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## **COMPROMISE, SETTLEMENT AND MUTUAL RELEASE AGREEMENT**

This full and final Compromise, Settlement and Release Agreement (the “Agreement”) is made and entered into on this date, by and between the City of College Station, Texas, a Home-Rule Municipal Corporation (hereinafter referred to as the “City”); Nancy Berry, Ron Gay, John Happ, Susan Lancaster, Chris Scotti, Ron Silvia, and Ben White, each individually and in their official capacity as city council members, (hereinafter referred to collectively as the “Council Members”); and Thomas E. and Christel Brymer (hereinafter referred to as “the Brymers”) (the City, Council Members, and the Brymers may hereinafter be referred to collectively as the “Parties”) to settle any and all claims the Brymers may now have, regardless of whether known or unknown, asserted or not, against the City and Council Members, individually and officially, and all public officers and officials of the City, and any and all claims the City and Council Members may now have, regardless of whether known or unknown, asserted or not, against the Brymers, arising out of, or in connection with, Mr. Brymer’s employment and employment contract with the City and his separation thereof, as of the date of this Agreement.

### **RECITALS**

WHEREAS, a bona fide dispute exists between the City and Council Members and the Brymers regarding the circumstances of Mr. Brymer’s employment with, and separation from, the City; and

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WHEREAS, Mr. Brymer has agreed to resign from his position with the City effective July 29, 2005, and the City has agreed to accept such resignation; and

WHEREAS, the City, Council Members and the Brymers, in order to avoid the time, risk and expense associated with the dispute and potential litigation resulting from the dispute, and to further their respective best interests, now desire to compromise and settle any and all claims that each party now has, whether known or unknown, asserted or unasserted, against the other, and their predecessors, successors, assigns, heirs, executors, administrators, legal representatives, agents, officials, both elected and appointed, and employees, former and present, in both their official and individual capacities, arising out of, or in connection with, Mr. Brymer's employment and employment contract with the City, and his separation from employment thereof; and

WHEREAS, in settling this dispute, the Parties acknowledge that this settlement does not constitute an admission of liability by any party, such liability being expressly denied; and

WHEREAS, the Parties intend that the full terms and conditions of their compromise and settlement be set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt of which is acknowledged, it is agreed as follows:

### **TERMS OF SETTLEMENT**

1. **No Admission of Liability.** Nothing in this Agreement is an admission by any party of any liability. The Parties in fact deny liability of any kind and have entered into this Agreement solely to avoid the time, risk and expense of further dispute and potential litigation.

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2.     **Consideration.** The inducement and consideration for the Brymers to settle this dispute is the money paid pursuant to this Agreement and other consideration as stated in this Agreement. The inducement and consideration for the City and Council Members to settle this dispute is the release of all claims by the Brymers as stated in this Agreement and other consideration as stated herein.

3.     **Resignation.** Mr. Brymer will submit to the College Station City Council, upon execution of this Agreement, a letter of resignation effective at 5:00 P.M. July 29, 2005.

4.     **Severance Package.** The City agrees to pay to Mr. Brymer a severance package to include the following terms.

a.     **Employment Compensation.** Mr. Brymer will be paid a total amount of Twelve Thousand, Six Hundred Eighty-One and 82/100 Dollars (\$12,681.82), which amount constitutes four (4) weeks of gross regular pay and benefits at his 2005 gross regular rate of pay. On July 29, 2005, Mr. Brymer received the total amount of Six Thousand, Three Hundred Forty and 91/100 Dollars (\$6,340.91), which amount constitutes gross regular pay and benefits for the dates July 11, 2005 through July 22, 2005. Further, no later than August 12, 2005, Mr. Brymer will be paid the total amount of Six Thousand, Three Hundred Forty and 91/100 Dollars (\$6,340.91), which amount constitutes gross regular pay and benefits for the dates July 25, 2005, through August 5, 2005.

