



Department of Justice

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Review of Personnel Settlement Agreement for the State Appeal Board

Please sign/date where indicated below noting the approval or denial of the attached proposed Personnel Settlement Agreement. After signing, please return to the attention of Jeffrey Thompson, Solicitor General, Hoover Building, 2nd Floor for routing and final distribution.

In the matter of: **Beth Mahaffey v. Iowa Finance Authority**

Agency/Department: Department of Administrative Services

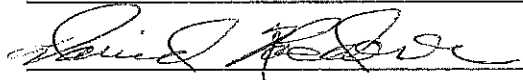
Director's Printed Name: Janet Phipps

Director's Signature: 

Date: 01/30/2019 Approve: Deny:

Agency/Department: Department of Management

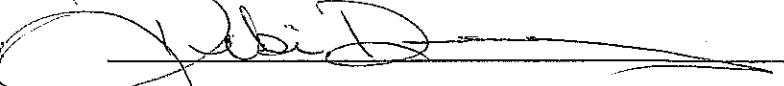
Director's Printed Name: David Roederer

Director's Signature: 

Date: 1-30-19 Approve: Deny:

Agency/Department: Iowa Finance Authority

Director's Printed Name: Debi Durham

Director's Signature: 

Date: 01/31/2019 Approve: Deny:

Office of the Attorney General

Reviewed by (Print Name): Jeffrey Thompson

Reviewer's Signature: 

Date: 1/31/19 Approve: Deny:

THOMAS J. MILLER
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IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

January 31, 2019

Mr. Joseph Barry
State Appeal Board
Iowa Department of Management
State Capitol Building, Room 12
LOCAL MAIL

RE: *Beth Mahaffey v. Iowa Finance Authority*
ICRC CP# 06-18-72099
EEOC #26A-2018-00607C

Dear Mr. Barry:

The parties have reached a settlement in this case, pending State Appeal Board approval of payment, in the amount of two million, three hundred and fifty thousand dollars (\$2,350,000).

This case involves allegations of sexual harassment against the Iowa Finance Authority ("IFA"). Claimant, a former IFA employee, alleges that she was sexually harassed by the then-Director of IFA. The State retained a third-party to investigate the allegations. Based upon the outcome of that investigation, the State determined that it is in the best interests of the State to resolve this case without further litigation. In consideration of the payments set forth below, the Claimant has agreed to provide a full and final release for any claims that were, or could have been asserted, arising from her employment at IFA. In addition, the Governor has determined that she will ask IFA to consider reimbursing the State general fund for the cost of this settlement.

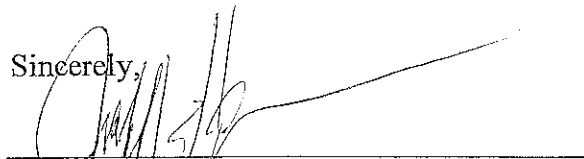
Please make the following payments:

- a. Beth Mahaffey (SSN: [REDACTED]) in the amount of three hundred and sixty-four thousand, four hundred and thirty dollars and eighty-one cents (\$364,430.81) without deduction or withholding.
- b. Structured Assignments, Inc. (TIN [REDACTED]) in the amount of three hundred thousand dollars (\$300,000) without deduction or withholding.

- c. MetLife Assignment Company, Inc. (TIN [REDACTED]) in the amount of seven hundred thousand dollars (\$700,000) without deduction or withholding.
- d. Beth Mahaffey (SSN: [REDACTED]) in the amount of ninety-nine thousand dollars (\$99,000) less appropriate deductions, with no deduction for IPERS.
- e. Beth Mahaffey (SSN: [REDACTED]) in the amount of fifty-two thousand dollars (\$52,000) less appropriate deductions, with no deduction for IPERS.
- f. Beth Mahaffey's Retirement Investment Account, without deduction or withholding, in the amount of twenty-four thousand dollars (\$24,000) for calendar year 2018.
- g. Beth Mahaffey's Retirement Investment Account, without deduction or withholding, in the amount of twenty-five thousand dollars (\$25,000) for calendar year 2019.
- h. Fiedler Law Firm, P.L.C. (EIN [REDACTED]), in the amount of seven hundred and eighty-five thousand, five hundred and sixty-nine dollars and nineteen cents (\$785,569.19) for attorney fees and costs.

I have enclosed a copy of the proposed release.

