

SEVERANCE AGREEMENT AND RELEASE

THIS SEVERANCE AGREEMENT AND RELEASE ("Agreement") is entered into on November ____, 2020 by and between WILLIAM AUSTIN ("AUSTIN") and THE VILLAGE OF ROMEOVILLE, its administrators, its successors and assigns (herein after collectively referred to as "ROMEOVILLE");

WHEREAS, AUSTIN has been employed by ROMEOVILLE as a Battalion Chief in the Fire Department of ROMEOVILLE; and,

WHEREAS, AUSTIN desires to voluntarily resign from his employment with Romeoville effective November 8, 2020; and,

WHEREAS, AUSTIN and ROMEOVILLE wish to enter into this Agreement resolving all aspects of AUSTIN'S employment status; and,

ACCORDINGLY, IN CONSIDERATION of the mutual promises contained herein, the parties agree as follows:

1. **Resignation.** AUSTIN, contemporaneously with the execution of this Agreement, shall submit his irrevocable letter of resignation from employment with ROMEOVILLE. A copy of AUSTIN'S irrevocable letter of resignation is attached hereto and incorporated herein as Exhibit 1, and is hereby accepted by ROMEOVILLE. AUSTIN will remain on paid, administrative leave until his resignation date.

2. **Basic Compensation** ROMEOVILLE shall pay AUSTIN the compensation that he would have earned through the retirement date. Those benefits are identified herein as follows:

Salary through November 8, 2020 = \$4,588.30, less statutory and voluntary deductions

Payment for 318.45 vacation hours = \$13,282.55, less statutory and voluntary deductions

Payment for 0 personal hours = \$ 0.00, less statutory and voluntary deductions

3. **Additional Compensation and Consideration.** In consideration for his separation by retirement, and the releases contained herein, ROMEOVILLE shall pay AUSTIN additional compensation, which AUSTIN would not otherwise be entitled if terminated, subsequent to the revocation period of Section 5(f) herein as follows:

a. **Health Insurance** So long as AUSTIN does not exercise the revocation option contained in Section 5(f) of this Agreement, ROMEOVILLE will retain AUSTIN on its health insurance through April 30, 2021 at the same level of benefits as if he remained employed through that time. Until November 8, 2020, ROMEOVILLE shall be responsible for paying the Employer's share of the elected coverage and the Employee's share shall continue to be deducted from payroll. After November 8, 2020, AUSTIN, at his option, can elect coverage under COBRA and/or the Illinois Insurance Code. If AUSTIN elects, and to the extent that AUSTIN is and remains eligible for, such continued coverage under COBRA or Illinois law, ROMEOVILLE will be responsible for paying the COBRA premiums through April 30, 2020. The term of COBRA eligibility begins on November 8, 2020. Following April 30, 2020, the Employee may continue COBRA payments himself at the normal COBRA rates which are determined at the beginning of each plan year.

b. Sick Leave Payment for 811.04 sick hours = \$33,828.48, less statutory and voluntary deductions.

b. Unemployment: ROMEOVILLE will not contest AUSTIN's claims for unemployment with the Illinois Department of Employment Security.

c. Date of Payments: All sums payable thereunder shall be paid within 14 days from the execution of the Agreement. In the event the Agreement must be approved by the Village Board, payment shall be made within 14 days of the Board's approval.

4. Release.

a. In consideration of ROMEOVILLE's agreement to provide certain wages and benefits as set forth in this Agreement, **AUSTIN AGREES TO FULLY AND ABSOLUTELY RELEASE AND DISCHARGE ROMEOVILLE**, and all of its officers, elected officials and employees, in both their personal and official capacities, from any and all claims, lawsuits or causes of action of every kind or nature, at law or equity, which AUSTIN may now have or claim to have, whether known or unknown from the beginning of AUSTIN's employment to and through the date of this Agreement. **THIS RELEASE COVERS ALL TYPES OF LEGAL CLAIMS**, whether arising from tort, statute, ordinance, regulation, common law or collective bargaining agreement, including but not limited to any and all actions, causes of action, claims, rights, obligations, charges, damages, costs, attorney's fees, suits and demands arising out of or based upon employment relations, collective bargaining agreements, rights to arbitration, wrongful or retaliatory discharge, constructive discharge. **THIS AGREEMENT INCLUDES THE RELEASE OF ANY AND ALL CLAIMS AGAINST ROMEOVILLE ARISING UNDER FEDERAL OR STATE LAW** including, without limitations all of AUSTIN's reasonable rights under any and all State, Federal and local statutes, laws, ordinances, executive orders, and regulations; the Constitution of the United States (including all amendments thereto); the Constitution of the State of Illinois; Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq.; the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §621 et seq.; the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12101 et seq.; all claims under 42 U.S.C. §§ 1983, 1985, 1988; the Family and Medical Leave Act of 1993, 29 U.S.C. §2601 et seq.; the Fair Labor Standards Act of 1938 as amended, 29 U.S.C. §201 et seq.; the Civil Rights Act of 1866, 42 U.S.C. §1981 et seq.; Illinois Human Rights Act, 775 ILCS 5/1-101 et seq.; the Illinois Minimum Wage Law, 820 ILCS 105 et seq.; the Illinois Public Labor Relations Act, 5 ILCS 315; the Illinois Wage Payment and Collection Act, 820 ILCS 115 et seq.; and any other statute or principle under which AUSTIN could assert a cause of action. **THIS AGREEMENT DOES NOT RELEASE CLAIMS OR RIGHTS THAT AUSTIN MAY HAVE UNDER THE WORKERS COMPENSATION ACT, 820 ILCS 305-1 ET SEQ.**