b.     **Payment for Accrued Vacation.** No later than August 12, 2005, Mr. Brymer will be paid a lump sum gross payment of Thirty-Four Thousand, Nine Hundred Eighty-One and 40/100 Dollars (\$34,981.40), which amount

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constitutes payment for four hundred ninety-nine (499) accrued and unpaid vacation hours, to include nineteen (19) vacation hours accrued but not taken due to work demands in 1999.

c. **Nine Months Base Salary.** No later than August 12, 2005, the City will pay to Mr. Brymer a lump sum gross payment of One Hundred Nine Thousand, Three Hundred Sixty and 68/100 Dollars (\$109,360.68), which amount constitutes nine (9) months of Mr. Brymer's current "Base Salary" as defined in Section 5 of the Employment Agreement between Mr. Brymer and the City dated October 29, 1999.

d. **Deferred Compensation Contribution.** No later than August 12, 2005, the City will deposit directly with the International City/County Management Association ("ICMA") on Mr. Brymer's behalf, a lump sum payment of Seven Thousand Eighty-Seven and 50/100 Dollars (\$7,087.50), which amount constitutes nine (9) months of deferred compensation contribution from the effective date of Mr. Brymer's resignation.

e. **Health Insurance Premiums.** The City will pay directly to Blue Cross Blue Shield, the City's health insurance carrier, on Mr. Brymer's behalf, a total amount not to exceed Seven Thousand, Nine Hundred Seventy-Four and 00/100 Dollars (\$7,974.00), to be paid in nine (9) equal monthly payments of Eight Hundred Eighty-Six and 00/100 Dollars (\$886.00) beginning August 1, 2005, which amount constitutes COBRA health insurance premiums for Mr. Brymer, Christel Brymer and any dependants. All premiums made, and health insurance benefits received, under this section are subject to COBRA regulations.

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If Mr. Brymer obtains employment with health insurance benefits that become effective at any time before April 30, 2006, the City's obligation to pay under this provision shall terminate upon the effective date of Mr. Brymer's new employment.

f. **Texas Municipal Retirement System ("TMRS") Contribution.**

No later than August 12, 2005, the City will reimburse to Mr. Brymer a total amount not to exceed Four Thousand, Five Hundred and 00/100 Dollars (\$4,500.00), which amount constitutes nine (9) months of the City's reimbursement of TMRS contribution under the terms as provided by the City Council effective November 1, 2002.

g. **Legal Fees.** No later than August 12, 2005, the City will pay to

The Brymers a total of One Thousand and 00/100 Dollars (\$1,000.00) as reimbursement for attorney's fees.

5. **Employment Records.** The City of College Station will expunge its records, including Tom Brymer's payroll and personnel records and files in order to delete and eliminate any reference to his having been fired and will instead reflect that he submitted his resignation as City Manager.

No later than August 12, 2005, the City of College Station will provide Tom Brymer with a full and complete copy of his personnel and payroll records verifying that they have been expunged of all references to his employment having been terminated;

6. **Release.** In exchange for the consideration above and the release by the City and Council Members individually, the Brymers agree to release the City and all its predecessors, successors, assigns, heirs, executors, administrators, legal

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representatives, agents, officials, both elected and appointed, and employees, former or present, in both their individual and official capacities, including but not limited to; Nancy Berry, Ron Gay, John Happ, Susan Lancaster, Ron Silvia, Chris Scotti, and Ben White, from any and all claims, causes of actions and liability of any kind whatsoever, arising from, in relation to, or in connection with, any matters surrounding his employment and separation from employment, it being intended to release all claims of any kind that the Brymers may now have, known or unknown, now existing or that might arise hereafter, which are directly or indirectly attributable to the above-described occurrences.