Sincerely,



JEFFREY S. THOMPSON
Solicitor General

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release is by and among Beth Mahaffey, Iowa Finance Authority, and the State of Iowa.

Beth Mahaffey is the Complainant, and Iowa Finance Authority and the State of Iowa are Respondents (“Respondents”) in an action initially filed in the Iowa Civil Rights Commission, ICRC CP# 06-18-72099 and cross-filed with the U.S. Equal Employment Opportunity Commission, EEOC# 26A-2018-00607C (the “Complaint”). In the Complaint, Beth Mahaffey made claims against Respondents and sought damages. The Respondents deny all such claims. Beth Mahaffey sought and obtained a right to sue letter on September 6, 2018.

The parties have agreed to compromise and settle all of Beth Mahaffey’s claims that were or could have been asserted in the Complaint. Based on the mutual promises and covenants exchanged and for other good and valuable consideration, the adequacy and receipt of which are acknowledged, the parties agree:

No Civil Action. Pursuant to this Settlement Agreement and Release, Beth Mahaffey agrees to forgo the filing of any civil action.

2. Beth Mahaffey Releases.

- (a) Releasing Parties. The covenants, waivers, and releases made by Beth Mahaffey (“Releasing Party”) in this Settlement Agreement and Release are made by her in her own capacity and on behalf of all persons and entities claiming by, through, or under her or through which she makes her claims including, but not limited to, her heirs, assigns, representatives, executors, and spouse.
- (b) Released Parties. The covenants, waivers, and releases of Beth Mahaffey in this Settlement Agreement and Release are made to and for the benefit of the Iowa Finance Authority, the State of Iowa, and all State agencies, departments, officers, directors, affiliates, advisors, attorneys, agents, predecessors, successors, assigns, as well as current and former employees (collectively, the “Released Parties”).
- (c) Claims Released. The claims released through this Settlement Agreement and Release shall include and extend to any and all claims, demands, causes of action, and/or liabilities of or against the Released Parties, whether or not they are now known, that Beth Mahaffey has or may have against the Released Parties, individually and/or jointly, or that otherwise exist or may have been raised in the Complaint. Without limiting the preceding sentence, the claims which Beth Mahaffey waives and releases in this Settlement

Agreement and Release include those claims asserted or capable of being asserted in the Complaint and shall extend to all claims arising out of or relating to Beth Mahaffey's recruitment, hiring, employment, working conditions, terms and conditions of employment, or cessation of such employment with the State of Iowa and/or Iowa Finance Authority; and any claims for back pay, emotional and/or mental distress, front pay, front pay reimbursement, loss of earning capacity, injunctive or equitable relief, all claims for attorneys' fees, costs, and disbursements arising out of or relating to the Complaint. Such released claims are collectively referred to as the "Claims."

- (d) Waiver, Release, and Covenant Not to Sue. Beth Mahaffey irrevocably and unconditionally releases, waives, acquits, and forever discharges all Released Parties from the Claims and agrees to hold them harmless from any cost, liability or expense, including attorneys' fees, costs, and expenses, arising from or related to any action hereafter which asserts any of the Claims. Beth Mahaffey further covenants that she in her own capacity or through her shall not sue or make demand upon or seek damages from any of the Released Parties for any of the Claims.

3. Payments. Upon satisfaction by Beth Mahaffey of all conditions precedent, the State of Iowa, on behalf of all Released Parties, will pay Beth Mahaffey a total gross settlement amount of Two Million, Three Hundred and Fifty Thousand Dollars (\$2,350,000) ("Settlement Amount"), inclusive of future periodic payments as listed in the attached Exhibit A, subject to the reductions described in Paragraph (B) below. The Settlement Amount shall be paid between January 1, 2019 and February 15, 2019. The Settlement Amount is more fully described as follows:

- (A) Respondents shall pay a portion of the Settlement Amount in the amount of One Million, Three Hundred and Sixty-Four Thousand, Four Hundred and Thirty Dollars and Eighty-One Cents (\$1,364,430.81) in compromise of Mahaffey's claims for non-wage compensatory damages, which includes:
- i. A check payable to Mahaffey in the amount of Three Hundred and Fifteen Thousand, Four Hundred and Thirty Dollars and Eighty-One Cents (\$364,430.81). Respondents will issue Mahaffey an IRS Form 1099-MISC for this amount, designating it as "other income" in Box 3; and
 - ii. a check payable to Structured Assignments, Inc. (TIN [REDACTED]) in the amount of Three Hundred Thousand Dollars (\$300,000), which shall be used to purchase an annuity for Mahaffey's benefit. This amount shall fund future Periodic Payments as set forth in detail in Exhibit A. The annuity will be structured lawfully, in accordance with Iowa and federal law. The Parties will cooperate to fulfill this section of the Settlement Agreement; and

