



City of Grand Island

Tuesday, May 27, 2014

Council Session

Item I-6

#2014-137 - Consideration of Approving Settlement for Pre-84 Police Officers

Staff Contact: Robert J. Sivick, City Attorney

Council Agenda Memo

From: Robert J. Sivick, City Attorney

Meeting: May 27, 2014

Subject: Consideration of Approving Conciliation Agreements in *Atwell, Mehlin, Dubbs, Mossman, and Arnold v. City of Grand Island*

Item #'s: I-6

Presenter(s): Robert J. Sivick, City Attorney

Background

In 1983 the Nebraska Legislature passed LB237 which contained the Police Officers Retirement Act (Act), codified in Article 10(a) of Chapter 16, §§16-1001 - 1019 of the Nebraska Revised Statutes. The Act and the resulting statutes addressed issues regarding pensions for police officers employed by Cities of the First Class.

In November, 2012 it was discovered in 2005 the Police Pension Committee (Committee) ceased calculating lump sum pension benefits for pre-84 police retirees on a gender specific basis. On February 5, 2013 the Grand Island City Council (Council) approved Resolution 2013-26(B) which directed the Committee to henceforth calculate those benefits on a gender specific basis.

In April, 2013 retired Grand Island Police Captain Peter E. Kortum filed a complaint against the City of Grand Island (City) with the United States Equal Employment Opportunity Commission (USEEOC) alleging he suffered discrimination on the basis of his gender when the City calculated his lump sum pension benefits. Shortly thereafter five other current Grand Island Police Officers hired prior to 1984 (Jerry L. Atwell, Kerry S. Mehlin, Danny D. Dubbs, Kelly J. Mossman, and Scott B. Arnold) also filed complaints with the USEEOC alleging they would face gender discrimination when they retired

Discussion

Rather than litigating the matters, the City entered into settlement negotiations with the police officers named above and the USEEOC. City legal staff negotiated terms which include a provision the City will not admit violating any provision of Title VII of the Civil Rights Act of 1964 which prohibits various forms of discrimination. In addition, City legal staff negotiated terms in which any payments would not include monetary damages but be limited to attorney's fees in the amount of \$715.35 per police officer for a combined total of \$3,576.75.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve.
2. Move to reject.

Recommendation

City Administration recommends that the Council approve Resolution No. 2014-137 approving the Conciliation Agreements in the matters of *Atwell, Mehlin, Dubbs, Mossman, and Arnold v. City of Grand Island*.

Sample Motion

Move to approve Resolution No. 2014-137 approving the Conciliation Agreements in the matters of *Atwell, Mehlin, Dubbs, Mossman, and Arnold v. City of Grand Island* and authorizing the Mayor to sign the Conciliation Agreements on behalf of the City.

CONCILIATION AGREEMENT

In the Matter of:

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Oklahoma City Area Office

and

JERRY L. ATWELL

Charging Party

and

CITY OF GRAND ISLAND

Respondent

Charge Number 32E-2013-00656

*** * ***

Charges having been filed under Title VII of the Civil Rights Act of 1964, as amended, with the U. S. Equal Employment Opportunity Commission, by the Charging Party against the Respondent, the charges having been investigated and reasonable cause having been found, the parties do resolve and conciliate this matter as follows:

