

## **RELEASE AND SETTLEMENT AGREEMENT**

### **I. PARTIES**

- 1.1 ARTHUR WEST, referred to as "Plaintiff" hereinafter.
- 1.2 The CITY OF YAKIMA, Washington, referred to as the "City" hereinafter.

### **II. RECITALS**

2.1 Plaintiff filed a complaint against the City and certain of the City's elected officials (collectively the "Defendants") in Yakima County Superior Court under cause no. 18-2-02720-39 (the "complaint"). In the complaint, Plaintiff alleged that the Defendants failed to comply with Washington State's Open Public Meetings Act, Chapter 42.30 RCW, (the "OPMA") with respect to events attended by a quorum of Defendant's elected officials. Plaintiff sought a declaratory ruling, injunctive/equitable relief, and to recover attorney's fees, costs and statutory penalties.

2.2 Plaintiff's allegations in the complaint encompass, but are not limited to, the claim that the OPMA was violated by attendance of a quorum of the City's elected councilmembers occurring on May 14, 2018, at a luncheon event sponsored by the Greater Yakima Chamber of Commerce and familiarly known as the "State of the City." At said event, councilmembers addressed questions and concerns raised by persons in attendance, who were required to purchase an admission ticket.

2.3 The City recognizes and acknowledges that members of the public who were unwilling or unable to purchase an admission ticket were not in attendance at said event. The City recognizes that the participation of a quorum of the City's elected councilmembers at the event, which had not been noticed as a public meeting of the City Council in the customary and required manner for all other regular meetings of the City Council, poses a gray area in the law under the OPMA and exposes the City to the risks, expenses, and uncertainties of litigation.

2.4 This release and settlement is not an admission by the City that the plaintiff's allegations are correct and the City does not agree that the Council's actions during the "State of the City" presentation violated the OPMA; the City does wish to affirm its commitment to open and transparent dealings in all public affairs in accordance with the OPMA. The City wishes to make its meetings available for the public to attend to the greatest extent possible without regard to the ability of members of the public to pay for the right to attend. The City affirms that in the future it will ensure that attendance of a quorum of its elected councilmembers at the "State of the City" event will be duly preceded by public notice as a public meeting of the City Council in the customary and required manner for other meetings of the City Council, and that it will use its best efforts in good faith to ensure that members of the public will be allowed to attend said event subject to occupancy limitations of the meeting space and without any obligation to purchase a ticket to attend; provided, however, that persons wishing to attend but not purchase an admission ticket will have no right or entitlement to benefits provided to paying attendees, such as meals, beverages, or seating; and provided, further, that in the event the number of persons wishing to attend said event exceeds the occupancy limit of the meeting space, the persons who have paid to

attend shall be entitled to remain in attendance and the City will make its best efforts in good faith to make suitable arrangements for other persons to view the meeting in overflow areas or on video monitors, as available.

**2.5** The parties desire to enter into this settlement agreement in order to provide for settlement and discharge of all claims against the City of Yakima and its Councilmembers identified in paragraph 2.1 herein and a release of all other claims by Plaintiff, whether asserted or unasserted, alleged or un-alleged, against the City of Yakima and its Councilmembers arising out of any occurrence prior to the date of this agreement.

**NOW THEREFORE**, in mutual consideration of the covenants and conditions contained herein the parties agree as follows:

### **III. AGREEMENT**

**3.1 Release and Discharge:** In consideration of the total payment of Thirteen Thousand and no/100ths Dollars (\$13,000.00) to Plaintiff, Plaintiff forever releases Defendants and Defendants' agents, elected officials, employees, insurers, attorneys, assigns, and successors from all claims and causes of action which may ever be asserted by Plaintiff, his executors, administrators, successors, assigns, affiliates, employees, attorneys or others, whether presently known or unknown, of any nature, relating to the OPMA and arising out of any occurrence prior to the date of this agreement.

**3.2 Payment Terms:** Within ten (10) days of full execution and delivery of this release, Defendants shall send payment in the foregoing amount to Cushman Law Offices, P.S., 924 Capitol Way South, Olympia, WA 98501.


**3.3 Warranty of Capacity to Execute Agreement:** Plaintiff warrants that other than the person signing this release and bound by its terms, no other person or entity has or has had any interest in the claim or causes of action referred to in this release. Plaintiff warrants that this release is enforceable in accordance with its terms and that he has the authority to execute this release. Plaintiff shall defend, indemnify, and hold harmless the Defendants should any other persons claim to have any interest in the matters released or the claims and injuries described in this release.

**3.4 Delivery of Dismissal With Prejudice:** Concurrently with the execution of this release Plaintiff shall deliver to counsel for Defendants an executed stipulation and order of dismissal with prejudice of the City of Yakima and its councilmembers from the complaint. Plaintiff hereby authorizes counsel for Defendants to file such stipulation and order of dismissal with the court and enter it as a matter of record at any time after the date of this agreement and without further notice.

**3.5 Entire Agreement and Successors in Interest:** This agreement contains the entire agreement between Plaintiff and the Defendants and their respective attorneys, agents, and assigns with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors, attorneys, and assigns of each.

**3.6 Full Release:** This settlement agreement expresses the full and completed settlement of all claims.

**I HAVE COMPLETELY READ THIS FINAL RELEASE AND SETTLEMENT AGREEMENT. I FULLY UNDERSTAND THE TERMS AND CONDITIONS OF THIS AGREEMENT. I FREELY AND VOLUNTARILY ACCEPT THE TERMS OF THIS AGREEMENT FOR THE PURPOSE OF FINAL RESOLUTION AND SETTLEMENT OF ANY AND ALL CLAIMS, DISPUTED OR OTHERWISE, FOR THE EXPRESS PURPOSE OF PRECLUDING FOREVER ANY OTHER CLAIMS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE CLAIMS MENTIONED ABOVE AND/OR ALLEGED IN THE COMPLAINT IN THIS MATTER AGAINST THE CITY OF YAKIMA AND ITS COUNCILMEMEBERS.**

  
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Arthur West  
DATED this 11<sup>th</sup> day of October, 2018.

STATE OF WASHINGTON )


: ss

County of THURSTON )

I certify that I know or have satisfactory evidence that ARTHUR WEST, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: 10/11, 2018.



  
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JOHN J. VAGLIANTI ← print name  
NOTARY PUBLIC in and for the State of  
Washington.  
My appointment expires: 11/09/2020.