

## SEPARATION AGREEMENT AND RELEASE

This Separation Agreement and Release (the "Agreement") is hereby entered into this 27<sup>th</sup> day of January 2026 ("Effective Date") by and between **Henry Darwin, City Manager** with the City of Peoria, (hereinafter the "Employee") and the **City of Peoria**, an Arizona municipal corporation (hereinafter the "City"). The Employee and the City are collectively referred to as the "Parties" and individually as Employee, City or "Party." The Parties agree as follows:

1. Prior Agreement. Employee is in full compliance with and has fully performed his duties as City Manager, pursuant to the City Manager Employment agreement dated December 21, 2024, and adopted by the City on December 17, 2024 (the "Prior Agreement").
  - a. As of the date of this Agreement, the City has no cause for termination or personnel action pursuant to the Prior Agreement, policy, or law.
  - b. Employee has agreed to voluntarily resign from his position as City Manager, effective March 1, 2026 at 11:59 p.m.
  - c. The Parties acknowledge this agreement shall supersede the Prior Agreement at the effective date of this Agreement.
2. New Role. The City shall employ Employee as Executive Consultant to the City Manager on terms defined herein as of March 2, 2026. Employee shall voluntarily resign from such City employment as Executive Consultant to the City Manager on March 2, 2027 ("Separation Date") at 12:01a.m. MST. The City agrees to accept Employee's resignation under Section 1 and hereby approves his continued employment with the City with no break in service. The City may not terminate the Employee's employment hereunder except in the event the Employee is found guilty of a non-traffic crime by a court of competent jurisdiction or is employed by another jurisdiction in which employee would be contributing to or receiving pension funds from Arizona State Retirement System (ASRS).
3. Compensation. The City will:
  - a. Pay Employee for services rendered as Executive Consultant to the City Manager at an annual base rate of \$255,000/year payable in installments at the same time as other employees of the City of Peoria, Arizona are paid. Employee shall not be eligible for performance-based or other pay increases during the term of the agreement.
  - b. Pay the Employee 401a deferred compensation in the annual amount of \$50,000 payable in installments over a 12-month period at the same time as other employees of the City of Peoria, Arizona are paid.
4. Other Benefits. All provisions of the City Charter, rules and regulations of City relating to benefits and working conditions as they now exist or hereafter may be amended, shall also apply to the Executive Consultant to the City Manager as they would to all other employees of the City, in addition to said benefits enumerated specifically for the benefit of the Executive Consultant to the City Manager herein

- a. Provide vacation leave to be accrued at the rate of 240 hours per year with a maximum accrual of 480 hours.
  - b. Effective January 28, 2026, and upon request, the Employee may receive payment of his unused vacation leave hours, so long as his leave balance is not reduced to below 40 hours. The rate of pay shall be calculated at the Employee's base rate when the request is made. This supersedes section 9B.1 of the Prior Agreement, dated December 17, 2024.
  - c. Effective March 2, 2026, the Employee shall be eligible to request payment of his unused vacation leave hours in accordance with policies applicable to other at-will, executive employees.
  - c. Accrued vacation shall be paid 100% upon the Separation Date.
  - d. Provide sick leave accrued at the rate of 180 hours per year. The accrual limits for non-represented employees shall apply.
  - e. Accrued sick leave shall be paid 100% upon the Separation Date.
  - f. At the Separation Date, all accrued leave, including holiday and personal leave shall be paid 100% of the base rate of \$255,000.
  - g. If the Employee is terminated for any reason, compensation and benefits not expressly outlined in this Agreement shall be provided in accordance with the policies applicable to other at-will, executive employees.
  - h. The Employee shall remain enrolled in the Arizona State Retirement System.
  - i. The benefits provided to the Executive Consultant to the City Manager under this Agreement shall not be reduced or eliminated unless the City Council reduces such benefits for all similarly situated City employees.
5. Release. The City and Employee waive any and all rights to appeal or seek further review of any personnel matter regarding the conduct of the Employee or the conduct of the City affecting the employment of the Employee for any actions occurring prior to the Effective Date, including, but not limited to, the filing of any lawsuit, claim, cause of action, appeal or request for review with any State or Federal Court, or other applicable jurisdiction.

Employee waives any and all rights to appeal or seek further review of any personnel matter regarding the conduct of the Employee or the conduct of the City affecting the employment of the Employee for any actions occurring prior to the Effective Date, including, but not limited to, the filing of any lawsuit, claim, cause of action, appeal or request for review with the United States Equal Employment Opportunity Commission (the EEOC) and the Civil Rights Division of the Office of the Attorney General.

- a. Employee releases and discharges the City, its elected or appointed officials, its directors, officers, department heads, agents, or employees from and against any and all rights, claims, or causes of action, whether known or unknown, he may have now or in the future concerning the terms and conditions of the Prior Agreement, the events that gave rise to the Employee and the City entering into this Agreement and the Prior Agreement, and any other matter related to the

Employee's prior employment with the City. This release and discharge specifically includes all rights, claims, or causes of action available to Employee pursuant to federal, state, and local laws, including but not limited to those laws commonly known as the Age Discrimination in Employment Act, Americans with Disabilities Act, Family and Medical Leave Act, the Civil Rights Acts, and the Arizona Employment Protection Act. This release does not apply to the Employee's right to challenge the validity of this Agreement through a lawsuit pursuant to the Age Discrimination in Employment Act.

