

SEPARATION AGREEMENT AND RELEASE OF CLAIMS

This Separation Agreement and Release of Claims (hereinafter referred to as the "Agreement") is made by and between Gregg Guetschow (hereinafter referred to as "Dr. Guetschow") and the City of Charlotte (hereinafter referred to as "Charlotte"). As used herein, Charlotte also includes all of its City Council, employees, elected or appointed officials, managers, department heads, supervisors, divisions, departments, as well as their successors, assigns, attorneys, officers, agents, representatives, and contractors.

RECITALS

WHEREAS, Dr. Guetschow has served honorably and effectively as the City Manager of Charlotte since February 1, 2008, pursuant to successive employment contracts; and

WHEREAS, Dr. Guetschow desires to resign his employment with Charlotte prior to the expiration and renewal date of his current Employment Agreement; and

WHEREAS, Charlotte is willing to accept Dr. Guetschow's resignation with an effective date of October 2, 2020 without further obligation on Dr. Guetschow's part to fully perform under his current Employment Agreement; and

WHEREAS, Dr. Guetschow and Charlotte desire to facilitate a smooth transition and separation from employment, including their desire to enter into mutual covenants and releases.

NOW, THEREFORE, Dr. Guetschow and Charlotte agree to the following:

1. Separation from Employment. Dr. Guetschow tenders his resignation from employment with Charlotte, effective October 2, 2020, and Charlotte accepts that resignation. A copy of Dr. Guetschow's resignation letter is attached. Dr. Guetschow's resignation from employment and Charlotte's acceptance of that resignation will terminate any and all prior Employment Agreements and the parties' obligations thereunder effective the end of the business day October 2, 2020, except as may be provided herein.

2. Compensation and Benefits Through October 2, 2020. Dr. Guetschow and Charlotte acknowledge and agree that until the close of business on October 2, 2020, Dr. Guetschow shall continue to faithfully perform his duties and responsibilities as City Manager for Charlotte and Charlotte shall continue to pay Dr. Guetschow his salary, insurances, deferred compensation, and all benefits of whatsoever nature, whether earned, accrued, or accumulated payable under the terms of Dr. Guetschow's Employment Agreement and Charlotte's employment policies and practices, including those pertaining to Charlotte's department heads and managers. This includes, by way of illustration but not exclusion, health, vision, dental, life, and disability insurances, contributions to 401A, accrual of vacation, sick, personal and disability leave, auto allowance, expense accounts, liability insurance, and professional membership dues, among others. Dr. Guetschow shall be entitled to such other benefits provided by Charlotte to employees who resign employment.

3. Consideration and Payments to Dr. Guetschow. Following the expiration of the revocation period described in Section 15, Charlotte agrees to pay/provide Dr. Guetschow the following:

- 3.1 Payment for 320 hours (8 weeks) of gross salary at the rate of \$44.23 per hour after October 2, 2020, for a total gross amount of \$14,153.85.
- 3.2 Payment for 160 hours of accrued unused vacation and personal leave earned by Dr. Guetschow as of February 1, 2020 at the rate of \$44.23 per hour, for a total gross amount of \$7076.80.
- 3.3 Payment for 106.67 hours of accrued unused vacation leave earned after February 1, 2020, at the rate of \$44.23 per hour, for a total gross amount of \$4,718.01.
- 3.4 Payment for one-half of 480 hours (30 days) of accrued unused sick leave at the hourly rate of \$44.23 for a total gross amount of \$10,615.20.
- 3.5 Dr. Guetschow shall have the authority to direct how and when payments for vacation and personal leave, sick leave and 320 hours of compensation are to be made, i.e., lump sum, biweekly, contributions to 401A, Roth IRA, or other established accounts, or a combination of these methods; provided, payment shall be made on normal payroll date(s) for Charlotte employees. Dr. Guetschow shall make his direction in writing to _____ [Name] _____.
- 3.6 Payments will be subject to legally required withholding taxes.
- 3.7 Charlotte will continue group health, dental, and vision insurance for Dr. Guetschow and his eligible dependents through December 31, 2020.

3.8 Dr. Guetschow shall not accrue additional vacation, sick or other leave time by reason of the payments described above. Charlotte shall make the City's deferred compensation payment based upon the payment amounts as provided in the above Sections 3.1 through 3.4.

3.9 Charlotte will not contest any application for unemployment benefits Dr. Guetschow may file, after October 2, 2020.

4. Vested Benefits. Dr. Guetschow is entitled to all vested benefits in any benefit plan in which he participated and Charlotte will cooperate with Dr. Guetschow in securing such benefits, if necessary, on and after October 2, 2020.

5. Reimbursement for Reasonable Business Expenses. Dr. Guetschow shall be entitled to reimbursement for reasonable business expenses he incurred through the date of his separation from employment on October 2, 2020.

6. Return of Charlotte Property. Dr. Guetschow agrees to return all Charlotte-owned property in his possession by the end of the business day on October 2, 2020, or such later date to which the parties may agree in writing.

7. Cooperation and Consultation. Upon request and reasonable notice, Dr. Guetschow shall endeavor to cooperate with Charlotte, its attorneys, employees, and agents, at reasonable times, in the prosecution or defense of any litigation or arbitration involving Charlotte. For a period of one year following Dr. Guetschow's separation from employment on October 2, 2020 [Consultation Period], Dr. Guetschow will endeavor to answer questions as provided to Charlotte's Mayor by City Council members, employees, City Attorney, accountants, auditors, consultants and

contractors which may arise from time to time. Unless otherwise communicated to Dr. Guetschow by the Mayor, if such person contacts him directly, he is to advise them that inquiries are to first be directed to the Mayor. Such assistance by Dr. Guetschow shall be paid as follows:

- a. During the first eight weeks following October 2, 2020, Dr. Guetschow shall provide assistance, without compensation, for up to four hours in those weeks; provided, however, that if in any one week the hours exceed said four hours, he will be compensated for all time worked including the initial four hours at the rate of \$100 per hour. Each week will be calculated separately.
- b. For the remainder of the Consultation Period, the four hours in any one week, as set forth above, shall be reduced to two hours per week and shall be compensated in the same manner as Section 7(a) above (i.e., no compensation for working two hours or less in any week. Compensation for all time, including the first two hours, in any week he provides service or counsel to Charlotte in excess of two hours).

Notwithstanding the foregoing, if Charlotte requests Dr. Guetschow to assume any projects, assignments, contracts or temporary employment in the future on behalf of Charlotte, the parties agree that Dr. Guetschow's voluntary assumption of any such projects, assignments, contracts or temporary employment will be pursuant to a written Consulting Agreement, mutually agreed to by Dr. Guetschow and Charlotte. Nothing herein obligates Dr. Guetschow to accept any future offers of employment or contract work by Charlotte, nor obligates Charlotte to make him any offers.

8. Recommendation Letter and Response to Prospective Employment

Inquiries. Charlotte shall provide Dr. Guetschow with a positive letter of recommendation (a signed copy of which is attached) and shall respond to all inquiries from prospective employers and employment agencies in a positive manner consistent with the information contained in the letter of recommendation. If asked specifically whether Charlotte would rehire Dr. Guetschow, Charlotte will respond in the affirmative. When received, all such inquiries regarding Dr. Guetschow shall be directed to the City Clerk or City Attorney.

9. Release by Dr. Guetschow. In consideration for the promises

contained herein, Dr. Guetschow does hereby COMPLETELY RELEASE AND FOREVER DISCHARGE Charlotte and its respective City Council, departments, managers, and their successors, assigns, officers, agents, employees, representatives, consultants, accountants, attorneys and contractors (collectively the "Released Parties") from any and all charges, claims, demands, actions or causes of action, known or unknown, which he, his heirs, administrators, executors, officers, directors, and/or assigns may have, including all matters alleged or which could have been alleged in a charge, complaint or arbitration; any and all injuries, loss or damages, including any claims relating to the conduct of any employee, officer, member, director, trustee, servant or agent, based on any and all matters, events, actions, inactions, omissions, commissions, transactions or things occurring prior to the date of this Agreement, including any and all possible claims, known or unknown, which could have been asserted. This release includes, but is not limited to, any rights or claims arising under the Age Discrimination in Employment Act, the Older Worker's Benefit Protection Act,

the Americans With Disabilities Act, as amended, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Family and Medical Leave Act, the Fair Labor Standards Act, 42 U.S.C. §§ 1981, 1981(a) and 1983, the Equal Pay Act, the Genetic Information Nondiscrimination Act of 2008, the Federal False Claims Act, as amended by the Fraud Enforcement and Recovery Act of 2009, the Dodd-Frank Wall Street Reform and Protection Act of 2010, the Elliott-Larsen Civil Rights Act, the Michigan Persons With Disabilities Civil Rights Act, the Michigan Wages and Fringe Benefits Act, the Whistleblower Protection Act, the Bullard-Plawecki Employee Right to Know Act, breach of contract, wrongful termination in violation of public policy, tortious interference with a business relationship or expectancy, civil conspiracy, employment discrimination prohibited by any other federal, state or local laws, including but not limited to sex, race, national origin, marital status, sexual orientation, age, disability, height, weight, or religious discrimination, and other claims for unlawful employment practices, and any other claims for violation of any other federal, state, or local law, statute, ordinance, rule or regulation, and any and all other claims whether sounding in express or implied or third party contract, tort, public policy or any other common law or statutory basis, which Dr. Guetschow has claimed, may claim, or could claim up to the date of executing this Agreement. This release is with respect to any relief including, but not limited to, reinstatement, wages, back pay, front pay, general damages, liquidated damages, compensatory damages, punitive damages, treble damages, costs, expenses and attorneys' fees. The foregoing does not apply to claims or rights that may arise after the full execution of this Agreement, nor does it preclude a governmental agency, such as the U.S. Equal Employment Opportunity Commission or

the Michigan Employment Relations Commission, from receiving or acting on any charges that may be filed by anyone. This release is intended to be a full release by Dr. Guetschow related to Dr. Guetschow's employment and/or separation from Charlotte, and any and all claims by Dr. Guetschow which could have been asserted up to and including the date of execution of this Agreement. This release does not preclude any action(s) to enforce the terms of this Agreement, nor does it preclude an action for breach of the Agreement.

10. Release by Charlotte. Charlotte hereby releases, acquits, and forever discharges Dr. Guetschow from any and all grievances, claims, actions, charges, suits, causes of actions, demands, rights, damages, levies, costs, executions and expenses whatsoever, known or unknown, liquidated or unliquidated, fixed or contingent, direct or indirect, which Charlotte has against Dr. Guetschow based on any actions or things done or not done by Dr. Guetschow up to and through October 2, 2020. Charlotte specifically acknowledges that the obligations of Dr. Guetschow under this Agreement constitute sufficient consideration to support this Release and Waiver.

11. Binding Effect. This Agreement shall be a fully binding and legally enforceable settlement between Dr. Guetschow and his heirs, executors, administrators, and assigns, and Charlotte, its predecessors, parents, subsidiaries, affiliates, divisions, departments, as well as their successors, assigns, members, directors, officers, agents, employees, representatives, and contractors.

12. Indemnification and Defense of Claims Against Dr. Guetschow. Charlotte also agrees that it will indemnify and hold Dr. Guetschow harmless in any and all legal and administrative actions, suits, grievances, and claims of any kind and of

whatsoever nature brought by any third party or parties against Charlotte and/or Dr. Guetschow based upon any acts or things done, or not done, by Charlotte and/or Dr. Guetschow during the course of his employment by Charlotte and/or by reason of his service or counsel to Charlotte at any time following his employment as City Manager. Charlotte will also provide Dr. Guetschow with legal representation at its cost and pay all associated legal defense costs, court costs, judgments, damages, awards, and attorneys' fees.

13. Non-Disparagement. Dr. Guetschow agrees that he will take all reasonable measures to not disparage Charlotte and to prevent the disparagement of Charlotte, and will not encourage anyone else to disparage Charlotte through direct or indirect means. Charlotte agrees that it will take all reasonable measures to not disparage Dr. Guetschow, and to prevent the disparagement of Dr. Guetschow, by any individual in its employ, and will not encourage anyone else to disparage Dr. Guetschow through direct or indirect means.

