

SEPARATION AGREEMENT AND RELEASE

Gary N. McLean ("McLean") and the City of Puyallup, and its elected officials, council members, employees, agents and insurers (the "City") together desire to settle and resolve any and all possible disputes between McLean and the City (the "Parties") through the date of this Separation Agreement and Release ("Agreement") arising out of McLean's employment. McLean desires to tender, and the City desires to accept, his resignation of employment, and both desire to move forward in good faith toward a smooth transition and continuity in the efficient operation of city government. It is therefore agreed as follows:

1. **Agreement Not Admission.** This Agreement is not an admission by the City that the City has violated any law or failed to fulfill any duty to McLean, or an admission by McLean that he has violated any law or failed to fulfill any duty to the City. Nothing in this paragraph 1 or anywhere in this Agreement precludes or limits in any way obligations that the City or McLean may have under local, state, and federal law.

2. **Release.** McLean accepts the undertakings of the City in this Agreement as full settlement of any and all claims, known or unknown, arising out of or related, directly or indirectly, to his employment with the City or its termination, and for any and all other claims, known or unknown, of whatever kind or nature that McLean may have against the City. This release includes, but is not limited to, any claims for damages or attorney fees, for emotional distress, lost salary or other benefits, retaliation, wrongful termination or discrimination based upon disability, national origin, sex, age, sexual orientation, or any other violation of any equal employment opportunity law, ordinance, rule, regulation or order (including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; Washington's Law Against Discrimination; the Employee Retirement Income Security Act of 1974, as amended; or any other federal, state, or local laws or regulations regarding employment discrimination or termination of employment) and any claims for wrongful discharge, fraud, misrepresentation, defamation, or any other claim under any statute, rule, regulation, or under the common law. These claims are examples, not a complete list, of the released claims, as it is the Parties' intent that McLean release any and all claims, of whatever kind or nature, in exchange for the undertakings in this Agreement by the City. McLean realizes this constitutes a full and final settlement of any and all such claims, and except for obligations arising under this Agreement, releases the City (and anyone else against whom McLean could assert a claim based on his employment or its termination) from any further liability to McLean (or to anyone else he has power to bind in this Agreement).

3. **ADEA Release.** McLean acknowledges and agrees that he is waiving and releasing any rights he may have against the City under the Age Discrimination in Employment Act (“ADEA”) and that this waiver and release is knowing and voluntary. McLean agrees that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the execution of this Agreement. McLean acknowledges and agrees that he has been advised by this writing that (a) this waiver and release does not apply to any rights or claims that may arise after the execution date of this Agreement, (b) he should consult with an attorney prior to executing this Agreement, (c) he has twenty-one (21) days within which to consider this Agreement (although he may choose to voluntarily execute this Agreement earlier and to waive such period of consideration), (d) he has seven (7) days following the execution of this Agreement to revoke this Agreement, (e) this Agreement shall not be effective until the revocation period has expired (the “Effective Date”), and (f) nothing in this Agreement prevents or precludes McLean from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties or costs for doing so, unless specifically authorized by federal law. Any revocation, as set forth above, shall be in writing and delivered to the City’s counsel, by close of business on the seventh (7th) day from the date that McLean signs this Agreement, at the following address:

Stephanie R. Alexander
Michael & Alexander PLLC
701 Pike Street, Suite 1150
Seattle, WA 98101

McLean understands and agrees that if he revokes this Agreement pursuant to this paragraph 3, this Agreement will not become effective and enforceable and he will not be entitled to any of the benefits identified under this Agreement.

4. **Resignation.** McLean agrees to voluntarily resign his employment with the City, effective upon the date that this Agreement is approved by the Puyallup City Council (the “Resignation Date”). The Parties further agree that upon the Resignation Date, the Third Amendment to the City of Puyallup Employment Agreement for Gary N. McLean, entered into on March 5, 2008 (the “Employment Agreement”) will also terminate and the terms and conditions under the Employment Agreement will no longer be in effect, except as specifically referenced herein.
5. **Separation Payment.** As consideration for entering into this Agreement, the City agrees to pay to McLean Eight (8) months of his current regular base salary, subject to lawful deductions. Any payment under this paragraph 5 will become payable within five (5) business days after the Effective Date of this Agreement.
6. **COBRA Coverage.** As additional consideration for entering into this Agreement, the City agrees that it will pay McLean’s COBRA coverage payment under the City’s then existing health care plan (the “Plan”), for up to eight (8)

months, as allowed under COBRA (the "COBRA Payment Period"). McLean understands and agrees that in order for him to be eligible for this COBRA coverage under the Plan, he is solely responsible for completing the appropriate Plan requirements for obtaining such coverage. These COBRA Payment Period amounts will be paid directly to the City's insurance carrier. McLean further understands and agrees that if any payment under this paragraph 6 for COBRA benefits becomes due before the Effective Date, McLean will be responsible for any payment due to the City's insurance carrier.

If, at any time during the COBRA Payment Period, McLean secures equivalent benefits through other employment, the City's payment of McLean's COBRA coverage (should any exist) will automatically cease. McLean agrees that he will not waive any opportunity to obtain benefits with any employer, and that he will make reasonable and good faith efforts to obtain equivalent benefits through other employment. McLean further agrees that he will promptly notify the City in the event he obtains equivalent benefits through other employment. Nothing in this paragraph is intended to or does create any other rights or obligations of any kind on the part of the City with regard to McLean's COBRA coverage or medical benefits, except those specifically required by law.

7. **Outplacement Services.** As additional consideration for entering into this Agreement, the City agrees to provide McLean with outplacement services for a period of Two (2) months with Waldron & Company, Seattle, Washington. The City and McLean agree that the outplacement services under this paragraph would be the same or similar to the Individual Career Transition and Outplacement services at Waldron & Company, although McLean understands and agrees that such payment by the City for outplacement services under this paragraph 7 shall not exceed an amount greater than Two Thousand, Two Hundred and Fifty Dollars (\$2,250.00).
8. **Agreement Re: Cooperation.** To the extent and as lawfully requested by the City, McLean agrees that he will cooperate, in good faith, with the City, in prosecuting or defending any claim, including by providing truthful information and testimony as reasonably requested by the City.
9. **Mutual Agreement re: Comments; Liquidated Damages.** McLean agrees that he will not make any disparaging, malicious and/or false comments, whether oral or written, about the City or its elected officials, employees, and agents, in any way, now or in the future. As part of this Agreement, McLean understands and agrees that he is not entitled to contact any news media organization or respond to any news media request in a manner that will breach his obligations under this paragraph or this Agreement. McLean further understands that any proven breach of this paragraph is a material breach of this Agreement.

The City agrees that City Council members will not make any disparaging, malicious and/or false comments, whether oral or written, about McLean, in any way, now or in the future. As part of this Agreement, the City Council members

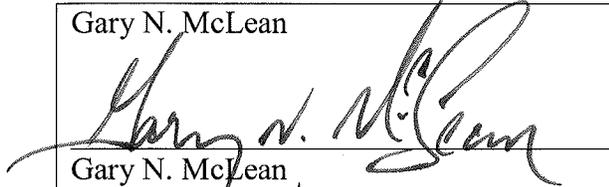
understand and agree that they are not entitled to contact any news media organization or respond to any news media request in a manner that will breach their obligations under this paragraph or this Agreement. The City further understands that any proven breach of this paragraph is a material breach of this Agreement.

The proven violation of this paragraph 9 of this Agreement by either of the Parties shall result in a single liquidated damages payment of Ten Thousand Dollars (\$10,000.00) by the party proven to be in violation of this paragraph 9. Other than as set forth in this paragraph 9, no party shall be awarded any additional liquidated damages for a breach of this Agreement and no party shall be awarded liquidated damages more than once pursuant to this paragraph 9.

10. **Return of Property.** Except as set forth in this paragraph 10, McLean acknowledges and agrees that within five days of the Resignation Date, he will return to the City all property and equipment furnished to or prepared by McLean in the course of or incident to his employment with the City, including, without limitation, computers, cell phones, all books, records, reports, notes, contracts, lists, and other documents, or materials, or copies thereof (including computer files), and all other information belonging, or relating to the business of the City. Subject to the terms of paragraph 14 of the Employment Agreement, McLean may retain certain documents as long as they comply with those terms outlined in the Employment Agreement and further as long as McLean acknowledges and represents that he will not retain any documents that would otherwise be exempt from disclosure under any local, state or federal law.
11. **Authority to Enter Agreement.** McLean represents and warrants that, as of the date of this Agreement, he is the true party in interest, that he is fully authorized to execute this Agreement, and that he has not sold, assigned, transferred, conveyed, or otherwise disposed of any rights surrendered by virtue of this Agreement.
12. **Entire Agreement.** This Agreement (a) contains the entire understanding of the parties with respect to the subject matter covered, (b) supersedes all prior and contemporaneous understandings, including any rights and/or obligations or either of the Parties under the Employment Agreement, and (c) may only be amended in a written instrument signed by all of the Parties.
13. **Dispute Resolution.** With respect to disputes under this Agreement that are not resolved by the Parties after written request by either party to the other party, the dispute shall be resolved through a lawsuit filed in Superior Court of and for King County, Washington unless the Parties agree in writing to have the dispute resolved through arbitration. The prevailing party to any litigation or arbitration will be entitled to attorneys' fees and costs associated with enforcement of this Agreement.

14. **Equal Opportunity to Draft.** The Parties have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any party upon a claim that such party drafted the language.

MCLEAN UNDERSTANDS AND AGREES THAT BY SIGNING THIS AGREEMENT HE IS WAIVING AND RELEASING ANY CLAIM THAT HE MIGHT HAVE AGAINST THE CITY OR ITS REPRESENTATIVES.

<p>Gary N. McLean</p>  <p>Gary N. McLean</p> <p><i>April 6, 2010</i></p> <p>Date</p>	<p>City of Puyallup</p> <p>By: _____</p> <p>Its: _____</p> <p>_____</p> <p>Date</p>
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