It is the intention of AUSTIN and ROMEOVILLE that in executing this Agreement, AUSTIN is providing a general release and that it shall be an effective bar to each and every claim, grievance, demand, and cause of action, either known or unknown, for all acts or omissions of ROMEOVILLE and its agents, jointly and separately, individually and in their representative capacities, for any injuries or damages incurred by AUSTIN occurring on or prior to the date this Agreement is executed by AUSTIN. **EXCLUDED FROM THIS WAIVER AND RELEASE IS ANY CLAIM OR RIGHT WHICH CANNOT BE WAIVED BY LAW.**

AUSTIN further agrees that if AUSTIN files a charge with the EEOC or IDHR or is a party to

such a charge, **AUSTIN SHALL NOT BE ENTITLED TO RECOVER ANY DAMAGES OR ATTORNEY'S FEES** as a result of disposition of the charge.

b. AUSTIN and his attorneys, if any, shall receive no compensation, bonuses, commissions, severance pay, employee benefits, fees, or other consideration from any Release except as specifically set forth herein.

c. AUSTIN shall return all ROMEOVILLE property including, but not limited to, vehicles, cell phones, pager(s), PDA(s), computer(s), lap top(s), keys, i.d. badge, computer disks and files, including computers, software programs, computer peripherals, electronically stored data, data storage devices and written password, prior to receiving any severance payments or benefits under this agreement.

d. Except to challenge the enforceability of the agreement, in the event AUSTIN brings any claims in violation of Paragraph 4a, AUSTIN shall pay any attorney fees incurred by ROMEOVILLE or any other Releasee to defend such claims, to enforce this Agreement or otherwise to protect its rights against AUSTIN, in addition to any other damages or relief ROMEOVILLE or the Releasee may be entitled to, provided, however, that nothing in this Paragraph is intended or should be construed to mean that the release of claims under ADEA in this agreement is unenforceable or invalid, it being the intent of the parties to release all such claims.

5. **Specific ADEA and OWBPA Release.** AUSTIN acknowledges and agrees that he is waiving and releasing any rights he may have under the Age Discrimination in Employment Act of 1967, as amended. AUSTIN acknowledges that he has been informed pursuant to the Older Workers Benefit Protection Act of 1990, as amended, that:

- a. He has read and understands the agreement and enters into the Agreement voluntarily, knowingly and without reservations or duress;
- b. He has been advised to consult with legal counsel before signing this agreement;
- c. He is not waiving rights or claims under the Age Discrimination in Employment Act that may arise after the date this Agreement is executed.
- d. He has been offered at least **twenty-one (21) days** to consider the Agreement;
- e. He is receiving consideration for the Agreement in addition to that which he would otherwise have been entitled;
- f. He may revoke this agreement by delivering written notice to the Village Administrator or designee within **seven (7) days** after signing this agreement. The Agreement will not be effective until that revocation period has expired.

6. **Confidentiality of Agreement.** AUSTIN shall keep the terms of this agreement strictly confidential and shall not disclose, or cause to be disclosed through others, the terms of this Agreement to anyone including but not limited to past, present and prospective employees of ROMEOVILLE, provided, however, that AUSTIN may disclose the Agreement to his counsel, tax advisors and immediate family who shall be informed of the obligation to keep the information confidential pursuant to this paragraph. ROMEOVILLE will keep this agreement confidential, except as required by law.

7. **Neutral Reference and Mutual Non-Disparagement.**

a. AUSTIN and/or ROMEOVILLE shall not voluntarily make any adverse or disparaging comments about ROMEOVILLE and/or AUSTIN or ROMEOVILLE'S trustees, administrators, employees or agents which may tend to impugn or injure their reputation, good will, and relationships with their past, present and future employees, and the community in general. The restrictions of this paragraph shall not apply to speech protected by the First Amendment, statements which are true in fact or statements made as part of, or during the course of a political campaign, provided such statements are not defamatory.

b. In response to any inquiries from any third-party pertaining to AUSTIN's employment with Romeoville, ROMEOVILLE will direct such inquiries to the Human Resource Department. Romeoville, through its Human Resource Director or his/her representative, shall provide the third-party with a neutral reference reflecting AUSTIN'S dates of employment, positions held and the fact it is Romeoville's policy to provide a neutral reference.