- b. The City releases and discharges Employee from and against any and all rights, claims, or causes of action it may have now or in the future concerning the terms and conditions of the Prior Agreement, the events that gave rise to the Employee and the City entering into this Agreement, and any other matter related to the Employee's prior employment with the City.
- c. **RELEASE OF AGE CLAIMS – CONSIDERATION AND REVOCATION PERIODS.** Because the Employee is at least forty (40) years of age, he understands that the release in this Agreement includes a waiver of all rights or claims against the City and the released parties arising under the Age Discrimination in Employment Act of 1967 ("ADEA"), and he acknowledges that pursuant to the requirements of the Older Workers Benefit Protection Act ("OWBPA") the City has advised Employee to consult with his own attorney before executing this Agreement; that this Agreement specifically refers to rights and claims under the federal Age Discrimination in Employment Act, as well as to the Arizona Civil Rights Act, which prohibit age discrimination, and Employee understands that any such rights or claims are irrevocably being waived by him; that the City has advised Employee that he may consider this Agreement for at least **twenty-one (21) days** following the initial presentation of this offer to Employee, and any changes to this Agreement subsequently agreed upon by the Parties, whether material or immaterial, do not restart this period for consideration; that Employee may revoke this Agreement at any time within **seven (7) days** of signing it and prior to the eighth (8th) day after execution of this Agreement; that this waiver of claims is written in a manner that is understandable and is, in fact, understood by Employee; that by execution of this Agreement Employee does not waive rights or claims that arise after the effective date of this Agreement; that the consideration is adequate to make it final and binding, and said consideration is in addition to benefits to which Employee would otherwise be entitled as a former employee of the City. However, should Employee decide that he wants to revoke his consent to this Agreement, he may do so by delivering or sending written notice of revocation of this Agreement by mail, facsimile or email within seven (7) calendar days to:

Christine Nickel  
Human Resources Director  
City of Peoria  
8401 West Monroe Street  
Peoria, AZ 85345  
Christine.nickel@peoriaaz.gov

- d. Employee shall indemnify and hold the City harmless from any claims by his spouse if any, including but not limited to loss of consortium, based on any events or acts released above.
  - e. Nothing in this Agreement is intended to nor shall the Agreement be interpreted to release or waive Employee's rights to (i) file an administrative charge with any Governmental Agency; or (ii) cooperate with or participate in any Governmental Agency charge, investigation, or lawsuit. For this purpose, "Governmental Agency" includes, without limitation, the EEOC, the National Labor Relations Board ("NLRB"), the Occupational Safety and Health Administration ("OSHA"), the Security and Exchange Commission ("SEC"), all other federal agencies charged with enforcing any law, the Arizona Attorney Civil Rights Division ("ACRD"), and all similar federal, state, and local agencies.
  - f. Subject to Arizona Public Records law, the Parties shall make no public statement or speculation about any Party's motivations in entering into this Agreement, or state or imply that settlement was an admission of wrongdoing or liability by the City or the Employee.
  - g. The remedies available to the Parties for violation of this Section shall be all remedies available at law or in equity, including, without limitation, a special action or other similar relief (whether characterized as mandamus, injunction or otherwise) requiring the violating Party to comply with obligations under this Agreement.
  - h. In the event that the City is required by law, administrative or court order to disclose the existence or terms of settlement for whatever reason, or the Parties' motivations thereof, such disclosure will void the obligations for that event.
6. Miscellaneous. In executing this Agreement, the Parties acknowledge that each has been advised of the right to consult with an attorney before executing this Agreement. The Parties warrant that they have carefully read this Agreement, were provided with the opportunity to discuss it fully with legal counsel, and signed it voluntarily under no force or duress, and that this is the Parties' complete Agreement and is binding upon the Employee and his personal representatives, heirs, and assigns and that this Agreement is a valid and binding obligation on the Employee and enforceable against the Employee in accordance with its terms.
- a. The Parties acknowledge and agree that each does not rely and has not relied upon any representation or statement not expressly set forth herein.
  - b. The Parties shall bear their own attorneys' fees and costs, if any, in connection with all matters between them in connection with the preparation or review of this Agreement. In the event of litigation or arbitration arising out of any alleged breach of this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs.
  - c. In the event that any portion of this Agreement is found to be unenforceable for any reason whatsoever, the unenforceable provision shall be considered to be severable, and the remainder of this Agreement shall continue in full force and effect. The terms of this Agreement may be altered or amended, in whole or in part, only upon the written consent of all Parties to this Agreement. No oral Agreement may modify any term of this Agreement.

- d. This Agreement shall be governed in all respects, whether as to validity, construction, capacity, performance, or otherwise, by the laws of the State of Arizona, except as preempted by federal law. Venue shall be in Maricopa County.
- e. This Agreement may be executed in counterparts (including electronically scanned and faxed), each of which will be deemed an original and all of which, when executed, shall together constitute one agreement.

The Parties further agree:

- f. To cooperate in the wording of a written public statement concerning Employee's separation from the City.
- g. The City agrees to process inquiries made as to the Employee or his employment with the City by providing a job reference to prospective employers consisting of dates of employment, job title, and salary. No employee of the City shall be authorized to give any information to those inquiring except his dates of employment, job titles, salary and to advise that such is City policy without the written consent of the Employee, except as required by law in connection with a workers' compensation or disability retirement claim of the Employee, if expressly authorized in writing by the Employee, or if required by court or administrative order, subpoena, or other law.
- h. The prevailing Party in any action to enforce this Agreement shall be entitled to reasonable attorney's fees and costs.

Signed this 27<sup>th</sup> day of January 2026.

**City**

CITY OF PEORIA, an Arizona Municipal corporation

\_\_\_\_\_  
Jason Beck, Mayor

**Employee**

\_\_\_\_\_  
Henry Darwin

Approved as to Form:

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Emily Jurmu, City Attorney