JERRY L. ATWELL v CITY OF GRAND ISLAND
Charge No. 32E-2013-00656

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1. GENERAL PROVISIONS

- A. **Scope of Release:** Compliance with this Agreement resolves all issues between the Commission, JERRY L. ATWELL, (hereinafter the "Charging Party") and the CITY OF GRAND ISLAND (hereinafter the Respondent") arising out of Charge No.: 32E-2013-00656, as to the acts and practices alleged in the above referenced charge occurring prior to the date of this Agreement.
- B. **Commission May Review Compliance With Agreement:** The Respondent agrees the Commission may review compliance with this Agreement. As a part of such review the Commission may require written reports concerning compliance, may inspect the premises, examine witnesses, and examine and copy documents.
- C. **Agreement Does Not Constitute Admission of Violation:** It is understood that this Agreement does not constitute an admission by the Respondent of any violation of Title VII of the Civil Rights Act of 1964, as amended.
- D. **Charging Party's Covenant Not to Sue:** The Charging Party and the Commission hereby waive, release and covenant not to sue the Respondent with respect to the matters which were alleged in Charge No.: 32E-2013-00656, filed with the Equal Employment Opportunity Commission subject to performance by the Respondent of the promises and representations contained herein. The Commission shall determine whether the Respondent has complied with the terms of this Agreement.
- E. **All Employment Practices to be Conducted in Nondiscriminatory Manner:** The Respondent agrees that all hiring, promotion, discharge practices, and other terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate on the basis of race, color, sex, religion or national origin in violation of Title VII of the Civil Rights Act of 1964, as amended. The Respondent shall maintain a workplace environment free from gender discrimination.
- F. **Retaliation Prohibited:** The Respondent agrees that it will not retaliate against any person because that person: is a beneficiary from this Agreement; has provided information or assistance; or participated in any other manner in any investigation or proceeding relating to this Agreement or charge filed under Title VII of the Civil Rights Act, as amended; or opposed any practice made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

JERRY L. ATWELL v CITY OF GRAND ISLAND
Charge No. 32E-2013-00656

- G. **Compliance with Title VII Not Waived:** Nothing in this Agreement shall be construed to limit or reduce the Respondent's obligation to fully comply with Title VII of the Civil Rights Act of 1964, as amended, or Regulations promulgated pursuant thereto.
- H. **Reporting Requirements:** The Respondent agrees to maintain such records as are necessary to demonstrate its compliance with the provisions of this Agreement and to verify the reports submitted. These records, and any other information relevant to the provisions of this Agreement, will be submitted or made available to the Commission upon request. Requests for information pursuant to this paragraph will not be made in such a manner as to impose an unreasonable burden or expense to the Respondent. The Respondent further agrees to provide the written reports under the section in this Agreement entitled "Reporting," and under Section 1. B. of this Agreement. Report of payment of damages will be furnished to:
- Equal Employment Opportunity Commission
Oklahoma City Area Office
215 Dean A. McGee Ave, Suite 524
Oklahoma City, Oklahoma 73102
ATTN: Kathy Nusz
Senior Federal Investigator
- I. **Effect on Other Charges:** This Agreement in no way affects the Commission's right to process future charges against the Respondent in accordance with standard Commission procedures, and to commence civil actions pursuant to Section 706(f) of Title VII on any such charges.
- J. **Entire Agreement and Any Amendments Must Be In Writing:** This Agreement constitutes the complete understanding between the Respondent and the Commission with respect to the matters herein. No waiver, modification or amendment of any provision of this Agreement will be effective unless made in writing and signed by the Respondent and approved by the Commission.
- K. **Breach of Agreement:** It is expressly agreed that if the Commission concludes that the Respondent has breached this Agreement, the Commission may bring an action in the appropriate federal court to enforce this Agreement or may deem conciliation to have failed and sue on the underlying charge.
- L. **Agreement Not Intended as Precedent:** The terms of this Agreement are the product of negotiation. Concepts reflected in the Agreement are not intended to be adopted for any purpose other than this Agreement.

JERRY L. ATWELL v CITY OF GRAND ISLAND
Charge No. 32E-2013-00656

- M. **Terms of the Agreement:** The term of the Agreement shall be two years. The term shall begin on the date that the last signatory signs the Agreement and will remain in effect May 1, 2014 to May 1, 2016, unless a dispute is pending pursuant to Section 1.N. below. If the Respondent does not initiate the remedial actions required, and is not able to substantiate that it made a good faith effort to comply with these provisions, this Agreement may be extended by the Commission for a two-year period.
- N. **Dispute Resolution:** In the event that any dispute arises between the Commission and the Respondent regarding the interpretation or application of this Agreement, or any provision thereof, the party or parties hereto, claiming a dispute shall notify the other parties in writing, and specify the factual details forming the basis of such dispute. Thereafter, the parties shall attempt within thirty (30) days to resolve the dispute. The foregoing procedures will be applicable to all such matters, except the Commission's review of the Respondent final compliance report, for which the following procedures will apply. After the last report is submitted by the Respondent, the Commission will have forty-five (45) days to evaluate the report. If the Commission believes that compliance with the Agreement is in question, the Agreement may be extended by the Commission until the substance of the issue is resolved, pursuant to the terms of this section.

