

United States of America v. City of Venice, Florida
Middle District of Florida
Case No. 20-cv-_____

SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA AND THE CITY OF VENICE,
FLORIDA

I. INTRODUCTION

This Settlement Agreement (“Agreement”) is entered into between Plaintiff, the United States of America (“United States” or “Plaintiff”), through the Department of Justice, and Defendant, City of Venice, Florida (“City” or “Defendant”), which is a governmental body established pursuant to the laws of Florida. Plaintiff and Defendant are herein referred to as the “Parties.”

This Agreement resolves the issues raised in a charge of discrimination filed with the Equal Employment Opportunity Commission (“EEOC”) (Charge No. 511-2015-01071) and a Complaint (“Complaint”) to be filed by the United States against Defendant in the United States District Court for the Middle District of Florida. These matters are herein referred to collectively as the “Underlying Case.”

In its Complaint, the United States alleges Defendant violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (“Title VII”), by discriminating against Mr. James Williamson (“Mr. Williamson”), a former employee in the City’s Public Works Department, based on race (Black), by subjecting him to a series of disciplinary actions, including unpaid suspensions for three and five days in 2014 and 2015, respectively, and then terminating his City employment in 2016.

II. RECITALS

1. The allegations of the United States against Defendant are set forth in detail in the Complaint.
2. Defendant denies that it discriminated against Mr. Williamson in violation of Title VII. Nevertheless, the Parties agree that this controversy should be resolved without further proceedings or an evidentiary hearing.
3. The Parties agree that all statutory prerequisites to the filing of the Complaint by the United States have been met.
4. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the United States' claims and in consideration of the mutual promises and obligations set forth below, and the execution of the Williamson Release (Appendix A) in consideration for the payment to him referenced in Paragraphs 19-21 below, the Parties agree to the following material terms and conditions:

III. TERMS AND CONDITIONS

A. Definitions

5. "Days" refers to calendar days. If any deadline referenced in this Agreement should fall on a weekend or federal holiday, the deadline shall be moved to the next business day.
6. "Effective Date" refers to the date of the signature of the last signatory to this Agreement.

B. Prohibited Conduct

7. The City, by and through its officials, agents, and employees, (a) agrees not to engage in any act or practice that discriminates against any employee or applicant on the basis of race in violation of Title VII and (b) agrees not to retaliate against, or in any way adversely affect, the terms and conditions of employment of any person because that person has opposed any practice

made unlawful by Title VII, filed a charge with the EEOC, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII, this case, or this Agreement.

IV. AFFIRMATIVE OBLIGATIONS

A. Policy Changes

8. Within sixty (60) days of the effective date of this Agreement, the City agrees to submit to the United States, for review and approval, copies of its written anti-discrimination policies, including guidance on the appropriate mechanisms and procedures for reporting employee complaints of discrimination and the handling of such complaints. If the City does not currently have a policy on any of these matters, the City agrees to draft a policy on such matters and then submit the policy to the United States for its review and approval within the same time period prescribed herein for current policies.

9. The Parties agree that any policy submitted to the United States for review and approval shall provide for an internal process for handling employee complaints of discrimination. All complaints will be processed by and through the Human Resources Director. However, for each complaint, the investigative process, including any investigative findings, will be reviewed and approved by the City's legal counsel during the term of this Agreement.

10. The United States will notify Defendant in writing within thirty (30) days of receipt of any proposed policies whether it has any objections to the proposed policies. The notification shall specify the nature of the objection. The Parties agree to work in good faith to resolve any disputes or disagreements about policy language that may arise in implementing the provisions of this paragraph prior to invoking the dispute resolution process provided in Paragraph 24.

11. Within thirty (30) days of the date that the policies referenced in the paragraphs above have

been approved by the United States, or any objections have been resolved, the City agrees to (a) disseminate the policies among all of its current employees, supervisors, and officials in such manner that is most effective and practicable, for example, by posting the policies on the City Government's internal webpage or by sending an email to all employees informing them how and where the policies can be accessed and (b) have all employees acknowledge they have read and understand the policies, and place and maintain such acknowledgments in their personnel files. In addition, the City agrees to (a) ensure each new employee hired receives a copy of the approved policies at the time of the new employee's hire and (b) require each new employee hired to acknowledge that he or she has read and understands such policies, and to place and maintain such acknowledgments in the employee's personnel file. Acknowledgments required under this paragraph may be accomplished by electronic means, such as by e-signature.

