

BOARD OF COUNTY COMMISSIONERS

Douglas County Nebraska

Resolved

WHEREAS, Tracey Ray ("Ms. Ray") currently has pending before the Douglas County Civil Service Commission an appeal of a discipline the Douglas County Sheriff's Office ("DCSO") issued on or about January 6, 2015, and also alleges Douglas County's violation of various employment laws and her civil rights in relation to the aforementioned discipline and a second DCSO Investigation into Ms. Ray and the inclusion of information regarding this second investigation in a discovery memorandum the Douglas County Attorney's Office disclosed in all felony criminal matters pending in Douglas County; and,

WHEREAS, without acknowledging any liability of any kind whatsoever and in return for the complete waiver and release of any and all claims Ms. Ray may have against Douglas County or its employees, officials, agents, and representatives, it is in the best interest of Douglas County to settle this claim pursuant to the terms and conditions of a Settlement Agreement and Release of Claims in Full, a copy of which is attached to this Resolution; and,

NOW THEREFORE, BE IT RESOLVED BY THIS BOARD OF COUNTY COMMISSIONERS THAT this Board approves Settlement Agreement and Release of Claims in Full, a copy of which is attached to this Resolution, and authorizes the Chairperson of this Board of Commissioners to execute the Settlement Agreement and Release of Claims in Full on behalf of Douglas County.

Dated this _____ day of December, 2015.

Ref#: LDAC-4RJMMB

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS IN FULL

This Settlement Agreement and Release of Claims in Full (hereinafter "Release") is entered into by and between the undersigned Tracey Ray (hereinafter "Ray") and the County of Douglas, Nebraska (hereinafter "Douglas County"), as fully set forth herein.

Ray currently has pending before the Douglas County Civil Service Commission an appeal of a discipline the Douglas County Sheriff's Office ("DCSO") issued on or about January 6, 2015. While Ray's appeal to the Douglas County Civil Service Commission was pending, DCSO performed a second investigation into Ray and the gist of the investigation was included in a discovery memorandum the Douglas County Attorney's Office disclosed in all felony criminal matters pending in Douglas County. Ray has alleged Douglas County's violation of various employment laws and her civil rights. Douglas County has continually denied Ray's claims. Ray and Douglas County now desire to settle fully and finally all differences between them with respect to Ray's pending appeal to the Douglas County Civil Service Commission along with any and all claims concerning Ray and Douglas County, including any claims Ray may assert against Douglas County arising out of or related to the discipline currently pending before the Douglas County Civil Service Commission, DCSO's second investigation into Ray, disclosure of the second investigation, or any other aspect of Ray's employment with Douglas County and any injuries she claims to have suffered as a result thereof, whether those claims are known or unknown.

Ray and Douglas County desire to settle fully and finally Ray's claims against Douglas County, including its elected officials, officers, agents, employees, representatives, successors, and assigns (hereinafter collectively included in references to "Douglas County") according to the following terms:

1. After execution and delivery of this Release by Ray, within fourteen (14) days after the first pay period in January 2016, Douglas County will provide the following as full, final, and complete settlement of all Ray's claims: payment of One Hundred Ninety-Five Thousand, Three Hundred and Twenty Dollars (\$195,320.00). Such payment will be apportioned in three checks as follows: one check payable to Ray in the amount of \$10,833.60 less customary payroll withholding, taxes, and other lawful deductions in settlement of her claim for lost wages for which an IRS Form W-2 will be issued; one check payable to Ray in the amount of \$148,745.23 in settlement of her claims for other alleged damages for which an IRS Form 1099 (Box 3, "Other income") will be issued; and one check payable to Ray's attorneys in the amount of \$35,741.17 in settlement of her claims for attorneys' fees and costs for which an IRS Form 1099 will be issued. The checks will be delivered to Ray's counsel, Merrick Law Firm LLC. The parties agree to cooperate and provide any information necessary to complete any IRS forms or paperwork. Ray will be listed as eligible for rehire in her personnel file. Ray acknowledges that such payment as described herein constitutes adequate consideration for this Release.
2. It is understood and agreed that the payment of the above sum is not to be construed as an admission of liability on the part of Douglas County. Ray acknowledges and agrees that this Release does not deem her a prevailing party in any manner for any claims asserted

by her against Douglas County and that, other than the payments described in paragraph 1 above, all other expenses and attorney fees incurred by her or her attorneys, with respect to or in any way related to her claims, are not the responsibility of Douglas County or its insurers.