2. SPECIFIC PROVISIONS

- A. **Enforcement of Policy Regarding Title VII of the Civil Rights Act of 1964, as amended:** The Respondent agrees to immediately revise any Law, Ordinance, Act of Policy, which violates Title VII of the Civil Rights Act of 1964, as amended, as set forth in the Letter of Determination, including the payment of future police retirement benefits based on gender.
- B. **Notice to be Posted as Part of this Agreement:** The Respondent agrees to sign and post a NOTICE to all employees (attached hereto as Attachment A) in conspicuous places upon all of its premises where notices and information to employees, applicants for employment, members and training are customarily posted at subject store. Such Notice shall remain posted from May 1, 2014 to May 1, 2016. The attached notice/policy outlines prohibited forms of discrimination.

JERRY L. ATWELL v CITY OF GRAND ISLAND
Charge No. 32E-2013-00656

3. CHARGING PARTY RELIEF

- A. Payment of Damages: Respondent agrees to pay the Charging Party's attorney fees and costs in the amount of \$715.35.

4. REPORTING

- A. Damages Payment Report: Respondent agrees to provide a report within thirty (30) days of the date of this agreement describing the manner in which the damages payment was made which will include photocopies of the check and photocopies of the Certified Mail Return Receipt signed by Charging Party or his attorney as proof of payment.
- B. Ordinance, Policy and Procedure Report: Respondent agrees to provide a copy of the revised City Ordinance, Policy and Procedure when the offending municipal ordinance is modified to comply with Title VII, with a copy of the official minutes of the City Council meeting approving the revision to the ordinance. This report will be due within thirty (30) days of the date of this agreement.

SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

Date

Respondent Representative

Date

Jerry L. Atwell, Charging Party

I recommend approval of this Conciliation Agreement:

Date

Kathy Nusz, Senior Federal Investigator

I concur in the above recommendation for approval of this Conciliation Agreement:

Approved on Behalf of the Commission

Date

Holly Waldron Cole, Director,
Oklahoma City Area Office of EEOC

ATTACHMENT "A"

NOTICE

This NOTICE is being posted as part of a Conciliation Agreement between The City of Grand Island, and the U.S. Equal Employment Opportunity Commission (EEOC).

Federal law requires that there be no discrimination against any employee or applicant for employment because of that person's race, color, religion, sex, national origin or age with respect to hiring, compensation, promotion, discharge, terms, conditions or privileges of employment or retaliation for either having opposed or complained about employment practices made unlawful by the Act. The City of Grand Island prohibits gender discrimination in any form and advises all employees to report any acts observed and in violation of company policy.

The City of Grand Island strongly supports and will comply with such Federal law in all respects, and it will not take any action against employees because they have exercised their rights under the law. Should you be retaliated against because you have opposed any practice made unlawful by Title VII, or because you had filed a charge of discrimination, testified, assisted, or participated in an investigation, proceeding, or litigation under Title VII of the Civil Rights Act of 1964, as amended, or in any other way discriminated against while employed by the City of Grand Island you may seek assistance from:

U.S. Equal Employment Opportunity Commission
Oklahoma City Area Office
215 Dean A. McGee Avenue, Suite 524
Oklahoma City, Oklahoma 73102
Telephone Number 405/231-4911

The City of Grand Island hereby reminds all of its employees that discrimination of any kind will not be tolerated.

This NOTICE will remain posted until May 1, 2016, by direction of the Equal Employment Opportunity Commission.

SIGNED _____ on this _____ day of _____, 2014.
Holly Waldron Cole, Director
Oklahoma City Area Office

The City of Grand Island Mayor/City Manager

CONCILIATION AGREEMENT

In the Matter of:

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Oklahoma City Area Office

and

KERRY S. MEHLIN

Charging Party

and

CITY OF GRAND ISLAND

Respondent

Charge Number 32E-2013-00657

*** * ***

Charges having been filed under Title VII of the Civil Rights Act of 1964, as amended, with the U. S. Equal Employment Opportunity Commission, by the Charging Party against the Respondent, the charges having been investigated and reasonable cause having been found, the parties do resolve and conciliate this matter as follows:

