

**RESOLUTION 23 - 59, 2023
COLUMBIA TOWNSHIP, HAMILTON COUNTY, OHIO**

**AUTHORIZING THE TOWNSHIP ADMINISTRATOR TO ENTER INTO
AN AGREEMENT AND GENERAL RELEASE WITH KIMBERLY GRAY-EVANS,
AND DISPENSING WITH THE SECOND READING**

WHEREAS, the Board of Trustees of Columbia Township, Hamilton County, Ohio desires to enter into an Agreement and General Release with Mrs. Kimberly Gray-Evans and to authorize the Township Administrator to take all necessary actions to effectuate the Agreement's terms which pertain to her employment and separation; and,

WHEREAS, the Board, upon majority vote, hereby dispenses with the requirement that this resolution be read on two separate days, and hereby authorizes the adoption of this resolution upon its first reading; and,

NOW, THEREFORE, BE IT RESOLVED, the Board of Trustees of Columbia Township, Hamilton County, Ohio, for the benefit and welfare of Columbia Township and its citizens hereby authorizes the Township Administrator to enter into the Agreement and to take all necessary actions to effectuate the Agreement's terms.

Motion to accept Resolution made by (Mr.) Mrs. KUBICKI

Seconded by: (Mr.) Mrs. LAMAR

VOTE:

TRUSTEE	Voting	Signature	Date
David Kubicki, President	<u>yes</u>	<u>[Signature]</u>	<u>12/12/23</u>
Brian Lamar, Vice-President	<u>yes</u>	<u>[Signature]</u>	<u>12/12/2023</u>
Susan Hughes, Trustee	_____	_____	_____

ATTEST: Carolee B. Heekin 12.12.23
Caroline Heekin, Fiscal Officer

Passed this 12TH day of DECEMBER, 2023

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (“Agreement”) is entered into by and between Kimberly Gray (hereinafter “Gray”) and Columbia Township (the “Township”) (collectively as the “Parties”).

WHEREAS, Gray was employed by the Township;

WHEREAS, the Parties desire to reach a complete and final settlement of any and all differences that exist or that may exist between them; and

NOW, THEREFORE, in consideration of the mutual promises and valuable consideration described below, the Parties agree as follows:

1. **Definitions.** As used in this Settlement Agreement and General Release (hereinafter “Agreement”), these words shall have the following meanings:

a. **RELEASEES** means Township and its trustees, predecessors, successors, assigns, agents, directors, officers, employees, representatives, attorneys, and parents, divisions, subsidiaries, and affiliates (and agents, directors, officers, employees, representatives, and attorneys of such divisions, subsidiaries, and affiliates), and all persons acting by, through, under, or in concert with any of them.

b. **CLAIM** or **CLAIMS** means any and all complaints (including without limitation any lawsuits, claims, liabilities, obligations, promises, agreements, grievances, controversies, damages, actions, causes of action, rights, demands, losses, debts, and expenses (including court costs and attorney’s fees actually incurred), including but not limited Ohio Civil Rights Commission and Equal Employment Opportunity Commission, Charge No. DAYB6(31711)06132023.

2. **Consideration.** Within thirty (30) days after (a) full execution of this Agreement; and (b) the expiration of the revocation period set forth in Paragraph 18 of this Agreement, the Township shall pay to Gray the sum of **One Hundred Sixty Thousand Dollars and Zero Cents** (\$160,000.00) less applicable withholdings/deductions.

3. **General Release.** In exchange for her receipt of the above-referenced consideration, and as a material inducement for RELEASEES to enter into this Agreement, Gray agrees to the following:

a. Gray does hereby irrevocably and unconditionally release, discharge, compromise, and settle any and all CLAIMS, demands, rights of action or obligation (including all attorneys’ fees and costs actually incurred), matured or un-matured, of whatever nature and whether or not presently known that exist as of the execution date of this Agreement, including any CLAIMS arising out of or relating to Gray’s employment with any of the RELEASEES or her separation therefrom, under any federal, state or local law, common law, or statute, and further including but not limited to CLAIMS under Title VII of the