B. Trainings

12. Within 180 days of the effective date of this Agreement, the City agrees to provide, at its own cost, mandatory training on prohibited employment practices under Title VII, and on the City's anti-discrimination policies as developed or revised under this Agreement, to all supervisors and managers of the City's Public Works Department or City supervisors or managers who make personnel decisions affecting the Public Works Department. The training shall, at a minimum, include an explanation of those subjects and the procedure for reporting complaints of harassment, and shall specifically discuss the responsibilities of supervisors and managers to report and investigate harassment.

13. At least thirty (30) days before the mandatory training(s) described in this Agreement is conducted, the City shall submit to the United States, for review and approval, the training materials that are to be used and the qualifications of the person who will be conducting the

training.

14. The United States will notify Defendant in writing within thirty (30) days of receipt of the proposed training(s) whether it has any objections to the proposed training(s). The notification shall specify the nature of the objection. The Parties agree to work in good faith to resolve any disputes or disagreements about the trainings that may arise in implementing the provisions of this paragraph prior to invoking the dispute resolution process in Paragraph 24.

15. The City agrees to require all persons who receive the above-described mandatory training to sign, or register electronically, an acknowledgment of attendance at the training. The City shall keep on file all signed/registered acknowledgments for the term of this Agreement and make them available for review by the United States upon request.

C. Additional Obligations

16. The City agrees to include a performance element in the criteria for the written performance evaluations for all of its supervisors and managers that requires their compliance with anti-discrimination laws and policies.

17. The City agrees to retain during the term of this Agreement all documents, in paper or electronic form (including electronic mail), that come into its possession that are related to internal or external complaints of racial discrimination made by employees of the City. Within thirty (30) days of the effective date of this Agreement and every four months thereafter during the term of this Agreement, the City shall provide the United States with copies of all pending internal and external employee complaints alleging racial discrimination and shall also report to the United States in writing on any action taken by the City on such complaints. This provision applies to any claims that arise from the effective date of this Agreement through the term of this Agreement as defined in Paragraph 37 of this Agreement.

18. The City agrees to post (if it has not done so already), and keep posted, an EEO notice in a prominent place or places frequented by its employees notifying them of its intent to comply with Title VII, advising its employees of their right to complain about or oppose race discrimination and to be free of retaliation; and advising its employees of their right to contact federal and state anti-discrimination agencies. The EEO notice shall be posted in locations throughout the City Government workspace in the same manner as other mandatory EEO notices.

V. INDIVIDUAL RELIEF FOR MR. WILLIAMSON

19. Without admitting the allegations in the United States' Complaint, and in settlement of the claims of the United States for relief on behalf of Mr. Williamson and in consideration of his signed release ("Release") in this matter attached as Appendix A, the City agrees to provide Mr. Williamson with the following individual relief as set forth below.

20. After Mr. Williamson's execution of the Release, and within thirty (30) days of the effective date of this Agreement, the City shall pay Mr. Williamson a total monetary award of \$195,000, of which \$130,000 represents back pay and \$65,000 represents compensatory damages. From the \$130,000 attributable to back pay, the City shall withhold all appropriate income tax withholdings and statutory deductions, and shall separately pay its portion of any Social Security tax and other applicable federal, state and local employer-side taxes due on the \$130,000, and shall not deduct its portion of such taxes from the amount paid to Mr. Williamson. The City shall pay all such withheld monies to the appropriate governmental agencies and shall issue Mr. Williamson the appropriate Internal Revenue Service tax forms on or before the date it is required by law to do so. As for the \$65,000 attributable to compensatory damages, that amount shall be paid to Mr. Williamson in full without any withholdings taken out, and the City shall issue Mr. Williamson an IRS Form 1099 and any other appropriate forms for that amount.