- iii. a check payable to MetLife Assignment Company, Inc. (TIN: [REDACTED]) in the amount of Seven Hundred Thousand Dollars (\$700,000), which shall be used to purchase an annuity for Mahaffey's benefit. This amount shall fund future Periodic Payments as set forth in detail in Exhibit A. The annuity will be structured lawfully, in accordance with Iowa and federal law. The Parties will cooperate to fulfill this section of the Settlement Agreement.
- (B) Respondents shall pay a portion of the Settlement Amount in the amount of Two Hundred Thousand Dollars (\$200,000.00), less required withholdings and deductions for applicable taxes, in settlement and compromise of Mahaffey's claim for lost wages. This portion of the Settlement Amount includes:
- i. a check payable to Mahaffey in the amount of Ninety-Nine Thousand Dollars (\$99,000), less required withholdings and deductions for applicable taxes, but with no deduction for IPERS. Respondents will issue Mahaffey an IRS Form W-2 for this amount at the end of 2019; and
 - ii. a check payable to Mahaffey in the amount of Fifty-Two Thousand Dollars (\$52,000), less required withholdings and deductions for applicable taxes, but with no deduction for IPERS. Respondents will issue Mahaffey an IRS Form W-2 for this amount at the end of 2019; and
 - iii. a check payable to Mahaffey's Retirement Investor's Club ("RIC") account in the amount of Twenty-Four Thousand Dollars (\$24,000) for calendar year 2018. Respondents will issue Mahaffey a restated IRS Form W-2 for this amount and
 - iv. a check payable to Mahaffey's Retirement Investor's Club ("RIC") account in the amount of Twenty-Five Thousand Dollars (\$25,000) for calendar year 2019. Respondents will issue Mahaffey an IRS Form W-2 for this amount at the end of calendar year 2019.
- (C) Respondents shall pay to Fiedler Law Firm, P.L.C. (EIN: [REDACTED]) a portion of the Settlement Amount in the amount of Seven Hundred Eighty-Five Thousand, Five Hundred Sixty-Nine Dollars and Nineteen Cents (\$785,569.19), for payment of attorney fees and litigation expenses. This payment will not be subject to withholding taxes at the time it is tendered. Respondents shall cause an IRS Form 1099-MISC to be issued to Fiedler Law Firm, P.L.C. and to Mahaffey, reporting this payment as "other income" in Box 3.
- (D) Mahaffey agrees to provide counsel for Respondents with a completed IRS Form W-9 and updated IRS Form W-4 for herself, and a completed IRS Form W-9 for her counsel.

Each party shall be solely responsible for their share of any and all taxes that thereafter may be due on these payments and shall hold each other harmless and indemnify them from any liability thereon.

Beth Mahaffey acknowledges that this payment is in compromise of a dispute and that such payment is not to be construed as the State of Iowa or any of the Released Parties conceding the reasonableness of the attorneys' fees or costs, and is not to be construed as an admission of liability or wrongdoing on the part of the State of Iowa or any of the Released Parties, and that the State of Iowa and all Released Parties expressly deny any such liability or wrongdoing.

Beth Mahaffey acknowledges that any payment made under this Settlement Agreement and Release is subject to Iowa Code Chapter 8A.504.

4. Representation of Beth Mahaffey. Beth Mahaffey hereby represents and warrants that she (a) has authority to enter into this Settlement Agreement and Release; (b) holds the Claims free and clear of any liens and has not pledged or assigned those claims to any third party; (c) has not commenced or been subject to any bankruptcy or insolvency proceeding that affects or could affect her rights to accept payment and release Claims under this Settlement Agreement and Release; (d) has not received any promise of further consideration; (e) does not know of any other person who holds any rights to sue for the causes of action either asserted in the Complaint or the Claims subject to the releases made hereunder; and (f) shall be solely liable for the reporting and payment of taxes due, if any, on the settlement amounts received hereunder. Beth Mahaffey further agrees to indemnify and hold harmless each of the Released Parties from and against any and all claims, actions, causes of actions, demands, rights, damages, costs, losses of services, expenses, compensation, taxes or property damages (including attorneys' fees, expenses, and costs of defense) which any person, partnership, corporation, entity, association, agency or other organization may bring against them alleging facts and circumstances that are contrary to, inconsistent with, or arising from the breach of, the representations and warranties of this Paragraph 4.

