



Voluntary Early Separation Incentive Program Agreement and Release

This Agreement and Release is entered into between the Martin County Board of County Commissioners ("County") and Employee's Name ("Employee"), to document the terms of the Voluntary Early Separation Incentive Program and Release the County from any and all claims the Employee has or may have against the County, including but not limited to, the Age Discrimination in Employment Act.

WHEREAS, the County, through the County Administrator's office, is committed to continued efforts to identify cost-saving opportunities and to implement programs that will successfully reduce recurring fiscal costs throughout the organization while minimizing the impact to our employees;

WHEREAS, the Employee voluntarily elects to participate in the Voluntary Early Separation Incentive Program ("VESIP" or "Program") based on the qualifications of six (6) years of full-time employment with Martin County and consideration offered by the County as more fully described herein;

NOW THEREFORE in consideration of the promises and mutual covenants herein contained the sufficiency of which is hereby acknowledged, the County and the Employee hereby agree as follows:

1. Separation from County Employment. The Employee, by his or her signature below, elects to participate in the Voluntary Early Separation Incentive Program which will result in the Employee's separation from County employment, and the County, through the signature of its representative below, accepts the resignation of the Employee. The Employee is not eligible for reemployment with the County for a period of two (2) years from the date of this Agreement or at the discretion of the County Administrator.

2. Entitlement. The Employee understands and agrees that the benefits offered by this Voluntary Early Separation Incentive Program are being offered as consideration for participating in this Program and separating from employment, and that these are benefits to which the Employee would not have been otherwise entitled had he or she not elected to participate in this Program.

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3. Eligibility. In order to participate in this Program, the Employee must have six (6) years of full-time employment with Martin County.

4. Program Terms. As consideration for participating in the Program, the Employee will receive:

A. Two weeks of pay at the Employee's current base rate of pay (less applicable taxes) for each full year of service as a full time County Employee up to a maximum of ten (10) years (service of six months and one day is rounded up to a full year).

The maximum number of weeks of base pay an Employee can receive under the Program is twenty (20) weeks.

B. Twenty weeks of the County's health insurance plan for all the Program participants at the current premium in effect for employees, through **February (2/28/2021)**. Premiums may be subject to change effective January 1, 2021.

i. Program participants may send monthly payments for their portion of the health insurance premium to Martin County Board of County Commissioners.

Upon expiration of the health insurance benefit on February 28, 2021, Employee may elect continuation health coverage provided pursuant to Title X of the Consolidated Omnibus Budget Reconciliation Act (COBRA), as amended, for up to eighteen (18) months of coverage (i.e., medical and dental).

Participants enrolled in the Flexible Spending Account (FSA) program in Martin County for calendar year 2020 will cease. Employees will not be able to incur new expenses under the Martin County FSA program for calendar year 2020 after your separation of employment but may continue to file through the end of the 2020 calendar year for expenses incurred while an active employee.

Participants enrolled in the Health Reimbursement Account (HRA) program may continue to file through the end of October 2020 if they resign or through the end of the year in which they retire.

Participants enrolled in the Employee Assistance Program will cease at the end of the month in which they separate.

C. Employees that have submitted their resignation prior to or after the election period of this Program are not eligible for the benefits contained in this Program.