21. The City agrees to pay the required amounts by check made payable to “James Williamson” and sent to the following address:

Mr. James Williamson
3084 Shamrock Drive
Venice, Florida 34293

Within ten (10) days of the City’s sending payment to Mr. Williamson, the City shall provide documentary evidence of having paid Mr. Williamson by sending the United States a photocopy of the front and back of the check.

22. The City agrees to provide neutral employment references for Mr. Williamson that shall state, as requested, his position held, dates of employment and salary when communicating with prospective employers or any third party seeking a reference for him. Within fifteen (15) days from the effective date of this Agreement, the City shall provide Mr. Williamson a letter of reference on City letterhead for his personal use that contains this same neutral employment reference information. The City shall not provide, in writing or orally, any negative employment reference for Mr. Williamson, shall not make any disparaging remarks about Mr. Williamson, and shall not refer in any way to the United States’ filing of this lawsuit, his filing of an EEOC charge against the City, or the Underlying Case, except as provided for in Paragraph 23.

23. Within thirty (30) days from the effective date of this Agreement, the City shall insert in Mr. Williamson’s personnel file, and in any other personnel records referencing the reason for his separation from City employment, a written statement on City Government letterhead that says: “The U.S. Department of Justice legally challenged Mr. James Williamson’s separation from City employment as well as related disciplinary actions taken against him. The Department’s legal challenge was resolved through settlement.”

VI. DISPUTE RESOLUTION

24. The Parties agree that, if either Party believes the other Party has failed to perform in a timely manner any act required by this Agreement, or to otherwise comply with any provision thereof, whether intentionally or not, the first Party will notify the other Party in writing of the concerns about breach and the Parties will attempt to resolve those concerns in good faith. Unless otherwise expressly agreed in writing, the responding Party shall have thirty (30) days from the date the first Party provides notification of any breach of this Agreement to cure the breach. If, however, such breach cannot be cured using reasonable efforts in such period, the responding Party will begin undertaking the curing of such breach within such period and will continue to diligently pursue such cure. If the Parties are unable to resolve a dispute over whether Defendant has breached this Agreement, either Party may file a civil action to enforce the Agreement. The Parties agree that the United States District Court for the Middle District of Florida has the exclusive jurisdiction and is the proper venue to enforce this Agreement and that they may, in any action to enforce this Agreement, seek to have the court impose any remedy authorized at law or equity.

VII. CONTACTS FOR THE PARTIES

25. All documents required to be delivered under this Agreement to the United States shall be sent to the following address:

Louis Whitsett
Senior Trial Attorney
Employment Litigation Section
Civil Rights Division
U.S. Department of Justice
4 Constitution Square
150 M Street, NE, 9th floor, Room 1138
Washington, D.C. 20002
louis.whitsett@usdoj.gov

26. All documents required to be delivered under this Agreement to the City shall be sent to

the following address:

Cindy Townsend, Esquire
Bell & Roper, P.A.
2707 East Jefferson Street
Orlando, Florida 32803
ctownsend@bellroperlaw.com

VIII. OTHER GENERAL PROVISIONS

27. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

28. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

29. This Agreement is governed by the laws of the United States. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute. This Agreement constitutes the complete agreement among the Parties and supersedes all prior agreements, representations, negotiations, and undertakings not set forth or incorporated herein. This Agreement may not be amended except by written consent of all of the Parties.

30. The undersigned representatives of Plaintiff and Defendant and their counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

31. This Agreement is binding on all Parties, successors, transferees, heirs, and assigns.

32. The Parties agree that this Agreement, including all the terms and conditions of this compromise settlement and any additional agreements relating thereto, may be made public in

their entirety, and the Parties expressly consent to such release and disclosure.

33. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

34. The Parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is illegal or invalid.

35. The Parties agree that, as of the date of the dismissal of the Underlying Case, litigation is not "reasonably foreseeable" concerning the matters alleged in the United States' Complaint. To the extent that any Party previously implemented a litigation hold to preserve documents, electronically stored information (ESI), or things related to the matters described above, the Party is no longer required to maintain such litigation hold. Nothing in this Paragraph relieves any Party of any other obligations imposed by this Agreement.