5. Reasonable Time to Consider. Beth Mahaffey understands and acknowledges that she has been given a reasonable period of time to consider whether she wishes to enter into this Settlement Agreement and Release and to be bound by its terms. Beth Mahaffey further acknowledges that the terms of this Settlement Agreement and Release were negotiated by her, through her legal counsel, over a sufficient period of time so that she now has carefully read and fully understands and accepts the terms contained in this Settlement Agreement and Release and their legal effect. Beth Mahaffey represents that she has been advised to consult with an attorney prior to signing this Settlement Agreement and Release and has done so. Beth Mahaffey further represents that her decision to sign or not to sign this Settlement Agreement and Release is her own voluntary decision made with full knowledge of its terms.

6. Counterparts. This Settlement Agreement and Release may be signed in counterparts.

7. Choice of Law/Consent to Jurisdiction. This Settlement Agreement and Release shall be governed by and construed under the laws of the State of Iowa. Each party consents to the personal jurisdiction of the state courts in Iowa with respect to any action seeking to enforce the terms of this Settlement Agreement and Release.

8. Severability. If a court of competent jurisdiction shall determine that any part of this Settlement Agreement and Release is invalid or void, the remaining parts not so declared shall be considered valid and binding on the parties.

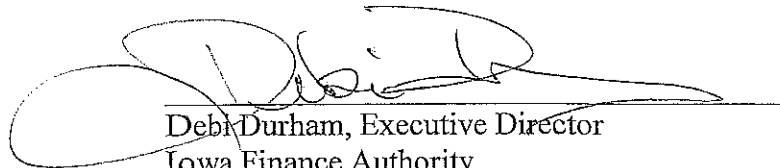
9. Entire Agreement. This Settlement Agreement and Release constitutes the entire agreement between the parties. The terms of this Settlement Agreement and Release are contractual and not merely recital. None of the terms shall be altered or modified in whole or in part except in writing acknowledged by each party. Headings are for convenience only and do not alter the express terms of this Settlement Agreement and Release. All representations, warranties, and indemnities under this Settlement Agreement and Release shall survive the termination, expiration, and performance thereof.

10. Public Record. The parties acknowledge that this Settlement Agreement and Release is a public record, pursuant to Iowa Code Chapter 22.

11. Required Approvals. The parties acknowledge that this Settlement Agreement and Release is subject to Executive Order Number 85 and must be approved by the Director of the Iowa Department of Management, the Director of the Iowa Department of Administrative Services, and the Director of Iowa Finance Authority. The parties further acknowledge that the State Appeal Board must approve the payment of state funds pursuant to this Settlement Agreement and Release, and payment of the funds is contingent on such approval. The Attorney General's office has reviewed and will recommend approval of this Settlement Agreement and Release.

PLEASE READ THIS DOCUMENT CAREFULLY. IT WILL RELEASE AND WAIVE LEGAL CLAIMS AND RIGHTS YOU MAY HAVE. YOU ARE ADVISED TO CONSULT WITH AN ATTORNEY BEFORE SIGNING THIS DOCUMENT.

Beth Mahaffey
Agreed to on this ____ day of January, 2019.



Debi Durham, Executive Director
Iowa Finance Authority

Agreed to on this 31 day of January, 2019.

Approved as to legal form & content:

Paige Fiedler
Attorney for Beth Mahaffey
On this ____ day of January, 2019.

EXHIBIT A to SETTLEMENT AGREEMENT AND RELEASE

1.0 Periodic Payments to Payee and/or Beneficiary

1.1 The Iowa Finance Authority and State of Iowa (collectively "the State") shall pay or cause to be paid the following Periodic Payments ("Periodic Payments"):

A) To Beth Mahaffey ("Payee"), as follows:

\$4,772.19 per month, guaranteed 15 years, beginning on April 15, 2019. The last payment will be made on March 15, 2034.