KERRY S. MEHLIN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00657

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KERRY S. MEHLIN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00657

1. GENERAL PROVISIONS

- A. **Scope of Release:** Compliance with this Agreement resolves all issues between the Commission, KERRY S. MEHLIN, (hereinafter the "Charging Party") and the CITY OF GRAND ISLAND (hereinafter the Respondent") arising out of Charge No.: 32E-2013-00657, as to the acts and practices alleged in the above referenced charge occurring prior to the date of this Agreement.
- B. **Commission May Review Compliance With Agreement:** The Respondent agrees the Commission may review compliance with this Agreement. As a part of such review the Commission may require written reports concerning compliance, may inspect the premises, examine witnesses, and examine and copy documents.
- C. **Agreement Does Not Constitute Admission of Violation:** It is understood that this Agreement does not constitute an admission by the Respondent of any violation of Title VII of the Civil Rights Act of 1964, as amended.
- D. **Charging Party's Covenant Not to Sue:** The Charging Party and the Commission hereby waive, release and covenant not to sue the Respondent with respect to the matters which were alleged in Charge No.: 32E-2013-00657, filed with the Equal Employment Opportunity Commission subject to performance by the Respondent of the promises and representations contained herein. The Commission shall determine whether the Respondent has complied with the terms of this Agreement.
- E. **All Employment Practices to be Conducted in Nondiscriminatory Manner:** The Respondent agrees that all hiring, promotion, discharge practices, and other terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate on the basis of race, color, sex, religion or national origin in violation of Title VII of the Civil Rights Act of 1964, as amended. The Respondent shall maintain a workplace environment free from gender discrimination.
- F. **Retaliation Prohibited:** The Respondent agrees that it will not retaliate against any person because that person: is a beneficiary from this Agreement; has provided information or assistance; or participated in any other manner in any investigation or proceeding relating to this Agreement or charge filed under Title VII of the Civil Rights Act, as amended; or opposed any practice made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

KERRY S. MEHLIN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00657

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KERRY S. MEHLIN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00657

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KERRY S. MEHLIN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00657

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4. REPORTING

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SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

Date

Respondent Representative

Date

Kerry S. Mehlin, Charging Party

I recommend approval of this Conciliation Agreement:

Date

Kathy Nusz, Senior Federal Investigator

I concur in the above recommendation for approval of this Conciliation Agreement:

Approved on Behalf of the Commission

Date

Holly Waldron Cole, Director,
Oklahoma City Area Office of EEOC

ATTACHMENT "A"

NOTICE

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Federal law requires that there be no discrimination against any employee or applicant for employment because of that person's race, color, religion, sex, national origin or age with respect to hiring, compensation, promotion, discharge, terms, conditions or privileges of employment or retaliation for either having opposed or complained about employment practices made unlawful by the Act. The City of Grand Island prohibits gender discrimination in any form and advises all employees to report any acts observed and in violation of company policy.

The City of Grand Island strongly supports and will comply with such Federal law in all respects, and it will not take any action against employees because they have exercised their rights under the law. Should you be retaliated against because you have opposed any practice made unlawful by Title VII, or because you had filed a charge of discrimination, testified, assisted, or participated in an investigation, proceeding, or litigation under Title VII of the Civil Rights Act of 1964, as amended, or in any other way discriminated against while employed by the City of Grand Island you may seek assistance from:

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Telephone Number 405/231-4911

The City of Grand Island hereby reminds all of its employees that discrimination of any kind will not be tolerated.

This NOTICE will remain posted until May 1, 2016, by direction of the Equal Employment Opportunity Commission.

