONED BY: T. DAVIS JOHNSON

SECONDED BY: T. DAVIS

L. HUBBARD	<u>AYE</u>
K. MILLER-ANDERSON	<u>NAY</u>
T. DAVIS-JOHNSON	<u>AYE</u>
J. BOTEL	<u>NAY</u>
T. DAVIS	<u>AYE</u>

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
Lina Busby  
ASST. CITY ATTORNEY

DATE: 7/31/18