8. **Confidential Information and Cooperation.** AUSTIN acknowledges that during the course of his employment with ROMEOVILLE as a Battalion Chief, he had access to and received information that ROMEOVILLE considers and has treated as confidential. The term "Confidential Information" as used in this Agreement includes, but is not limited to, employee information, attorney/client privileged information, general personnel information, employment investigations, litigation strategy involving ROMEOVILLE, and any information which ROMEOVILLE treats as confidential, the use or disclosure of which might reasonably be construed to be contrary to the interest of ROMEOVILLE, including without limitation information received from third parties under confidential conditions. Therefore, AUSTIN agrees that he will not directly or indirectly disclose, reveal, publish or transfer to any third party any Confidential Information, in the form of general records, personnel records, or personal recollection, or use any such Confidential Information or any information whatsoever learned as a result of his employment at ROMEOVILLE, except under court order or as a result of a valid government order. Before responding to any Order or Subpoena or any request for information, AUSTIN shall disclose the Order, Subpoena or request to ROMEOVILLE, in writing, of circumstances surrounding any unauthorized use of, knowledge of or request for information. AUSTIN understands his failure to strictly adhere to the confidentiality or cooperation requirements of this agreement shall constitute a breach and immediately require the repayment of any and all consideration provided in the agreement. Further, AUSTIN agrees to cooperate with ROMEOVILLE in the defense or prosecution of any and all litigation or administrative investigations in which it is currently involved or may become involved by meeting with ROMEOVILLE administrators and legal counsel for ROMEOVILLE regarding the defense/prosecution of any and all claims of which he has knowledge as a result of his employment as the Battalion Chief and testifying in any trial or hearing regarding same.

9. **Denial of Liability.** The parties agree that nothing herein is intended or should be construed as an admission that ROMEOVILLE or any of its employees engaged in any illegal or wrongful conduct or interfered with AUSTIN'S employment, civil rights or other rights in any respect, it being understood that ROMEOVILLE expressly denies any such wrongdoing.

10. **Controlling Law.** The laws of the State of Illinois shall govern the interpretation of this agreement, and that the proper venue for resolving any dispute with respect to this agreement is the 12th Judicial Circuit of Will County, Illinois.

11. **Severability.** Should any provisions of this Agreement be held invalid or unenforceable by operation of law or otherwise, all other provisions shall remain in full force and effect, provided, further, that a court may modify any provision to make it valid and enforceable,

12. **Complete Agreement.** This Agreement sets forth the entire agreement of the parties and supersedes all prior agreements, if any, between them pertaining to the subject matter hereof

13. **Review of Agreement/Knowing and Voluntary Release.** ROMEOVILLE has advised and hereby expressly advises AUSTIN to consult with an attorney of his choosing prior to executing this Agreement which contains a general release and waiver. AUSTIN acknowledges that he fully understands his right to review this Agreement with an attorney of his choosing and has had such opportunity. AUSTIN has read and fully understands all the provisions of this Agreement and that AUSTIN is freely, knowingly and voluntarily entering into this Agreement.

14. **Recitals Adopted:** The Recitals of this Agreement are adopted as if fully set forth herein.

15. **Covenant Not to Sue/Employee Breach of Agreement:** AUSTIN promises never to file or participate in a lawsuit, arbitration, or other legal proceeding asserting any claims that are released pursuant to this Agreement, except to enforce rights created by this Agreement. In the event that AUSTIN breaches any of his obligations under this Agreement, any outstanding obligations of ROMEOVILLE hereunder shall immediately terminate, and any payments previously made to AUSTIN pursuant to Paragraphs 1 and 2 shall be returned to ROMEOVILLE, including any attorneys' fees and costs incurred by ROMEOVILLE recovering them, whether or not a lawsuit is filed.

PLEASE READ CAREFULLY, THIS DOCUMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

VILLAGE OF ROMEOVILLE

Wm. D. My

BY: _____

WILLIAM AUSTIN

DATED: 11/18/22 DATED: _____

EXHIBIT 1
LETTER OF RESIGNATION

October 26, 2020

Chief Kent Adams,

I am writing to inform you of my retirement with over 32 years in the fire service, which includes 15 years serving with the Romeoville Fire Department; 8 years of which was as a part-time employee, and the last 7 years as a full-time Battalion Chief. I will always appreciate the opportunity that you gave me in becoming a Battalion Chief with the Romeoville Fire Department. I am confident that the Romeoville Fire Department will continue the progressive mindset that we have instilled within both our administration and with members in providing the absolute best emergency services to the public that we serve. I am confident that the Romeoville Fire Department will continue to deliver the first-class customer service to its citizens for many years to come. I wish everyone well, and hope for a safe and prosperous career.

I am officially resigning from the Romeoville Fire Department effective November 8th, 2020. May all that serve know how to do so with honor, integrity, dignity and most importantly with good moral character. God speed and be safe!

Respectfully,

William David Austin Jr.

Battalion Chief

Romeoville Fire Department