SIGNED _____ on this _____ day of _____, 2014.
Holly Waldron Cole, Director
Oklahoma City Area Office

The City of Grand Island Mayor/City Manager

CONCILIATION AGREEMENT

In the Matter of:

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Oklahoma City Area Office

and

DANNY D. DUBBS

Charging Party

and

CITY OF GRAND ISLAND

Respondent

Charge Number 32E-2013-00663

*** * ***

Charges having been filed under Title VII of the Civil Rights Act of 1964, as amended, with the U. S. Equal Employment Opportunity Commission, by the Charging Party against the Respondent, the charges having been investigated and reasonable cause having been found, the parties do resolve and conciliate this matter as follows:

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DANNY D. DUBBS v CITY OF GRAND ISLAND
Charge No. 32E-2013-00663

1. GENERAL PROVISIONS

- A. **Scope of Release:** Compliance with this Agreement resolves all issues between the Commission, DANNY D. DUBBS, (hereinafter the "Charging Party") and the CITY OF GRAND ISLAND (hereinafter the Respondent") arising out of Charge No.: 32E-2013-00663, as to the acts and practices alleged in the above referenced charge occurring prior to the date of this Agreement.
- B. **Commission May Review Compliance With Agreement:** The Respondent agrees the Commission may review compliance with this Agreement. As a part of such review the Commission may require written reports concerning compliance, may inspect the premises, examine witnesses, and examine and copy documents.
- C. **Agreement Does Not Constitute Admission of Violation:** It is understood that this Agreement does not constitute an admission by the Respondent of any violation of Title VII of the Civil Rights Act of 1964, as amended.
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DANNY D. DUBBS v CITY OF GRAND ISLAND
Charge No. 32E-2013-00663

- G. **Compliance with Title VII Not Waived:** Nothing in this Agreement shall be construed to limit or reduce the Respondent's obligation to fully comply with Title VII of the Civil Rights Act of 1964, as amended, or Regulations promulgated pursuant thereto.
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DANNY D. DUBBS v CITY OF GRAND ISLAND
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DANNY D. DUBBS v CITY OF GRAND ISLAND
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SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

Date

Respondent Representative

Date

Danny D. Dubbs, Charging Party

I recommend approval of this Conciliation Agreement:

Date

Kathy Nusz, Senior Federal Investigator

I concur in the above recommendation for approval of this Conciliation Agreement:

Approved on Behalf of the Commission

Date

Holly Waldron Cole, Director,
Oklahoma City Area Office of EEOC

ATTACHMENT "A"

NOTICE

This NOTICE is being posted as part of a Conciliation Agreement between The City of Grand Island, and the U.S. Equal Employment Opportunity Commission (EEOC).

Federal law requires that there be no discrimination against any employee or applicant for employment because of that person's race, color, religion, sex, national origin or age with respect to hiring, compensation, promotion, discharge, terms, conditions or privileges of employment or retaliation for either having opposed or complained about employment practices made unlawful by the Act. The City of Grand Island prohibits gender discrimination in any form and advises all employees to report any acts observed and in violation of company policy.

The City of Grand Island strongly supports and will comply with such Federal law in all respects, and it will not take any action against employees because they have exercised their rights under the law. Should you be retaliated against because you have opposed any practice made unlawful by Title VII, or because you had filed a charge of discrimination, testified, assisted, or participated in an investigation, proceeding, or litigation under Title VII of the Civil Rights Act of 1964, as amended, or in any other way discriminated against while employed by the City of Grand Island you may seek assistance from:

U.S. Equal Employment Opportunity Commission
Oklahoma City Area Office
215 Dean A. McGee Avenue, Suite 524
Oklahoma City, Oklahoma 73102
Telephone Number 405/231-4911

The City of Grand Island hereby reminds all of its employees that discrimination of any kind will not be tolerated.

This NOTICE will remain posted until May 1, 2016, by direction of the Equal Employment Opportunity Commission.

SIGNED _____ on this _____ day of _____, 2014.
Holly Waldron Cole, Director
Oklahoma City Area Office

The City of Grand Island Mayor/City Manager

CONCILIATION AGREEMENT

In the Matter of:

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Oklahoma City Area Office

and

KELLY J. MOSSMAN

Charging Party

and

CITY OF GRAND ISLAND

Respondent

Charge Number 32E-2013-00689

*** * ***

Charges having been filed under Title VII of the Civil Rights Act of 1964, as amended, with the U. S. Equal Employment Opportunity Commission, by the Charging Party against the Respondent, the charges having been investigated and reasonable cause having been found, the parties do resolve and conciliate this matter as follows:

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KELLY J. MOSSMAN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00689