7. **Release.** In exchange for the Brymers' release of the City and each Council Member in both their respective individual and representative capacities , the City and all its predecessors, successors, assigns, heirs, executors, administrators, legal representatives, agents, officials, both elected and appointed, and employees, former or present, in both their individual and official capacities, including but not limited to: Nancy Berry, Ron Gay, John Happ, Susan Lancaster, Ron Silvia, Chris Scotti, and Ben White, each individually and in their official capacities, do hereby agree to release the Brymers and any predecessors, successors, assigns, heirs, executors, administrators, legal representatives, agents, officials, both elected and appointed, and employees, former or present, in both their individual and official capacities, from any and all claims, causes of actions and liability of any kind whatsoever, arising from, in relation to, or in connection with, any matters surrounding his employment and separation from employment, it being intended to release all claims of any kind that the City and Council Members have or may have,

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**known or unknown, now existing or that might arise hereafter, which are directly or indirectly attributable to the above-described occurrences.**

### **ACKNOWLEDGMENTS, REPRESENTATIONS, WARRANTIES**

8. **Understanding.** In making this Agreement, the Parties understand and represent that they have relied upon their own judgment, belief and knowledge of the nature and extent of the damages alleged as well as the liability questions involved in the action; that they have not been influenced to any extent whatsoever in making this Agreement by any representations or statements made by any person, firm or entity hereby released; that by their respective signatures below, they acknowledge and represent that they have executed this Agreement of their own free will and accord and that they have done so after having conferred with an attorney regarding the meaning of its terms; that they have made no agreement or compromise to do or omit to do any act or thing not set forth in this Agreement; and that no representations or statements made by any agents, servants, buyers, or employees of the Parties other than those which are contained within this Agreement, have induced the making of this Agreement. The Parties further warrant that each has read this Agreement and fully understand it to be a compromise, settlement and release of all claims, causes of action and liability of any kind whatsoever, known or unknown, present or future, that each may have, as of the date of this Agreement, against the other and all their predecessors, successors, assigns, heirs, executors, administrators, legal representatives, agents, officials, both elected and appointed, and employees, former or present, in both their individual and official capacities.

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9. **Authority.** The undersigned warrant that they have full and complete authority and power to execute this Agreement in the capacity herein stated and to bind the Parties and their successors to the terms of this Agreement.

10. **No Assignment.** The Parties have not assigned, pledged, or in any other manner, sold or transferred any right, title, interest or claim that arises out of this Agreement or the subject matter of this Release.

11. **Contractual Terms.** The Parties acknowledge and agree that the terms of this Agreement are all contractual and not merely recitals.

### GENERAL TERMS

12. **Choice of Law and Place of Performance.** This Agreement has been made and shall be governed by the laws of the State of Texas. Performance and all matters related thereto shall be in Brazos County, Texas.

13. **Partial Invalidity.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

14. **Sections.** This Agreement, for convenience only, has been divided into Sections and it is understood that the rights, powers, privileges, duties, and other legal relations of the Parties shall be determined from this Agreement as an entirety and without regard to the division into Sections and without regard to headings prefixed to such Sections.

15. All representations, covenants and obligations contained herein shall survive the execution of this Agreement.

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16. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

17. **ENTIRE AGREEMENT. IT IS UNDERSTOOD AND AGREED THAT THIS AGREEMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND SUPERCEDES ANY AND ALL PRIOR AGREEMENTS, ARRANGEMENTS, OR UNDERSTANDINGS BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER. NO ORAL UNDERSTANDINGS, STATEMENTS, PROMISES OR INDUCEMENTS CONTRARY TO THE TERMS OF THIS COMPROMISE, SETTLEMENT AND RELEASE AGREEMENT EXIST. THIS AGREEMENT CANNOT BE CHANGED, ALTERED OR TERMINATED ORALLY.**

**AGREED AS TO FORM AND CONTENT:**

\_\_\_\_\_  
Thomas E. Brymer, Individually

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christel Brymer, Individually

\_\_\_\_\_  
Date

**CITY OF COLLEGE STATION**

\_\_\_\_\_  
Ron Silvia, Mayor

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Connie Hooks, City Secretary