Metropolitan Tower Life Insurance Company will issue an IRS form 1099-MISC to the Payee for each year in which she receives payments. The Periodic Payments as set forth herein are made part of this Exhibit A and do not represent wages subject to FICA and/or FUTA. The total cost to the State of Iowa for the Periodic Payments portion of the settlement is \$700,000.00, disclosure of which has been required as a condition of settlement. No part of the sum being paid by the State of Iowa to provide future Periodic Payments as set forth in this Exhibit A to Settlement Agreement and Release may be paid directly to Payee. The amount paid to the Assignee (as defined below) will be reported to the Assignee and not the Payee.

The parties agree that the State will satisfy this obligation by funding an annuity through a payment of \$700,000.00 to MetLife Assignment Company, Inc., in accordance with Sections 4.0 and 5.0 of this Exhibit A, as well as the full execution of a Non-Qualified Assignment and Release Agreements. With respect to the funding of the Periodic Payments, it is further agreed and understood that if the State has not funded an annuity in accordance with Sections 4.0 and 5.0 below by March 15, 2019 (purchase date) for any reason, including but not limited to delay in obtaining final court approval, delay in satisfying Medicare requirements, and/or any other reasonable cause, the above payment beginning dates and the first increase dates (if applicable) may be deferred the number of days needed to maintain the agreed to benefit amount(s).

B) To Beth Mahaffey ("Payee"), as follows:

Beginning 04/15/2034, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company ("American Equity") contract value ("Contract Value"). The amount of the payment is \$29,860.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies ("Index Strategy") as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2035, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company ("American Equity") contract value ("Contract Value"). The amount of the payment is \$26,874.00 plus proportionate

index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2036, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company (“American Equity”) contract value (“Contract Value”). The amount of the payment is \$24,187.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2037, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company (“American Equity”) contract value (“Contract Value”). The amount of the payment is \$21,768.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2038, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company (“American Equity”) contract value (“Contract Value”). The amount of the payment is \$19,591.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2039, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company (“American Equity”) contract value (“Contract Value”). The amount of the payment is \$17,632.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2040, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company (“American Equity”) contract value (“Contract Value”). The amount of the payment is \$15,869.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2041, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company (“American Equity”) contract value (“Contract Value”). The amount of the payment is \$14,282.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2042, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company (“American Equity”) contract value (“Contract Value”). The amount of the payment is \$12,854.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies (“Index Strategy”) as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2043, 1 Lump Sum payment equal to 10% of the American Equity Investment Life Insurance Company ("American Equity") contract value ("Contract Value"). The amount of the payment is \$11,568.00 plus proportionate index gains pursuant to the American Equity interest crediting strategies ("Index Strategy") as defined below, in a given year which will credit no less than 0%.

Beginning 04/15/2044, 1 Lump Sum payment equal to 100% of the American Equity Contract Value. The amount of the payment is \$10,412.00 plus index gains pursuant to the Index Strategy in a given year which will credit no less than 0%.

Index Strategy: 100% – S&P 500® Annual Point-To-Point Participation Index Strategy

The measuring life on the annuity contract to fund the above referenced payments in Section 1.1 B) is Beth Mahaffey. In the event of the death of the measuring life, any remaining payments will cease, and a lump sum death benefit will be paid to the beneficiary. The death benefit will be calculated by American Equity based on the premium payments minus withdrawals plus interest crediting.

All payments set forth herein constitute damages on account of Sexual Harassment.

It is understood and agreed by the parties that the periodic payment benefit amounts shown above are based on an illustration dated 01/21/2019, and that the benefit amounts may change depending on the rates at the time of issuance of the annuity contract. The parties agree that all periodic payments to Payee required under Section 1.1 B) will be adjusted either upward or downward, so that the total cost to State of Iowa for the periodic payments to or for the benefit of Payee shall be neither more than or less than \$300,000.00.

Structured Assignments, Inc. ("Assignee") or Annuity Issuer shall issue an IRS Form 1099-MISC to the Payee for each year in which the Payee receives payments. Payee(s) agree and acknowledges that Payee(s) are relying solely on Payee's own personal tax advisors regarding the tax consequences to Payee of the matters described herein, that State of Iowa has made any representation to Plaintiff, Payee or any other person regarding such tax consequences, and that Payee(s) shall be solely and exclusively liable for any such tax consequences.

The parties agree that the State will satisfy this obligation by funding periodic payments through a payment of \$300,000.00 to Structured Assignments, Inc., in accordance with Sections 4.0 and 5.0 of this Exhibit A, as well as the full execution of a Non-Qualified Assignment and Release Agreements.

