

**SETTLEMENT AND SEVERANCE AGREEMENT
AND MUTUAL RELEASE OF ALL CLAIMS**

This Settlement and Severance Agreement and Mutual Release of all Claims (hereinafter "Agreement") is made and entered into by and between the City of Sparks (hereinafter "City"), and Ginny Sievert (hereinafter "Sievert"):

RECITALS

1. On or about September 27, 2012, Sievert filed a lawsuit in the United States District Court of Nevada, asserting gender discrimination and retaliation. That action bears Case No. 3:12-CV-00526-LRH-WGC.
2. In 2013 and again in 2014, the City filed Motions for Summary Judgment asserting that Sievert's claims fail as a matter of law and denying all allegations of wrongdoing. Both Motions for Summary Judgment were granted in favor of the City.
3. On or about February 18, 2015, Sievert appealed the U.S. District Court's decision to the Ninth Circuit Court of Appeals. The Ninth Circuit Court of Appeals found that this case was appropriate for the Mediation Program; Sievert and the City have had several telephonic conferences with the Mediator appointed by the Ninth Circuit Court of Appeals.
4. Following negotiations between counsel for Sievert and counsel for the City, facilitated by the Ninth Circuit Court of Appeals Mediator, a compromise and settlement of all claims has been reached between the parties

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, it is hereby agreed by and between the parties as follows:

1. **Settlement and Severance Payments.** The City will pay the Nevada Public Employees Retirement System (PERS) contributions on back pay as determined and approved by PERS and will purchase 4 years 0 months PERS service credit for Sievert subject to the requirements of Nevada law and approval by PERS and subject to Sievert being solely liable to pay any taxes on such purchased service credit. The City's payments to PERS will be made within fourteen (14) calendar days of the date PERS notifies the City of the final cost for the City to purchase the 4 years 0 months PERS service credit. Upon completion of this transaction, Sievert will immediately resign her position with the City of Sparks. The City will pay FOUR THOUSAND SEVEN HUNDRED FOUR DOLLARS (\$4,704.00) to Robison, Belastegui, Sharp and Low for costs associated with the above-described litigation.
2. **Discharge.** Sievert hereby releases and forever discharges, the above-named, of and from any and all actions, causes of action, claims, demands, damages, costs, expenses and compensation, past, present or future, on account of or in any way growing out of Sievert's employment with the City, and all other alleged acts and/or omission as more specifically asserted in the Complaint filed in the United States District Court, Case No. 3:12-CV-00526-LRH-WGC. Within ten (10) days of the execution of this Agreement, the Complaint shall be dismissed by Sievert with prejudice.

3. **No Admission of Liability.** This Agreement, and the Parties' compliance therewith shall not constitute an admission by any Party of any liability whatsoever, or an admission of any kind by City, its elected officials, employees and agents of any violation of any law, statute, duty, breach of contract, or discrimination against Sievert. The parties agree that this Agreement embodies the settlement of disputed claims and the City expressly disclaims and denies that the City, its elected officials, employees, or agents in any fashion violated any rights, law, statute, duty or breach of contract in violation of the rights of Sievert.
4. **Representations by Sievert.** Upon the execution and approval of this Agreement by the Sparks City Council and following the revocation period set forth in paragraph 14, Sievert agrees that:
 - a) Sievert represents that she has not filed any complaint, claim or action against City, its elected officials, employees, or agents with any state, federal or local agency or court (state or federal) other than the action identified in the Recitals (above) and will not do so at any time hereafter for any cause or claim arising from the date of Sievert's initial employment by the City until the approval of this Agreement by the Sparks City Council, except as may be necessary to enforce the provisions of this Agreement;
 - b) Sievert further represents and warrants that she has not heretofore assigned any claim or portion of any claim against the City, its elected officials, and employees to any third party;
 - c) Sievert agrees that the consideration provided in this Agreement is not an admission of liability for any purpose by City, its elected officials, employees or agents;
 - d) The Parties agree that each should proceed in the future without disparaging the reputation, character or performance of the other. Further, Sievert agrees not to use any information garnered during her employment at the City or as a result of the lawsuit. Sievert agrees to refrain from making any disparaging comments about the City, its agents, officials, representatives and/or employees, its business reputation or its practices. Disparaging comments shall include any communication which tends to place the City in a negative light or hold it up to public ridicule or disgrace.
5. **Representations by City.** Upon the execution and approval of this Agreement by the Sparks City Council and following the revocation period set forth in paragraph 14, the City agrees that:
 - a) The City will make the payments described in Paragraph 1;
 - b) Any disciplinary documents in Sievert's official personnel file will be sealed and retained by the Sparks City Attorney and not reopened unless Sievert reapplies for employment with the City of Sparks, or violates the terms of the Settlement Agreement, or attempts to pursue any administrative or judicial claim against the City or any of its employees or elected officials or if ordered unsealed and released by a court of competent jurisdiction or as otherwise required by Nevada law;