1. GENERAL PROVISIONS

- A. **Scope of Release:** Compliance with this Agreement resolves all issues between the Commission, KELLY J. MOSSMAN, (hereinafter the "Charging Party") and the CITY OF GRAND ISLAND (hereinafter the Respondent") arising out of Charge No.: 32E-2013-00689, as to the acts and practices alleged in the above referenced charge occurring prior to the date of this Agreement.
- B. **Commission May Review Compliance With Agreement:** The Respondent agrees the Commission may review compliance with this Agreement. As a part of such review the Commission may require written reports concerning compliance, may inspect the premises, examine witnesses, and examine and copy documents.
- C. **Agreement Does Not Constitute Admission of Violation:** It is understood that this Agreement does not constitute an admission by the Respondent of any violation of Title VII of the Civil Rights Act of 1964, as amended.
- D. **Charging Party's Covenant Not to Sue:** The Charging Party and the Commission hereby waive, release and covenant not to sue the Respondent with respect to the matters which were alleged in Charge No.: 32E-2013-00689, filed with the Equal Employment Opportunity Commission subject to performance by the Respondent of the promises and representations contained herein. The Commission shall determine whether the Respondent has complied with the terms of this Agreement.
- E. **All Employment Practices to be Conducted in Nondiscriminatory Manner:** The Respondent agrees that all hiring, promotion, discharge practices, and other terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate on the basis of race, color, sex, religion or national origin in violation of Title VII of the Civil Rights Act of 1964, as amended. The Respondent shall maintain a workplace environment free from gender discrimination.
- F. **Retaliation Prohibited:** The Respondent agrees that it will not retaliate against any person because that person: is a beneficiary from this Agreement; has provided information or assistance; or participated in any other manner in any investigation or proceeding relating to this Agreement or charge filed under Title VII of the Civil Rights Act, as amended; or opposed any practice made unlawful under Title VII of the Civil Rights Act of 1964, as amended.

KELLY J. MOSSMAN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00689

- G. **Compliance with Title VII Not Waived:** Nothing in this Agreement shall be construed to limit or reduce the Respondent's obligation to fully comply with Title VII of the Civil Rights Act of 1964, as amended, or Regulations promulgated pursuant thereto.
- H. **Reporting Requirements:** The Respondent agrees to maintain such records as are necessary to demonstrate its compliance with the provisions of this Agreement and to verify the reports submitted. These records, and any other information relevant to the provisions of this Agreement, will be submitted or made available to the Commission upon request. Requests for information pursuant to this paragraph will not be made in such a manner as to impose an unreasonable burden or expense to the Respondent. The Respondent further agrees to provide the written reports under the section in this Agreement entitled "Reporting," and under Section 1. B. of this Agreement. Report of payment of damages will be furnished to:
- Equal Employment Opportunity Commission
Oklahoma City Area Office
215 Dean A. McGee Ave, Suite 524
Oklahoma City, Oklahoma 73102
ATTN:Kathy Nusz
Senior Federal Investigator
- I. **Effect on Other Charges:** This Agreement in no way affects the Commission's right to process future charges against the Respondent in accordance with standard Commission procedures, and to commence civil actions pursuant to Section 706(f) of Title VII on any such charges.
- J. **Entire Agreement and Any Amendments Must Be In Writing:** This Agreement constitutes the complete understanding between the Respondent and the Commission with respect to the matters herein. No waiver, modification or amendment of any provision of this Agreement will be effective unless made in writing and signed by the Respondent and approved by the Commission.
- K. **Breach of Agreement:** It is expressly agreed that if the Commission concludes that the Respondent has breached this Agreement, the Commission may bring an action in the appropriate federal court to enforce this Agreement or may deem conciliation to have failed and sue on the underlying charge.
- L. **Agreement Not Intended as Precedent:** The terms of this Agreement are the product of negotiation. Concepts reflected in the Agreement are not intended to be adopted for any purpose other than this Agreement.