3. Ray has given notice that she will resign her employment at DCSO effective December 31, 2015. She will remain as Crime Lab Director in the Douglas County Sheriff's Office until Thursday, December 31, 2015, on which date she will officially tender her resignation effective immediately upon that date. On such date, Ray will be entitled to receive a refund of her contributions to the Douglas County Employees' Retirement Plan with accumulated interest (\$39,135.87 including interest as of November 6, 2015). Upon separation Ray shall submit her application to Douglas County Human Resources for a refund of her contributions to the Douglas County Employees' Retirement Plan along with accrued interest. Upon separation, Douglas County will issue payment to Ray for all earned but unused vacation through December 31, 2015. Douglas County agrees not to contest any application for unemployment benefits Ray may file that characterizes the reason for her departure as voluntarily without good cause.
4. DCSO will withdraw Ray's thirty (30) day suspension issued on or about January 6, 2015, currently pending appeal before the Douglas County Civil Service Commission, and will document said withdrawal in Ray's personnel file.
5. Douglas County will provide a neutral employment reference consisting of only Ray's dates of employment, position held, and that she is eligible for re-hiring. Douglas County and DCSO shall not release any other information regarding Ray except as specifically authorized in this Release, by Ray in a separate writing, and by the Douglas County Civil Service Commission Personnel Policy Manual, or as required by public records laws. Douglas County shall provide written notice to Ray and her attorneys within two (2) days of receiving any public records request relating to Ray or her employment with DCSO.
6. Upon Ray's request and express written authorization and waiver of any claims arising from the actions described herein, Douglas County will provide prospective employers reasonable access to any and all documents regarding Ray's personnel records and files, including any information which is ordinarily privileged or confidential, in an appropriately redacted form as necessary, provided that prospective employers agree to keep the information confidential and do not disseminate it to anyone else. Ray agrees to release Douglas County from any and all claims arising from or in any manner related to any access to said documents – inclusive of the contents of the documents – that is requested and authorized by Ray. Ray agrees that any access to said documents requested and authorized by Ray shall not give rise to any additional claims or causes of action.
7. On December 31, 2015, DCSO will issue a press release regarding Ray, provide a copy of said press release to Ray, place a copy of said press release in Ray's personnel file, and provide the same to ASCLD/LAB, announcing the investigation into Ray's handling of evidence found that she did not cross-contaminate or degrade evidence in her custody and

her resignation. Ray shall be entitled to review and approve the press release before it is distributed to local news media.

8. Both parties mutually agree not to disparage the other in any way to any person or professional organization following the execution of the Release. Douglas County grants Ray a limited exception to this restriction for her prospective employment purposes and will allow candid conversations with prospective employers, personal references, and licensing bodies as it relates to her personal licenses. If questioned under oath in court or other proceeding (such as administrative, legislative, or other tribunals involving an obligation to testify truthfully), both parties maintain the right to testify truthfully.
9. Douglas County will provide copies of Ray's personnel advisories, commendations, and proficiency test results to her. Douglas County will allow Ray to retrieve all of her personal property from DCSO and allow her to retrieve any personal information from her office and computer.
10. Douglas County will forward any mail addressed to Ray at DCSO to an address provided by Ray for one (1) year after her departure from Douglas County employment. Douglas County will set up an automatic reply for one year (1) to be synced with Ray's Douglas County e-mail address, which will provide recipients of the automated reply with an alternate e-mail address for Ray.
11. In exchange for Douglas County's performance of the agreed-upon terms, Ray waives and releases her right to file any charge, action, cause of action, claim, suit, or make any demand against Douglas County, whether such charge, action, cause of action, claim, suit, or demand is currently known or unknown, and any elected officials, officers, agents, employees, representatives, successors, or assigns of Douglas County (including any of its offices and departments) for any and all claims, known or unknown, related to and in any manner arising out of her employment with Douglas County and her separation from such employment. This Release contemplates the extinguishment of any and all such claims up to the date and time Ray executes this Release. This Release shall be broadly construed to this end.
12. Ray represents and certifies that she has received a copy of this Release prior to executing it. Ray represents and certifies that she has carefully read and fully understands all of the provisions and effects of this Release, that she has had an opportunity to discuss all aspects of this Release thoroughly with her attorneys, and that she is voluntarily entering into this Release. Ray further represents and certifies that Douglas County has made no representations concerning the terms and effects of this Release other than those contained herein.

SO AGREED

DATED this day of _____ of _____, 2015.

Mary Ann Borgeson, Chair
Douglas County Board of Commissioners
for Douglas County, Nebraska

Tracey Ray

Approved as to form by
Theresa Urich, Deputy County Attorney