

## **SEVERANCE AGREEMENT AND RELEASE OF CLAIMS**

This Severance Agreement and Release of Claims ("Agreement") is between Lansing Board of Water & Light ("Employer"), and Donna Smith ("Employee"). Employee has been employed by Employer, but the employment relationship is being terminated. In order to affect a smooth termination process, Employer is offering Employee this Agreement under the following terms and conditions:

1. **Termination of Employment:** Employee's employment will end effective January 4, 2020 ("Last Day Worked"). Effective on the Last Day Worked, Employee will be relieved of all duties and obligations to Employer, except as provided in this Agreement. Employee's termination of employment will be characterized as a retirement with a separation agreement. After the Last Day Worked, Employee waives any and all rights Employee may otherwise have to continued employment with Employer.
2. **References:** Consistent with its policy, Employer will confirm Employee's employment dates, last position held and last salary and will provide no further information, except as may be required by law or regulation.
3. **Confidentiality:** The parties agree that this Agreement and its terms are confidential and shall not be disclosed or published directly or indirectly to third persons by either party, except as may be required by applicable law or court order, as necessary to enforce its terms, or to the parties' respective attorneys and financial consultants; although the parties may disclose the fact of Employee's termination of employment as necessary.
4. **No Admission:** The parties' agreement to the terms contained in this Agreement shall not be construed as an admission of fault or wrongdoing by any party. The purpose of this Agreement is to mutually and efficiently terminate the employment relationship.
5. **Consideration Payment and Benefits:** As consideration for this Agreement, subject to the terms in this Agreement and after the Revocation Period explained in paragraph 10 of this Agreement has expired without the right of revocation being exercised, Employee shall receive the following payments and benefits ("Consideration"):
  - A. Effective July 21, 2019, Employee shall be deemed to be on an unpaid leave of absence from that date until January 4, 2020 ("Unpaid Leave Period"). Effective January 4, 2020, Employee shall retire from Employer and will be eligible to participate in retirement benefits for eligible employees of Lansing Board of Water & Light in accordance with the terms of the plan then existing. Employee shall be entitled to the level and amount of retirement benefits, including but not limited to the Post Retirement Benefit Plan, in the same level(s) and amount(s) as any other

employee/retiree retiring as of January 4, 2020, no more or no less (and in accordance with their service date, age, and all other relevant factors).

The parties agree that this Agreement and the Employer's obligations herein do not restrict the Employer from making changes to copay requirements, benefit levels, or other terms and conditions, etc. of the retirement benefits, provided that it is understood that the Employer is restricted from making such changes that would negatively impact solely the Employee and not any other similarly eligible employee.

Except as otherwise stated in this Agreement, during the Unpaid Leave Period and any time thereafter, Employee agrees that:

- i. She shall continue to receive healthcare benefits (medical, prescription and dental), term life insurance coverage for herself, and additional term life insurance coverages for herself, spouse and children, and is responsible for her share of premiums;
- ii. She shall not receive any other compensation or benefits of any kind from Employer that it provides to its employees (including, but not limited to, contributions or Employer-matching contributions into a retirement account, paid vacation leave, paid sick leave, paid personal leave, disability leave, medical leave, or any other similar benefits of a like kind and nature);
- iii. She shall not be eligible for rehire or reinstatement. Further, Employer has no obligation to place Employee on active work status of any kind or place them in any position or give them work assignments of any kind with Employer. Nor does Employee have any right or entitlement, by virtue of this Agreement or their status on unpaid leave, to apply for or receive consideration for any position of active employment with Employer. Should Employee nevertheless seek such a position or assignment with Employer, Employee understands and acknowledges that Employer shall have no obligation to give consideration to Employee for such purposes and that Employer shall not be considered to be in violation of this Agreement; and
- iv. Employer is placing Employee on an unpaid leave of absence for the limited purpose of, and for no other reason than, to permit Employee to be eligible for retirement benefits, including but not limited to the Post Retirement Benefit Plan, on January 4, 2020, as set forth in this Section. Employee shall have no responsibility nor authorization to engage in or perform any work or services of any kind for the benefit of or on Employer's behalf during the Unpaid Leave Period described herein.

- B. A payment in the gross amount of \$42,000.00, which will be paid on the first pay date after the Revocation Period has expired.

All payments made to and on behalf of Employee pursuant to this Paragraph will be subject to taxes and withholding, pursuant to applicable law, and Employee understands that Employee will be responsible for Employee's portion of such applicable taxes.