\_\_\_\_\_  
Date

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**COUNCIL MEMBERS**

\_\_\_\_\_  
Ron Silvia, Individually and Officially

\_\_\_\_\_  
Date

\_\_\_\_\_  
Nancy Berry, Individually and Officially

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ron Gay, Individually and Officially

\_\_\_\_\_  
Date

\_\_\_\_\_  
John Happ, Individually and Officially

\_\_\_\_\_  
Date

\_\_\_\_\_  
Susan Lancaster, Individually and Officially

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chris Scotti, Individually and Officially

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ben White, Individually and Officially

\_\_\_\_\_  
Date

**APPROVED AS TO FORM ONLY:**

\_\_\_\_\_  
Harvey Cargill, Jr.  
City Attorney

\_\_\_\_\_  
Wayne T. Rife  
Attorney for Thomas E. Brymer

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[Insert Name]  
Attorney for Ron Silvia

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[Insert Name]  
Attorney for Nancy Berry

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[Insert Name]  
Attorney for Ron Gay

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[Insert Name]  
Attorney for John Happ

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[Insert Name]  
Attorney for Susan Lancaster

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[Insert Name]  
Attorney for Chris Scotti

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[Insert Name]  
Attorney for Ben White

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**THE STATE OF TEXAS**  
**COUNTY OF BRAZOS**

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**ACKNOWLEDGEMENT**

BEFORE ME, the undersigned authority, on this day personally appeared **Thomas E. Brymer**, Individually, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

\_\_\_\_\_  
Notary Public in and for  
the State of Texas

**THE STATE OF TEXAS**  
**COUNTY OF BRAZOS**

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**ACKNOWLEDGEMENT**

BEFORE ME, the undersigned authority, on this day personally appeared **Christel Brymer**, Individually, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

\_\_\_\_\_  
Notary Public in and for  
the State of Texas

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**THE STATE OF TEXAS**  
**COUNTY OF BRAZOS**

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**ACKNOWLEDGEMENT**

BEFORE ME, the undersigned authority, on this day personally appeared **Ron Silvia**, as Mayor of the City of College Station, a Texas home-rule municipal corporation, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas

**THE STATE OF TEXAS**  
**COUNTY OF BRAZOS**

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**ACKNOWLEDGEMENT**

BEFORE ME, the undersigned authority, on this day personally appeared **Ron Silvia**, Individually and Officially, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas

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**THE STATE OF TEXAS**

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**ACKNOWLEDGEMENT**

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**COUNTY OF BRAZOS**

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BEFORE ME, the undersigned authority, on this day personally appeared **Nancy Berry**, Individually and Officially, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas

**THE STATE OF TEXAS**

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**ACKNOWLEDGEMENT**

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**COUNTY OF BRAZOS**

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BEFORE ME, the undersigned authority, on this day personally appeared **Ron Gay**, Individually and Officially, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas

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**THE STATE OF TEXAS**  
**COUNTY OF BRAZOS**

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**ACKNOWLEDGEMENT**

BEFORE ME, the undersigned authority, on this day personally appeared **John Happ**, Individually and Officially, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas

**THE STATE OF TEXAS**  
**COUNTY OF BRAZOS**

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**ACKNOWLEDGEMENT**

BEFORE ME, the undersigned authority, on this day personally appeared **Susan Lancaster**, Individually and Officially, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas

**DRAFT**

**THE STATE OF TEXAS**

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**ACKNOWLEDGEMENT**

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**COUNTY OF BRAZOS**

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BEFORE ME, the undersigned authority, on this day personally appeared **Chris Scotti**, Individually and Officially, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas

**THE STATE OF TEXAS**

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**ACKNOWLEDGEMENT**

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**COUNTY OF BRAZOS**

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BEFORE ME, the undersigned authority, on this day personally appeared **Ben White**, Individually and Officially, known to me to be the person whose signature is subscribed to the foregoing instrument, who, being first duly sworn by me, stated upon his oath that he executed the foregoing instrument for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the \_\_\_\_ day of August, 2005.

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Notary Public in and for  
the State of Texas