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5. Released Claims. In consideration for the County entering into this Agreement, and for such other good and valuable consideration received from County, the receipt and sufficiency of which is hereby acknowledged, the Employee, on behalf of himself or herself and any of his or her agents, representatives, assigns, heirs, executors, and/or trustees (collectively, the “Releasing Persons”), hereby fully releases, acquits, satisfies, and forever discharges County, together with the Board of County Commissioners, its agents, attorneys, employees, and other representatives (collectively, the “Released Parties”) from any and all claims, demands, liabilities, debts, judgments, expenses, actions, causes of action, and suits of any kind whatsoever, for reimbursement of attorneys’ fees, costs, expert fees, litigation expenses, and damages, including any compensatory, punitive, and any other damages, if any, and all other legal responsibilities arising from or relating to his or her employment including any claim(s) under any federal, state or local law, and all claims under the Teamsters Collective Bargaining Agreement, the Human Resources Manual, the Agreement between Martin County and Martin County Firefighters Association Local 2959, IAFF, the Age Discrimination in Employment Act (“ADEA”), the Florida Civil Rights Act (“FCRA”), Title VII of the Civil Rights Act of 1964, and as amended, Sections 1981, 1983 and 1988 of Title 42 of the U.S. Code, the Employee Retirement Income Security Act of 1986, the American with Disabilities Act of 1990, the Immigration Reform and Control Act of 1986, The Equal Pay Act of 1963, the Occupational Safety and Health Act, the Family and Medical Leave Act of 1993, the Public Employees Relations Act, the Florida Whistleblowers Act, and any other law, regulation, or ordinance dealing with discrimination on the basis of sex, race, national origin, color, age, religion, disability, sexual harassment, or any other federal, state (including, but not limited to Florida) or local law, regulation or ordinance; or any public policy, contract, or common law claims, including, but not limited to, any tort claims (e.g., assault, battery, wrongful termination, etc.) whether based on common law or otherwise.

This waiver also bars any claim or demand for costs, fees or other expenses including attorneys’ fees incurred in connection with any of the above referenced claims or any claim for a defense or attorneys’ fees under *Florida Statutes* § 111.07 for lawsuits involving any conduct during employee’s employment. The listing of claims waived in this Section 4 is intended to be illustrative rather than exhaustive. Thus, Employee and County acknowledge and agree that this Agreement constitutes a comprehensive full and final bar to any and all claims of any type that Employee now has against the County, Board of County Commissioners, agents, officers and employees, forever, administrative or otherwise.

6. No Lawsuits. Employee affirms that he or she has not filed any lawsuits against County and promises not to institute or have instituted on his or her behalf any lawsuit against County based upon any claim he or she is waiving in Section 5 above.

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7. Adequate Consideration. Employee agrees that the benefits provided to him or her pursuant to Section 5 of this Agreement constitute adequate and ample consideration for the rights and claims he or she is waiving under this Agreement and for the obligations imposed upon her by virtue of this Agreement.

8. Governing Law and Interpretation. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, with exclusive venue and stipulated personal and subject matter jurisdiction being agreed to be in Martin County, Florida. Its language shall be construed as whole, according to its fair meaning, and not strictly for or against either party.

9. Severability. Should any provision of this Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, such provision shall immediately become null and void, leaving the remainder of this in full force and effect.

10. Entire Agreement; Amendment. This Agreement sets forth the entire agreement between Employee and County and shall supersede any and all prior agreements or understandings between the Parties as to the Employee and his employment and the termination of his employment by the County. It may not be amended except by a written agreement signed by the parties.

11. Acknowledgement. Employee acknowledges that he or she has been given the opportunity to consult with an attorney of his choice before signing this Agreement and Employee also acknowledges that in signing this Agreement, Employee has relied only on the conditions written in this Agreement and not on any representations or statements by the County that are not contained in this Agreement.

12. Age Discrimination Release. In compliance with the Older Workers' Benefit Protection Act, Employee acknowledges that he or she has thoroughly read the entire Agreement and specifically acknowledges the following:

- A. Employee understands the language of the Agreement and Release, and that any questions he or she may have had during her review of the Agreement was explained to his or her satisfaction and understanding by a representative of her choosing;
- B. Employee understands that the waiver and release specifically includes a waiver of rights and claims arising under the ADEA and the FCRA;
- C. Employee's waiver of rights and claims in this Agreement is in exchange for good and valuable consideration as described in this Agreement, including the payment from County provided for in this Agreement, which Employee acknowledges he or she is

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not otherwise entitled to and/or is in addition to anything of value to which he or she is already entitled;

D. Employee understands that he or she is not waiving any rights or claims that may arise after the date this Agreement and release is executed;

E. Employee has been advised to consult, is advised to consult, and has consulted legal counsel of his or her choosing prior to executing this Agreement, and who has carefully read and fully explained all the provisions of this Agreement, and explained it to Employee;