Employee understands and agrees that, other than distributions required by law and payments described in this Agreement, Employee will not be eligible for any payments from Employer. Also, any fringe benefits that Employee has received or currently is receiving from Employer shall cease effective July 21, 2019 except as otherwise provided in this Agreement or by law. Employer agrees not to deny or refute Employee's claim for unemployment benefits.

6. **Consideration for Agreement:** The parties agree that the Consideration described in Paragraph 5 of this Agreement is in full consideration of Employee's release of claims and agreement to the restrictive covenants in this Agreement. The parties agree that this Consideration is not required by any policy of Employer or any preexisting obligation of Employer to Employee, nor is it compensation for services performed or to be performed by Employee.

7. **Waiver and Release of Claims:** Employee waives, releases, acquits, and discharges Employer, and any parent, subsidiary or any other entity of Employer, any partnerships, joint ventures or other entities involving Employer; and all present or former employees, officers, agents, directors, successors, assigns and attorneys of Employer and any of these corporations or entities; from any and all claims, actions, charges, suits, causes of action, demands, and damages, whether known or unknown, liquidated or unliquidated, fixed or contingent, direct or indirect, that Employee may currently have or that may be discovered after the Employee signs this Agreement, on account of or growing out of Employee's employment with Employer and termination of employment with Employer; or arising out of related events occurring through the date this Agreement is executed.

This includes, but is not limited to, claims for breach of any applicable employee handbook or manual, policy or procedure; breach of any express or implied employment contract; any tort, continued employment; loss of wages or benefits; reimbursement of expenses; wrongful discharge; harassment; defamation; emotional distress or humiliation; harassment; attorney fees; employment discrimination arising under any federal, state, or local civil rights or antidiscrimination statute, and all other types of claims or causes of action whatsoever arising under any other state or federal statute or common law; including specifically, although not limited to, any claims Employee may have under Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act ("ADA"), the Rehabilitation Act, and the Age Discrimination in Employment Act ("ADEA"), Michigan's Elliott-Larsen Civil Rights Act, Michigan's

Persons With Disabilities Civil Rights Act, Michigan's Whistleblowers Protection Act, as each of these statutes may be amended; except that Employee does not release any claims accrued after the date this Agreement is executed.

It is not the intent of the parties of this Agreement to waive any rights or claims that may not be waived by operation of law, such as the right to participate in or initiate an investigation by an administrative or government agency (state or federal), including the Equal Employment Opportunity Commission (EEOC) and the National Labor Relations Board (NLRB). However, Employee waives any right to any personal benefit, monetary or otherwise, that may result from any claim, including a discrimination claim, filed on Employee's behalf by any administrative or government agency or by a representative class or collective action plaintiffs. Further, Employee agrees that, other than the payments specifically referenced in this Agreement, Employee has been paid all compensation and provided all benefits due. Employee is not aware of any injuries or illnesses incurred or exacerbated in the course of employment that would give rise to a workers' compensation claim, nor any leave of absence or benefits to which Employee may have been entitled during their employment. Employee agrees to withdraw, with prejudice and within three business days following the expiration of the Revocation Period described in Paragraph 10 of this Agreement, any claims or suits that may have been filed by Employee or on Employee's behalf against Employer or its affiliated companies and their owners, officers, directors, agents, and employees.

8. **Consult with Attorney:** Employee acknowledges and agrees that Employee is hereby advised in writing to consult with an attorney of their choosing before executing this Agreement.

9. **Compliance with Older Workers Benefit Protection Act:** To the extent the Employee is 40 years of age or older, Employee is advised of and acknowledges that Employee has at least twenty-one (21) calendar days to consider this Agreement and its terms. In order to enter this Agreement, Employee must execute it no later than September 6, 2019 and, Employer's General Counsel, Mark Matus, must receive the executed Agreement at the office of record, 1201 S. Washington Ave. Lansing, MI 48910, no later than the time of close of business on September 6, 2019, or this offer will be forever revoked. Employee hereby waives any right that Employee may have to additional time to consider this Agreement.

10. **Final Offer, Consideration Period, and Revocation:** Employee understands that this is Employer's final offer, and that Employee shall have up to seven (7) calendar days following Employee's execution of this Agreement to revoke this Agreement ("Revocation Period"). In order to be effective, the revocation shall be made in writing by Employee, directed to General Counsel Mark Matus and either postmarked within the seven-day period or hand-delivered to General Counsel Mark Matus' office at 1201 S. Washington Ave. Lansing, MI 48910, within the seven-day period. If revocation is made by mail, mailing by certified mail return receipt requested is recommended to show proof of mailing. Employee understands that by signing this

Agreement and by not revoking the Agreement during the seven-day revocation period, Employee and Employer will be bound by this Agreement.