14. Non-Admission. This Agreement does not, and shall not, constitute any admission by Charlotte that any action it took with respect to Dr. Guetschow's employment and separation from employment was wrongful, unlawful, or in violation of any local, state, or federal law, rule, regulation or constitution. Nor does it constitute an admission by Dr. Guetschow of any wrongdoing, negligence, malfeasance, misfeasance, or nonfeasance in connection with his employment by or service to Charlotte.

15. Effectiveness and Period for Consideration. This Agreement is a legal document and execution of this Agreement has legal consequences. The Older

Worker's Benefit Protection Act ("OWBPA") provides certain rights to persons over the age of 40.

15.1 Dr. Guetschow acknowledges that he consulted and has relied upon the advice of an attorney of his own choice prior to execution of this Agreement, and he fully understands the terms of this Agreement. Dr. Guetschow further acknowledges that he has been given twenty-one (21) days from the receipt of this Agreement to review and consider whether to sign this Agreement. Dr. Guetschow understands that he may, but is under no obligation to, execute this Agreement before the expiration of the 21-day review period, thereby commencing the 7-day revocation period described in paragraph 15.2, below. Dr. Guetschow and Charlotte agree that any changes to the Agreement, whether material or immaterial, do not restart the running of the 21-day review period.

15.2 Dr. Guetschow shall have seven (7) days after signing this Agreement to revoke it. Dr. Guetschow understands that any revocation, to be effective, must be in writing and either (a) postmarked within seven (7) days of execution of this Agreement and addressed to _____ [Name] _____, 111 E. Lawrence Avenue, Charlotte, Michigan, 48813; or (b) hand-delivered within seven (7) days of execution of this Agreement to _____ [Name] _____, 111 E. Lawrence Avenue, Charlotte, Michigan. Dr. Guetschow understands that if revocation is made by mail, mailing by certified

mail, return receipt requested, is recommended to show proof of mailing. This Agreement shall become effective seven (7) days after the date set out below Dr. Guetschow's signature at the end of this Agreement ("Effective Date").

16. Voluntary Acceptance. Dr. Guetschow, by signing this Agreement, acknowledges that he has read this Agreement in its entirety, understands it, has had adequate opportunity to review it with his attorneys, and that he voluntarily accepts its terms.

17. False Claims Act. Dr. Guetschow acknowledges that he has disclosed to Charlotte any information he has concerning any conduct involving any member of the Released Parties, individually or collectively, that he has reason to believe may be unlawful or involve any false claims to the United States or any other governmental body. Dr. Guetschow further acknowledges that he has not filed any False Claims Act, or state law equivalent, claims against the Released Parties, or any member thereof. Dr. Guetschow further understands that nothing in this Agreement prevents him from reporting misconduct to U.S. government authorities or cooperating with any U.S. government investigation.

18. Governing Law. This Agreement shall be governed by the laws of the State of Michigan, irrespective of any conflict of law principles. Venue in Michigan shall be in Eaton County, Michigan.

19. Modifications. This Agreement may not be altered or modified without the express written consent of the parties.

20. Severability. If any provision or portion of this Agreement is found to be invalid or unenforceable, then that provision or portion shall be disregarded and the remaining provisions or portions of the Agreement shall be enforced.

21. Adequate Consideration. Dr. Guetschow and Charlotte acknowledge and agree that the terms of this Separation Agreement and Release constitute consideration for the agreements of the parties, including the parties' respective releases, and that such consideration is adequate and exceeds any pre-existing obligations of the parties to each other.

22. Entire Agreement. This Agreement represents the entire agreement between the parties, and there are no other written or oral agreements between them. Dr. Guetschow represents and acknowledges that by executing this Agreement, he (i) is not relying and has not relied upon any representation or statement made by Charlotte or its attorneys with regard to the subject matter or effect of this Agreement, and (ii) agrees that he has entered into this Agreement voluntarily after advice with legal counsel.

IN WITNESS WHEREOF, THE UNDERSIGNED REPRESENT THAT THEY HAVE READ AND UNDERSTAND THE TERMS OF THIS AGREEMENT, and have executed this Agreement on the dates set forth under their respective signatures.

CITY OF CHARLOTTE

Gregg Guetschow

Dated: _____

_____[print name]

Title: _____

Dated: _____

_____[print name]

Clerk

Dated: _____