F. Employee hereby states that Employee and his or her counsel (if any) have made a full and independent investigation of all the facts and representations relating to this Agreement and release and, therefore, state that they have not been induced to enter into this Agreement by any statement, fact or representation of any kind or character on the part of County or on the part of any Party's agents, attorneys, employees or representatives other than those specifically set out herein;

G. Employee represents and agrees that he or she carefully read and fully understands all of the provisions of this Agreement, and is knowingly and voluntarily entering into this Agreement with the intent to be bound by it and without any coercion or duress;

H. Employee has had a reasonable time period up to forty-five (45) days from receipt of this document on _____, to accept the terms of and sign this Agreement, and that he or she may accept and sign this Agreement before expiration of the forty-five (45) day time period, but is not required to do so by County;

I. After signing this Agreement, Employee may revoke his or her acceptance within seven (7) days by providing written notice of revocation to County, in care of Matthew Graham, 2401 SE Monterey Rd, Stuart, FL 34996, otherwise this Agreement will become effective on the eighth day following its signature by Employee (the "Agreement Effective Date"). It is understood that County has no obligation to make any payment as described in this Agreement until the Agreement becomes effective in accordance with this provision notwithstanding any language contained herein to the contrary.

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS A RELEASE BY EMPLOYEE OF ALL KNOWN AND UNKNOWN CLAIMS AGAINST COUNTY UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, THE OLDER WORKERS BENEFIT PROTECTION

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ACT, AS AMENDED, FLORIDA'S CIVIL RIGHTS ACT AND THE FLORIDA
WHISTLEBLOWER ACT.

13. Enrollment. After the Employee has made his or her selection, this Agreement must be signed and approved by the County Administrator. After approval by the County Administrator, the Employee will be considered enrolled in the Program, and will have a period of seven (7) calendar days during which he or she may revoke the choice or amend the enrollment election. After the revocation period, the election will stand, no changes will be allowed, and the election is considered final. The Employee shall be notified of their last day of employment with the County.

14. Leave Benefits. This Agreement shall not change the leave benefits to which the Employee is already entitled based on the conditions of his or her employment. Specifically, the Employee will be compensated for earned leave time as provided for per policy.

15. County Property. The Employee agrees to return all County property issued to the Employee by the County.

16. Specific Performance. In the event of an alleged breach of this Agreement, Employee and the County hereby agree that all underlying causes of action or claims of Employee and the County have been extinguished by this Agreement and that the sole remedy for breach of this Agreement shall be for specific performance of its terms and conditions. In this regard, Employee and the County further agree that the sole venue for any such action for specific performance shall be the Nineteenth Judicial Circuit in and for Martin County, in Stuart, Florida.

17. Authority. The persons whose signatures appear below acknowledge that they have the full authority to execute this Agreement on behalf of the parties for whom they are signing and that they have not sold, assigned, transferred, conveyed, or otherwise disposed of all or any portion of the release claims. By affixing his or her signature below, the Employee attests that he/she has read this Agreement, that he/she understands its terms and conditions, that he/she has not been coerced into signing this Agreement, and that he knowingly and voluntarily agrees to abide by its terms because the terms are satisfactory and beneficial to the Employee. No promise or inducement of any kind has been made to the Employee by the County or by anyone else to cause the Employee to sign this Agreement, except as set forth above.

IN WITNESS WHEREOF, the County and Employee executed this Agreement, on the this _____ day of _____, 2020.

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Martin County Board of County Commissioners

By: _____
Taryn Kryzda
County Administrator

Employee's Signature

Date

STATE OF FLORIDA
COUNTY OF MARTIN

BEFORE ME, the undersigned authority, personally appeared _____, who ☐ is personally known to me ☐ or produced the following identification _____ on the ____ day of _____, 2020,.

NOTARY PUBLIC:

Signature: _____

Print Name: _____

State of Florida at Large (Seal)

My Commission Expires:

Approved as to form and sufficiency:

Matthew Graham
Human Resources and Risk Management Director

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