**11. Non-Disclosure:** Employee expressly acknowledges and agrees that during the course of Employee's employment with Employer, certain confidential and competitive information may have been divulged to or become known by Employee in the nature of, but not limited to, information concerning Employer's current, former and prospective employees and customers, business practices and business plans; contract information; policies and procedures; financial; marketing and administrative information; future plans of Employer and its affiliates; and other trade secrets, which is valuable, confidential information of Employer and its affiliates (all of which is referred to in this Agreement as ("Confidential Information")). This Confidential Information has been uniquely developed by Employer, is an important asset and cannot be readily obtained by third parties from outside sources. Therefore, Employee expressly agrees that Employee will not use for Employee's personal benefit, or disclose, communicate or divulge to, or use for the direct or indirect benefit of any person, firm, association or company, any Confidential Information of Employer.

**12. Injunctive Relief:** The "confidentiality" provision contained in Paragraph 3, the "non-disclosure" covenant in Paragraph 11, and the "return of property" provision in Paragraph 14 of this Agreement (collectively "Restrictive Covenants") are reasonable and necessary for the protection of the legitimate business interest of Employer and its employees, are material terms of this Agreement, and a violation of these restrictions would cause substantial injury to Employer. So, if Employee is deemed to have materially breached this Agreement, including the Restrictive Covenants, Employer will be entitled to immediate preliminary and permanent injunctive relief, without bond, in addition to any other remedy that may be available.

**13. Indemnification, Defense and Cooperation:** Employee will, at Employer's request, fully and voluntarily cooperate, with any actions by or against the Employer in which Employee is named as a defendant or witness or about which Employee has knowledge.

**14. Return of Employer Property:** Employee will return to Employer on the Last Day Worked all items, documents, lists, equipment, and other materials belonging to Employer, including but not limited to all documents, software, or other business records or information, keys, cell phone, computer, and all other items in Employee's possession or control.

**15. Knowing and Voluntary Agreement:** Employee and Employer acknowledge that they have read and understand this Agreement, that Employee has had adequate time to consider it, understands the consequences of entering into it, is knowingly and voluntarily entering into it, and that Employee is competent to enter into this Agreement.

16. **Non-Disparagement:** The Employee agrees that she will not make, to any third party, any disparaging or negative written or oral statements about or relating to the Employer. This paragraph shall not be construed to mean that the parties cannot fulfill their statutory duties or rights.
17. **Benefit and Binding Effect:** This Agreement shall benefit and bind the parties and their respective directors, officers, employees, agents, heirs, successors, assigns, devisees and legal or personal representatives.
18. **Controlling Agreement:** This Agreement is the entire agreement between the parties at the time and date these documents are executed, and fully supersedes any and all prior agreements or understandings between them pertaining to the subject matter in this Agreement.
19. **Prevailing Law:** This Agreement is to be construed according to the laws of Michigan and shall be enforceable in a court of competent jurisdiction in Ingham County, Michigan, and each party submits itself to that jurisdiction.
20. **Severability:** If any provision of this Agreement is determined to be unenforceable, the remainder of this Agreement shall not be affected, but each remaining provision or portion shall continue to be valid and effective and the Agreement shall be enforceable, as it may be modified by a court of competent jurisdiction, to the fullest extent permitted by law.
21. **Execution of Agreement:** To signify their agreement to the terms of this Agreement, the parties have executed it on the date set forth opposite their signatures, or those of their authorized agents.

*Remainder of this Page Intentionally Left Blank*

**THIS IS A RELEASE**

**READ BEFORE SIGNING**

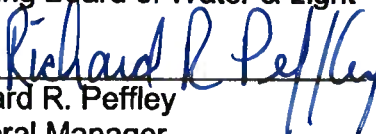
I, Donna Smith, understand that Paragraph 9 of this Agreement provides me with the time period that the Age Discrimination in Employment Act (ADEA) and Older Workers Benefit Protection Act require that I be provided to consider whether I want to sign this Agreement. I hereby acknowledge that I have been provided the full amount of time required by law to consider this Agreement, and knowingly and voluntarily choose to sign this Agreement at this time without any inducement or coercion by the Released Parties. I further acknowledge that the seven-day revocation period in Paragraph 10 has not been shortened or waived, and that the seven-day period will commence as of the date of my signing this Agreement.


Dated: 8.15.2019

  
Donna Smith

Dated: 8-19-19

Lansing Board of Water & Light

By:   
Richard R. Peffley  
General Manager

By:   
M. Denise Griffin  
Corporate Secretary

  
APPROVED  
BOARD OF WATER & LIGHT  
LEGAL COUNSEL  
Date 8-19-2019