- c) The Parties agree that each should proceed in the future without disparaging the reputation, character or performance of the other. The City agrees to refrain from making disparaging comments about Sievert and to provide neutral responses to inquiries by any prospective employer of Sievert. The City agrees to respond to such inquiries by providing only the following information: date of hire, date of separation from employment, position held and salary earned;
 - d) Upon approval of this Agreement, Sievert will be placed on paid Administrative Leave solely for the purpose of carrying out the calculation to purchase four years and no months of PERS service credit and subject to Nevada PERS statutes, rules and regulations.
6. **Release.** Sievert and City irrevocably and unconditionally release and forever discharge each other, including City's elected officials, employees and agents ("Released Parties") from any and all actions, causes of action, claims, complaints, claims for relief, of whatsoever type and nature, charges, and complaints and any and all liability of any kind (including attorney's fees, interest and costs) of any nature whatsoever, known or unknown, suspected or unsuspected (referred in this Agreement as "Cause", "Claim" or "Claims") which either has or claims to have against the other which arise after Sievert's first employment by City to the date of her approval of this Agreement. The parties understand the word "Cause", "Claim" or "Claims" to include all actions, claims, complaints, administrative and judicial review and grievances, whether actual or potential, known or unknown. All such Claims are forever barred by this Agreement without regard to whether such Claims are based on any alleged breach of duty arising under contract or tort, or common law, or violation of any federal, state, or local statute, ordinance, rule or regulation, or the like, regardless of the forum in which it may be brought. The Claims being released include, without limitation, claims for, under or related to any contract (express or implied), negligence or torts, wrongful discharge, federal, state or local laws or regulations, including but not limited to harassment or discrimination on the basis of union affiliation or membership, race, color, sex, sexual orientation, national origin, ethnicity, disability, religion, veteran status, age or any other protected category, the Employee Retirement Income Security Act ("ERISA"), the Civil Rights Act of 1866, 1871, 1964 and 1991, Title VII, the Family and Medical Leave Act, the Age Discrimination in Employment Act ("ADEA"), the Americans with Disabilities Act, the Americans with Disabilities Amendments Act, the Equal Pay Act, the Lilly Ledbetter Fair Pay Act of 2009, the Nevada Fair Employment Practices Act, National Labor Relations Act or similar state or federal labor laws, personal injury, emotional distress, negligent or intentional infliction of emotional distress, defamation, libel, slander, wages, compensation, benefits or benefits plans, environmental or workplace exposure, fraud, misrepresentation, fiduciary duty, and any other claims which arose, accrued or occurred on or before the date of Sievert's execution of this Release. Sievert further waives and releases City, its elected officials, employees and agents from any claims that this Agreement was procured by fraud or signed under duress or coercion so as to make any of the terms or provisions of this Agreement not binding. Sievert does not have any pending actions or charges against the Released Parties. Sievert does not release or waive any claim that she has by virtue of the provisions of this Agreement, to any legal right to unemployment compensation to which Sievert may be entitled;