IX. TERM OF THE AGREEMENT AND DOCUMENT RETENTION

36. The Parties agree this Agreement resolves all claims and disputes between the Parties related to the issues raised in Mr. Williamson's EEOC Charge No. 511-2015-01071 and the Underlying Case. The Parties agree the obligations created by this Agreement survive the execution of the Williamson Release.

37. The term of this Agreement shall be for eighteen (18) months from its effective date.

38. The City agrees to permit the United States to review compliance with this Agreement at any time. Pursuant to that review, the City agrees to provide the United States with copies of any documents and information relevant to its compliance with this Agreement upon the request of the United States.

39. To the extent practicable, the City may comply with any or all of the provisions of the

above paragraphs by electronic means at its discretion.

40. The Parties agree that, to consummate this Agreement, the United States shall file the Complaint with the Court, and, immediately after that, the Parties shall file a Joint Motion for Dismissal with the Court, under Rule 41(a)(2) of the Federal Rules of Civil Procedure. The Parties further agree that the proposed Dismissal Order attached to their Joint Motion for Dismissal shall provide that the Complaint initially be dismissed without prejudice, and then be dismissed with prejudice, automatically and without further action of the Court, eighteen (18) months after the effective date of this Agreement.

AGREED AND CONSENTED TO BY THE PARTIES:

Attorneys for Plaintiff United States of America:

ERIC S. DREIBAND
Assistant Attorney General
Civil Rights Division

By:

/s/ Delora L. Kennebrew 9/15/2020
DELORA L. KENNEBREW
(GA Bar No. 414320)
Chief

/s/ Clare Geller 9/15/2020
CLARE GELLER
(NY Bar No. 4087037)
Deputy Chief

/s/ Louis Whitsett 9/15/2020
LOUIS WHITSETT
(DC Bar No. 257626)
Senior Trial Attorney
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.

Employment Litigation Section
Washington, D.C. 20530
Telephone: (202) 616-2988
Facsimile: (202) 514-1005
Email: louis.whitsett@usdoj.gov

Attorney for Defendant City of Venice, Florida

/s// Cindy Townsend 9/15/2020
CINDY TOWNSEND
(FL Bar No. 788961)
Bell and Roper, P.A.
2707 East Jefferson Street
Orlando, FL 32803
Telephone: (407) 897-5150
Facsimile: (407) 897-3332
Email: cindy.townsend@bellandroper.com

APPENDIX A

RELEASE

I, James Williamson, for and in consideration of accepting the relief to be provided to me under the provisions of the Settlement Agreement entered in United States v. City of Venice, Florida (M.D. Fla.), hereby release and discharge the City of Venice, Florida ("City") and its current, former, and future officials, employees and agents from all legal and equitable claims which have been or could have been asserted in the complaint filed in that court case and the charge of discrimination that I filed with the Equal Employment Opportunity Commission (Charge No. 511-2015-01071).

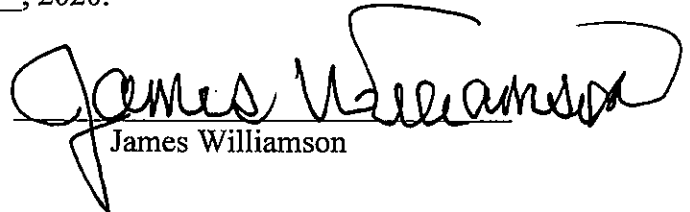
I understand that the relief to be given to me does not constitute an admission by the City of the validity of any claim raised by me, or on my behalf nor does it constitute liability for any wrongdoing or violation of any applicable federal law or regulation.

This Release constitutes the entire agreement between the City and myself in connection with this case, without exception or exclusion.

I hereby acknowledge that I was provided a copy of the Settlement Agreement in this action and had an opportunity to consult with a private attorney of my choosing about the terms of the Agreement.

I HAVE READ THIS RELEASE AND UNDERSTAND THE CONTENTS THEREOF,
AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.

Signed this 11 day of SEPTEMBER, 2020.


James Williamson