KELLY J. MOSSMAN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00689

- M. **Terms of the Agreement:** The term of the Agreement shall be two years. The term shall begin on the date that the last signatory signs the Agreement and will remain in effect May 1, 2014 to May 1, 2016, unless a dispute is pending pursuant to Section 1.N. below. If the Respondent does not initiate the remedial actions required, and is not able to substantiate that it made a good faith effort to comply with these provisions, this Agreement may be extended by the Commission for a two-year period.
- N. **Dispute Resolution:** In the event that any dispute arises between the Commission and the Respondent regarding the interpretation or application of this Agreement, or any provision thereof, the party or parties hereto, claiming a dispute shall notify the other parties in writing, and specify the factual details forming the basis of such dispute. Thereafter, the parties shall attempt within thirty (30) days to resolve the dispute. The foregoing procedures will be applicable to all such matters, except the Commission's review of the Respondent final compliance report, for which the following procedures will apply. After the last report is submitted by the Respondent, the Commission will have forty-five (45) days to evaluate the report. If the Commission believes that compliance with the Agreement is in question, the Agreement may be extended by the Commission until the substance of the issue is resolved, pursuant to the terms of this section.

2. SPECIFIC PROVISIONS

- A. **Enforcement of Policy Regarding Title VII of the Civil Rights Act of 1964, as amended:** The Respondent agrees to immediately revise any Law, Ordinance, Act of Policy, which violates Title VII of the Civil Rights Act of 1964, as amended, as set forth in the Letter of Determination, including the payment of future police retirement benefits based on gender.
- B. **Notice to be Posted as Part of this Agreement:** The Respondent agrees to sign and post a NOTICE to all employees (attached hereto as Attachment A) in conspicuous places upon all of its premises where notices and information to employees, applicants for employment, members and training are customarily posted at subject store. Such Notice shall remain posted from May 1, 2014 to May 1, 2016. The attached notice/policy outlines prohibited forms of discrimination.

KELLY J. MOSSMAN v CITY OF GRAND ISLAND
Charge No. 32E-2013-00689

3. CHARGING PARTY RELIEF

- A. Payment of Damages: Respondent agrees to pay the Charging Party's attorney fees and costs in the amount of \$715.35.

4. REPORTING

- A. Damages Payment Report: Respondent agrees to provide a report within thirty (30) days of the date of this agreement describing the manner in which the damages payment was made which will include photocopies of the check and photocopies of the Certified Mail Return Receipt signed by Charging Party or his attorney as proof of payment.
- B. Ordinance, Policy and Procedure Report: Respondent agrees to provide a copy of the revised City Ordinance, Policy and Procedure when the offending municipal ordinance is modified to comply with Title VII, with a copy of the official minutes of the City Council meeting approving the revision to the ordinance. This report will be due within thirty (30) days of the date of this agreement.

SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

Date

Respondent Representative

Date

Kelly J. Mossman, Charging Party

I recommend approval of this Conciliation Agreement:

Date

Kathy Nusz, Senior Federal Investigator

I concur in the above recommendation for approval of this Conciliation Agreement:

Approved on Behalf of the Commission

Date

Holly Waldron Cole, Director,
Oklahoma City Area Office of EEOC

ATTACHMENT "A"

NOTICE

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SIGNED _____ on this _____ day of _____, 2014.
Holly Waldron Cole, Director
Oklahoma City Area Office

The City of Grand Island Mayor/City Manager

CONCILIATION AGREEMENT

In the Matter of:

U. S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Oklahoma City Area Office

and

SCOTT B. ARNOLD

Charging Party

and

CITY OF GRAND ISLAND

Respondent

Charge Number 32E-2013-00699

*** * ***

Charges having been filed under Title VII of the Civil Rights Act of 1964, as amended, with the U. S. Equal Employment Opportunity Commission, by the Charging Party against the Respondent, the charges having been investigated and reasonable cause having been found, the parties do resolve and conciliate this matter as follows:

SCOTT B. ARNOLD v CITY OF GRAND ISLAND
Charge No. 32E-2013-00699

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SCOTT B. ARNOLD v CITY OF GRAND ISLAND
Charge No. 32E-2013-00699