7. **Advice of Counsel.** The Parties represent that they have had sufficient opportunity to have representation and advice of legal counsel of their own independent selection in this matter and have had the opportunity to discuss all aspects of this Agreement with their attorneys, and have carefully read and understand the terms of this Agreement, and that each is voluntarily entering into this Agreement;
8. **No Reliance.** The parties represent and acknowledge that in executing this Agreement they do not rely and have not relied on any representation or statement made by the other party or the other party's elected officials, employees, agents or attorneys with regard to the subject matter, basis or effect of this Agreement other than as specifically stated in this Agreement;
9. **Binding Effect.** This Agreement shall be binding upon the Parties hereto and upon their estates, heirs, administrators, representatives, executors, successors and assigns, and shall inure to the benefit of such parties and each of them and their heirs, administrators, representatives, executors, successors and assigns;
10. **Effect of Invalidity.** Should any provision of this Agreement be declared or held by any court of competent jurisdiction to be illegal, invalid or unenforceable, then the legality, validity and enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision shall be deemed not to be a part of this Agreement;
11. **Sole Consideration.** The parties acknowledge that the promises and covenants herein are the entire and sole consideration for this Agreement; and each party further acknowledges that other than as specifically stated herein, each party shall be responsible for the payment of her/its own attorney's fees, legal expenses, and costs, and each party agrees that she/it will not seek attorney's fees, legal expenses and costs or any other monies or consideration of any kind from the other party;
12. **Attorney's Fees.** In the event of breach of the settlement agreement, the prevailing party in any action required to enforce the terms of this Agreement, are entitled reasonable attorney's fees and costs of suit. Any action to enforce the terms of the settlement will be filed in the Second Judicial District Court in Washoe County, Nevada. This Agreement shall be construed in accordance with and governed by the laws of the State of Nevada. This Agreement will be construed as if all parties jointly drafted all terms, conditions, and language used herein. The prevailing party, as determined by a Court of competent jurisdiction, shall be entitled to all costs and expenses, including reasonable attorney's fees, incurred in enforcement of this Agreement;
13. **Entire Agreement.** This Agreement sets forth the entire Agreement between the parties hereto and fully supersedes any and all prior conversations, agreements and understandings, written or oral, between the parties and/or their agents or representatives hereto pertaining to the subject matter hereof;

14. **ADEA Compliance.** Pursuant to the Older Workers Benefits Protection Act and Age Discrimination in Employment Act Sievert is hereby advised that she may consult with an attorney of her choice and expense if she so desires before signing this Agreement. Furthermore, she has twenty-one calendar (21) days to consider signing this Agreement and has seven calendar (7) days from date of signing this Agreement to revoke this Agreement. Any revocation must be in writing signed by Sievert and delivered to the Sparks City Attorney with proof of service within the above time limitations. If timely revoked this Agreement is void;
15. **Effect of No Approval or Timely Revocation.** In the event this Agreement is not approved by the Sparks City Council or is subsequently revoked by Sievert pursuant to paragraph 14, the City will continue with the defense of Case No. 3:12-CV-00526-LRH-WGC, and this Agreement will be void and of no further effect and cannot be introduced or referred to in any arbitration, administrative, or judicial action;
16. **Public Record.** This Agreement is a public record pursuant to NRS 41.0375 if it is approved by the Sparks City Council and the period for revocation in paragraph 14 has expired;
17. **Speech.** The parties understand that the City is a municipality employing many people of diverse interests and beliefs and that the City, as a governmental entity, cannot control the speech of others. In an effort to balance these concerns, the City agrees to refrain from making any disparaging comments, as defined in this paragraph to any representative of any news agency or media or in any other public medium or forum except as required by law, including but not limited to the open meeting law. This provision shall bind and apply to Sievert and the City's management employees (e.g., the City Manager, the Fire Chief, the Risk Manager, and the Human Resources Manager) and any other management-level employee of the City authorized to speak on behalf of city government (referred to herein as "Sparks Management"). Any breach of this provision by Sievert, her family members, heirs, agents, representatives and assigns or by Sparks Management will subject Sievert or the City to a lawsuit for damages, attorney's fees and costs.
18. **Effective date.** This Agreement shall be effective the last date all parties and their representatives or counsel have signed and approved this Agreement including the revocation period in Paragraph 14. All parties shall use their best efforts to have this Agreement approved in a timely fashion.

The undersigned state that they have carefully read the foregoing Agreement and Release in its entirety and know and understand the contents thereof and sign the same as their own free act.

Dated this _____ day of _____, 2015.

Ginny Sievert

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On this ____ day of _____, 2015, personally appeared before me, **Ginny Sievert**, proved to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

Notary Public

Approved as to Form and Content

Frank Gilmore
Attorney for Ginny Sievert

Dated this ____ day of _____, 2015.

CITY OF SPARKS

By: _____
Geno Martini, Mayor

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On this ____ day of _____, 2015, personally appeared before me, **Geno Martini**, proved to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

Notary Public

Approved as to Form and Content

Chester H. Adams
Sparks City Attorney