Civil Rights Act of 1964, 42 U.S.C. §2000e, *et seq.*; the Civil Rights Act of 1866, 42 U.S.C. §1981; the Civil Rights Act of 1991, P.L. 102-166; the Age Discrimination in Employment Act, 29 U.S.C. §621, *et seq.*; the Americans With Disabilities Act, 42 U.S.C. §12101, *et seq.*; the Fair Labor Standards Act of 1938, 29 U.S.C. §201, *et seq.*; the Equal Pay Act, 29 U.S.C. §206(d); the Family and Medical Leave Act of 1993, 29 U.S.C. §2601, *et seq.*; the Occupational Safety and Health Act of 1970, 29 U.S.C. §553, *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001, *et seq.*; the Consolidated Omnibus Budget Reconciliation Act of 1986, 29 U.S.C. §1161, *et seq.*; O.R.C. §4112.01 *et seq.*; any other Ohio laws, Ohio common law, or otherwise, and any breach of contract claim.

b. Gray agrees not to sue and/or be a party to any proceeding of any kind or nature against RELEASEES for any CLAIMS. Gray also irrevocably and unconditionally releases and forever discharges the RELEASEES from each and every CLAIM of any nature whatsoever, known or unknown, including, but not limited to those arising out of or relating to her employment with Township or his separation therefrom, under any federal, state or local law and the common law. Gray also agrees that she has not assigned or transferred any CLAIMS to another person or entity.

Notwithstanding the foregoing, Gray does not waive her right to enforce this Agreement and acknowledges that nothing in this Agreement shall be construed as a waiver of any claim that cannot be waived by operation of law, policy, or otherwise, including, but not limited to, any workers' compensation or unemployment claims already filed by Gray as of the date of her execution upon this Agreement.

4. **Covenant Not to Sue.** Gray agrees not to file any lawsuits, claims, suits, complaints or grievances against the Township with any federal, state or local governmental agency, or in any court of law, with respect to any aspect of her employment with the Township or Releasees, or with respect to any other matter whatsoever, whether known or unknown to her at the time of execution of this Agreement. Gray also agrees not to encourage any other employee or former employee to pursue legal action against the Township of any kind or nature, and further agrees not to assist, except as compelled by process of law, any other employee in any legal action against the Township. Gray understands and agrees that, notwithstanding any provisions or covenants in this Agreement, nothing in this Agreement is intended to constitute an unlawful release or waiver of Gray's rights under any laws and/or to prevent, impede or interfere with Gray's ability and/or right to: (a) provide truthful testimony if under subpoena; and/or (b) participate in an investigation or proceeding conducted by the Equal Employment Opportunity Commission ("EEOC"); or (c) file administrative lawsuits with the EEOC or any comparable state or local agency. Gray does agree, however, to waive the right to recover monetary damages or individual relief in connection with any such administrative lawsuit.

5. **No Admission of Liability.** Gray acknowledges and agrees that this Agreement is a compromise of a disputed CLAIM, and any actions taken in connection with it do not constitute, and should not be understood as constituting, an acknowledgement, evidence, or an admission of liability or violation of any law or statute, the common law, or any agreement which exists or

which allegedly may exist by and between Gray and the Township. The Township denies and disclaims any liability to Gray.

6. **Confidentiality.** Gray agrees that the existence and terms of this Agreement, as well as all discussions concerning this Agreement, are confidential. Accordingly, she shall not disclose the Agreement's existence or its terms or any related discussions to any other person or entity, except that she may disclose the amount to her attorney, spouse, financial advisor and as otherwise required and compelled by law. She shall instruct those individuals that the information is confidential and shall not be disclosed to any other person or entity. If anyone asks Gray about the status or resolution of her differences with the Township, she shall respond solely by stating that the matter has been resolved.

Gray acknowledges and agrees that a breach of the Confidentiality provision contained in this Paragraph or any other representation contained in this Agreement will subject the Township to irreparable and substantial harm, and that actual damages for such harm would be difficult to ascertain. Therefore, Gray agrees that the liquidated damages as set forth below are reasonable under the facts and circumstances available at the time of executing this Agreement and are not to be construed as a penalty or punitive in nature. Should the Township determine that Gray breached the confidentiality provision in this Paragraph, Gray agrees to pay the Township as liquidated damages the amount of One Thousand Dollars and Zero Cents (\$1,000.00) for each such breach.

7. **Dismissal of Charge.** Gray agrees and acknowledges that her dual filing with the Ohio Civil Rights Commission and Equal Employment Opportunity Commission, Charge No. DAYB6(31711)06132023, will be dismissed, with prejudice, in exchange for the consideration provided in Paragraph 2, above.