1. GENERAL PROVISIONS

- A. **Scope of Release:** Compliance with this Agreement resolves all issues between the Commission, SCOTT B. ARNOLD, (hereinafter the "Charging Party") and the CITY OF GRAND ISLAND (hereinafter the Respondent") arising out of Charge No.: 32E-2013-00699, as to the acts and practices alleged in the above referenced charge occurring prior to the date of this Agreement.
- B. **Commission May Review Compliance With Agreement:** The Respondent agrees the Commission may review compliance with this Agreement. As a part of such review the Commission may require written reports concerning compliance, may inspect the premises, examine witnesses, and examine and copy documents.
- C. **Agreement Does Not Constitute Admission of Violation:** It is understood that this Agreement does not constitute an admission by the Respondent of any violation of Title VII of the Civil Rights Act of 1964, as amended.
- D. **Charging Party's Covenant Not to Sue:** The Charging Party and the Commission hereby waive, release and covenant not to sue the Respondent with respect to the matters which were alleged in Charge No.: 32E-2013-00699, filed with the Equal Employment Opportunity Commission subject to performance by the Respondent of the promises and representations contained herein. The Commission shall determine whether the Respondent has complied with the terms of this Agreement.
- E. **All Employment Practices to be Conducted in Nondiscriminatory Manner:** The Respondent agrees that all hiring, promotion, discharge practices, and other terms and conditions of employment shall be maintained and conducted in a manner which does not discriminate on the basis of race, color, sex, religion or national origin in violation of Title VII of the Civil Rights Act of 1964, as amended. The Respondent shall maintain a workplace environment free from gender discrimination.
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SCOTT B. ARNOLD v CITY OF GRAND ISLAND
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SCOTT B. ARNOLD v CITY OF GRAND ISLAND
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SCOTT B. ARNOLD v CITY OF GRAND ISLAND
Charge No. 32E-2013-00699

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SIGNATURES

I have read the foregoing Conciliation Agreement and I accept and agree to the provisions contained therein:

Date

Respondent Representative

Date

Scott B. Arnold, Charging Party

I recommend approval of this Conciliation Agreement:

Date

Kathy Nusz, Senior Federal Investigator

I concur in the above recommendation for approval of this Conciliation Agreement:

Approved on Behalf of the Commission

Date

Holly Waldron Cole, Director,
Oklahoma City Area Office of EEOC

ATTACHMENT "A"

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Telephone Number 405/231-4911

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SIGNED _____ on this _____ day of _____, 2014.

Holly Waldron Cole, Director
Oklahoma City Area Office

Mayor/City Manager

The City of Grand Island

RESOLUTION 2014-137

WHEREAS, Grand Island Police Captain Kerry S. Mehlin, Sergeants Jerry L. Atwell and Danny D. Dubbs, and Officers Kelly J. Mossman and Scott B. Arnold filed complaints against the City of Grand Island with the United States Equal Employment Opportunity Commission alleging they would suffer gender discrimination when their pension benefits would be calculated in the future; and

WHEREAS, on March 25, 2014 the Grand Island City Council approved Ordinance 9477 setting forth a gender neutral formula for calculating public safety pensions; and

WHEREAS, the City Legal Department negotiated Conciliation Agreements with the aforementioned persons; and

WHEREAS, the terms of those Conciliation Agreements included the City paying a total of Three Thousand, Five Hundred, Seventy-Six Dollars and Seventy-Five Cents (\$3,576.75) representing the total of individual payments to the aforementioned persons in the amount of Seven Hundred, Fifteen Dollars and Thirty-Five Cents (\$715.35) for attorney's fees; and

WHEREAS, the City Legal Department and Administration believes the Conciliation Agreements are in the best interests of the parties involved and recommends approval of such.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City approve the five separate Conciliation Agreements in the matters of *Atwell, Mehlin, Dubbs, Mossman, and Arnold v. City of Grand Island* (U.S. Equal Employment Opportunity Commission – 32E-2013-00656, 32E-2013-00657, 32E-2013-00663, 32E-2013-00689, and 32E-2013-00699 respectively) and disburse a total of Three Thousand, Five Hundred, Seventy-Six Dollars and Seventy-Five Cents (\$3,576.75) representing the total of individual payments to the aforementioned persons in the amount of Seven Hundred, Fifteen Dollars and Thirty-Five Cents (\$715.35) for attorney's fees pursuant to the terms of the Conciliation Agreements.

That the Mayor is authorized to execute on behalf of the City the aforementioned Conciliation Agreements.

- - -

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| May 23, 2014 | ☐ City Attorney |

Adopted by the City Council of the City of Grand Island, Nebraska, May 27, 2014.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk