

## MEMORANDUM OF AGREEMENT

This Agreement is made and entered on this 2nd day of June, 2017, by and between MCKENZIE MATTINGLY, his descendants, ancestors, dependents, heirs, executors, administrators, assigns and successors, referred to in this Agreement as "Mattingly"; and CITY OF BARDSTOWN, KENTUCKY, its administrators, agents, representatives, servants, employees, officers, directors, elected and non-elected officials, employees, legislators, legal representatives, and any and all other affiliated or related persons and entities, past and present, including the Bardstown Police Department, and each of them, collectively referred to in this Agreement as "City."

WHEREAS, Mattingly is employed by the City as a sworn member of the Bardstown Police Department; and

WHEREAS, Mattingly has tendered his resignation as a sworn member of the Bardstown Police Department on June 2, 2017 but becoming effective July 14, 2017;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties understand and agree as follows:

1. Terms of Agreement:

a. Mattingly will remain an employee of the City until July 14, 2017 at which time his irrevocable letter of resignation, attached and incorporated by reference herein, will become effective and Mattingly will cease being an employee of the City as of 4:00 pm on July 14, 2017.

b. The parties agree:

1. The City accepted the resignation of Mattingly on June 2, 2017;
2. The City shall continue to pay Mattingly at a rate of pay of \$18.72 per hour from June 5, 2017 through July 14, 2017 and to allow his benefits to remain in effect through such period, except health insurance benefits provided by the City to Mattingly which will continue through July 31, 2017;
3. During the period of June 5, 2017 through June 26, 2017, Mattingly will hold the position of Police Officer with the Bardstown Police Department and shall perform duties as

assigned by the Chief of Police and at the end of his shift on June 23, 2017, Mattingly will surrender all equipment, including police cruiser, issued to him by the Bardstown Police Department;

4. Mattingly agrees, and the City will allow him, to utilize all personal and vacation time, so that Mattingly will be paid \$18.72 per hour on a forty (40) hour work week for the period of June 26, 2017 through July 14, 2017, during this period of time Mattingly will not have any law enforcement authority but will remain a sworn member of the Bardstown Police Department with a title of Police Officer and will remain an employee of the City. Any personal and/or vacation accrued for the benefit of Mattingly as July 14, 2017 will be paid by the City to Mattingly according to the City standard and regular payroll procedures.
5. The City will promptly issue a check to Mattingly in the amount of five hundred dollars and no cents (\$500.00) for a release of claims, including but not limited to a wage loss claim, and Mattingly's receipt of said check will constitute full, sufficient and valid consideration for the Release of Claims set forth herein.

2. Release of Claims: Mattingly agrees that through the terms of this Agreement he is receiving sufficient consideration beyond anything which he already is entitled from City and that, for the full consideration, receipt in hand of which is hereby acknowledged, as paid by City, for himself, his descendants, ancestors, dependents, heirs, executors, administrators, trustees, assigns, and successors, and each of them, hereby fully releases and discharges City, its administrators, agents, representatives, servants, employees, officers, directors, elected and non-elected officials, employees, legislators, legal representatives, in both their individual and official capacities, and any and all other affiliated or related persons and entities, past and present, including the

Bardstown Police Department, from any and all claims, causes of action, demands, fees, costs, rights, expenses, or claims of whatsoever nature and kind, known or unknown, whether presently discoverable or undiscoverable, whether suspected or claimed, which Mattingly ever had, now has, or may discover in the future against City arising out of or relating to his employment, including wage loss, but not limited to any and all claims of alleged harassment; discrimination; defamation; tort; breach of contract, express or implied, written or oral; constructive discharge; or any and all other such claims, and any claims under all applicable statutes governing his employment relationship with the City, including to Kentucky Revised Statute 15.520, retaliation, fraud, misrepresentation, contract, fiduciary duty, negligent or intentional interference with business opportunity, and outrage, as well as any rights under the Kentucky Revised Statutes Chapter 344, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and/or any statutory or common law claim or remedy of any kind whatsoever, including, but not limited to, claims for damages for front pay, back pay, wage loss, attorneys' fees reimbursement, costs, waiver, medical bills, non-economic loss (including, but not limited to, pain, suffering, humiliation, embarrassment, emotional distress and loss of reputation) (hereinafter "Released Claims").

3. Denial of Liability: Mattingly does hereby acknowledge that the acceptance of the conditions set forth in paragraph 1 is in full accord and satisfaction of any and all claims which could or might have been asserted on his behalf arising out of, or relating to, his employment with the City, and that the payment of such sum is not an admission of liability on the part of City, and is made solely in order to compromise any disputed claim for the purpose of avoiding controversy or litigation. Mattingly hereby further acknowledges that City expressly denies any violation of any policies or procedures of the City or violation of any local, state, or federal laws or regulations. Accordingly, while this Agreement resolves all issues between the City and Mattingly, this Agreement does not constitute an adjudication or finding on the merits and it is not, and shall not be construed as, an admission by City of any violation of any agreements, contracts, policies, or procedures or local, state, or federal constitutions, laws or regulations. Moreover, neither this Agreement nor anything in this Agreement shall be

construed to be or shall be admissible in any proceeding as evidence of or an admission by City of any violation of its contracts, policies, or procedures or local, state, or federal constitutions, laws or regulations. This Agreement may be introduced, however, in any proceeding to enforce the Agreement and its terms.

4. Waiver of Additional Claims: Mattingly acknowledges that he may discover in the future claims or facts in addition to or different from those which he now knows or believes to exist with respect to his employment which, if known or suspected at the time of executing this Agreement, may have materially affected this settlement. Nevertheless, he expressly waives any right, claim or cause of action that might arise as a result of such different or additional claims or facts. Mattingly acknowledges the significance and consequences of this Release and specific waiver.

5. Covenant Not to Sue: Mattingly agrees not to pursue, file or initiate a lawsuit in any court or initiate any federal or state agency proceeding asserting any of the Released Claims against City.

6. Consultation Period: Mattingly represents and warrants that the City advised Mattingly in writing to consult with an attorney prior to executing this Agreement and that Mattingly was provided the opportunity to do so. Mattingly represents and warrants that he has consulted with an attorney, Mary Sharp, prior to executing this Agreement. Mattingly further represents and warrants that the City provided Mattingly a period of at least 21 calendar days in which to consider this Agreement prior to executing it. Mattingly agrees that if Mattingly executed this Agreement at any time prior to the end of the Consultation Period, such early execution was a knowing and voluntary waiver of Mattingly's right to consider this Agreement for at least 21 calendar days, and resulted from Mattingly's desire to receive immediately the promises and consideration provided for in this Agreement and Mattingly's belief that Mattingly had ample time in which to consider and understand this Agreement, and in which to review this Agreement with an attorney.

7. Satisfaction of Attorneys' Fees and Costs: Mattingly and his attorney, Mary Sharp, agree that the conditions provided in paragraph 1 above constitute complete satisfaction of any and all claims for attorneys' fees and/or costs arising from or in any way connected with the subject matters embodied in this Agreement. Mattingly

agrees to indemnify, defend and hold City harmless against any claim for attorneys' fees and costs asserted by his attorney or any other attorney who may assert such a claim in the future. Each party shall be responsible for his/its own expenses and attorneys' fees.

8. Cooperation. Both Mattingly and the City agree to cooperate with one another in fulfilling the promises and obligations contained in this Agreement, and the Mayor and Mattingly agree to not disparage one another in comments by either one concerning Mattingly's employment with the City.

9. Integration: This instrument constitutes and contains the entire agreement and understanding between the parties, and supersedes and replaces all prior negotiations and all agreements proposed or otherwise, whether written or oral, concerning this subject matter. All representations and warranties contained in this Agreement will survive execution and performance of the Agreement.


10. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of Kentucky, regardless of the conflict of laws rules that may be applied by the courts of Kentucky or any other jurisdiction.

11. Severability: If any provision of this Agreement or the application of this Agreement is held invalid, the invalidity shall not affect other provisions or applications of the Agreement which can be given effect without the invalid provisions or applications; and to this end, the provisions of this Agreement are declared to be severable.

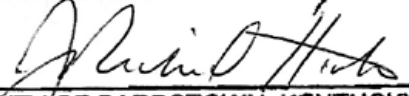
12. Acknowledgment: Mattingly represents and acknowledges that in executing this Agreement he has not relied, and is not relying, upon any representations by any person other than those representations that are contained in this Agreement. The parties hereto acknowledge that they have read and had the opportunity to discuss with their legal counsel this Agreement and accept and agree to the provisions it contains and execute it voluntarily and with full understanding of its consequences.

13. Effective date: This Agreement shall be effective as of the date set forth above.

EXECUTED by the parties as of the dates shown below and effective of the date set forth in the first sentence on page one (1) of this Agreement.

  
MCKENZIE MATTINGLY

6/2/17  
DATE

  
CITY OF BARDSTOWN, KENTUCKY  
BY: J. RICHARD HEATON, MAYOR

6/4/17  
DATE

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