8. **No Reinstatement.** Gray agrees not to apply for and renounces and forever waives any and all reinstatement or employment, whether temporary or permanent, part-time or full-time, in any capacity whatsoever, with RELEASEES or with any entity or organizations which is or in the future becomes related to the RELEASEES. Gray agrees that she shall not be rehired by the Township or any of the RELEASEES and if she is rehired may be lawfully terminated immediately based on this Agreement.

9. **Other Representations.** In addition to Gray's other representations in this Agreement, Gray has made the following representations to the Township, on which she acknowledges they also have relied in entering into this Agreement with her: (a) apart from allegations underlying this Agreement, which the Township denies, Gray has not suffered any discrimination on account of her age, sex, national origin, marital status, sexual orientation, or any other protected status, and no protected class was ever a factor towards an adverse employment action or used against Gray by any RELEASEES in any way; (b) Gray has no knowledge of any wrongdoing by any RELEASEES that would subject it or them to any harm, civil or criminal; and (c) Gray has provided no information, oral or in writing, to anyone - individual, corporation or any other organization, private, public or governmental - that involves any wrongdoing, civil or criminal, by any RELEASEES.

10. **Neutral Reference.** The parties agree that the Township will only provide to any future employers Gray's dates of employment, rate of pay and positions held.

11. **Agreement Binding.** This Agreement is binding upon Gray and her heirs, administrators, representatives, executors, and assigns and shall inure to the benefit of the Township and to its heirs, administrators, representatives, executors, successors, and assigns. Gray also agrees that this Agreement is contingent upon and subject to the approval of Trustees at a public meeting after she signs the agreement and can be rejected by the Trustees without obligation.

12. **Entire Agreement.** This Agreement sets forth the entire agreement by and between the Parties and supersedes any and all prior agreements and understandings, whether written or oral between them. This Agreement shall not be modified except by written agreement duly executed by or on behalf of each of the parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. If any part of this Agreement shall be deemed invalid or unenforceable, all remaining parts shall remain binding and in full force and effect.

13. **No Waiver.** The failure of the Parties to insist upon strict adherence to any term of this Agreement on any occasion shall not be considered a waiver thereof or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

14. **Rules of Construction.** No rules of construction against the drafter of this Agreement shall apply in any future proceeding related to the interpretation, enforcement or satisfaction of this Agreement or for any other purpose related to this Agreement.

15. **Signature in Counterparts.** This Agreement may be signed in counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. The Parties to this Agreement further agree that any facsimile or electronic copy of another party's executed counterpart of this Agreement (or the party's signature page of this Agreement) will be deemed to be an executed original.

16. **Miscellaneous.** Gray acknowledges that she is fully able and competent to enter into this Agreement, that she has read this Agreement in its entirety, that she had an opportunity to review it with counsel if she so chose, and that her agreement to all of its provisions is made freely, voluntarily, and with full and complete knowledge and understanding of its contents. Gray also acknowledges and agrees that, in signing this Agreement, she has not relied upon any representations made by the Township with regard to the subject matter, basis, or tax consequences—including the character or treatment of the settlement payment hereunder, or effect of this Agreement or otherwise, other than the obligations of the Parties set forth in this Agreement.

17. **The Parties hereto agree that they have read and fully considered this Agreement and are mutually desirous of entering into this Agreement. They also agree that Gray has been provided twenty-one (21) days to consider this Agreement and was advised to consult with legal counsel before execution, should she so choose. Having voluntarily elected**

to execute this Agreement, to fulfill the promises and to receive the benefits as fully set forth herein, Gray freely and knowingly, and after due consideration, enters into this Agreement intending to waive, settle and release any and all CLAIMS she has or had against Township as of the date of this Agreement.

18. The Parties hereto agree that Gray has seven (7) days from the date she executes this Agreement to revoke only her release of any age discrimination CLAIMS arising under the federal Age Discrimination in Employment Act. In order to be effective, Gray must send his revocation to Melissa Taylor by electronic mail at melissa@columbiatwp.org by 5:00 p.m. on the seventh day following her execution of this Agreement.

All other provisions of this Agreement shall become effective and enforceable upon Gray's execution of the Agreement; provided, however, that if Gray revokes her waiver of ADEA CLAIMS, the Township may revoke this Agreement in its entirety at its sole option.

AGREED TO:

COLUMBIA TOWNSHIP

Kimberly Gray

KIMBERLY GRAY

Date: 11/13/2023

By: _____

Title: _____

Date: _____