2.0 Payee's Right to Payments

None of the Periodic Payments and no rights to or interest in any of the Periodic Payments (all of the foregoing being hereinafter collectively referred to as "Payment Rights") can be:

- i. Accelerated, deferred, increased or decreased by Payee nor shall Payee have the power to sell, mortgage, encumber, or anticipate the Periodic Payments, or any part thereof, by assignment or otherwise.
- ii. Sold, assigned, pledged, hypothecated or otherwise transferred or encumbered, either directly or indirectly

Payee and her successors, if any, shall have no power to affect any Transfer of Payment Rights.

3.0 Payee's Beneficiary

Any payments to be made after the death of Payee pursuant to the terms of this Settlement Agreement and Release shall be made to such person or entity as shall be designated in writing by Payee to Assignee as that term is defined in Section 4.1 below. If no person or entity is so designated by Payee, or if the person designated is not living at the time of Payee's death, such payments shall be made to the estate of Payee. No such designation, nor any revocation thereof, shall be effective unless it is in writing and delivered to Assignee. The designation must be in a form acceptable to Assignee before such payments are made, but in no event shall the request of the Payee be unreasonably withheld or denied.

4.0 Consent to Non-Qualified Assignment

4.1 Payee acknowledges and agrees that the State may make a "non-qualified assignment" of the State's liability to make the Periodic Payments set forth in Section 1.1 A) to MetLife Assignment Company, Inc. (the "Assignee"). The Assignee's obligation for payment of the Periodic Payments shall be no greater than that of the State (whether by judgment or agreement) immediately preceding the assignment of the Periodic Payments obligation.

4.2 Payee acknowledges and agrees that the State may make a "non-qualified assignment" of the State's liability to make the Periodic Payments set forth in Section 1.1 B) to Structured Assignments, Inc. (the "Assignee"). The Assignee's obligation for payment of the Periodic Payments shall be no greater than that of the State (whether by judgment or agreement) immediately preceding the assignment of the Periodic Payments obligation.

4.3 Any such assignments, if made, shall be accepted by Payee without right of rejection and shall completely release and discharge the State from the Periodic Payments obligation assigned to the Assignees. Payee recognizes that, in the event of such an assignment, the Assignees shall be the sole obligor with respect to the Periodic Payments obligation, and that all other releases with respect to the Periodic Payments obligation that pertain to the liability of the State shall thereupon become final, irrevocable and absolute.

5.0 Right to Purchase an Annuity

5.1 The State itself or through MetLife Assignment Company, Inc reserves the right to fund liability to make the Periodic Payments in Section 1.1 A) through the purchase of an annuity policy from Metropolitan Tower Life Insurance Company (the "Annuity Issuer"). MetLife Assignment Company, Inc. shall be the sole owner of the annuity policy and shall have all rights of ownership. The MetLife Assignment Company, Inc. may have the Annuity Issuer mail payment directly to the Payee. The Payee shall be responsible for maintaining a current mailing address with MetLife Assignment Company, Inc. It is agreed that the cost of purchase of this annuity policy shall be \$700,000.00 inclusive of fees, if any for the purchase of said annuity on or before March 15, 2019 by check drawn to the order of MetLife Assignment Company, Inc. The State shall cause this check to be delivered to the same in a timely manner.

Upon the State's funding of the full annuity premium to MetLife Assignment Company, Inc. through a payment of \$700,000.00 and full execution of the assignment documents, MetLife Assignment Company, Inc. will accept and assume ALL of the State's liability to make the Periodic Payments. Payee hereby accepts and consents to such assignment by the State and assumption by MetLife Assignment Company, Inc. Effective on the Effective Date of the Non-Qualified Assignment and Release Agreement attached as Exhibit 2 and incorporated by reference herein, Payee hereby releases and discharges the State from all liability to make the Periodic Payments, including the failure of Assignee to make any of the Periodic Payments and/or Annuity Issuer to fund any of the Periodic Payments for any reason whatsoever. Plaintiff agrees never to look to the State for payment of any benefits should MetLife Assignment Company, Inc. or its designee fail to make the Periodic Payments for any reason whatsoever.

5.2 The State itself or through Structured Assignments, Inc. reserves the right to fund liability to make the Periodic Payments in Section 1.1 B through the purchase of an annuity policy from American Equity Investment Life Insurance Company (the "Annuity Issuer"). Structured Assignments, Inc. shall be the sole owner of the annuity policy and shall have all rights of ownership. Structured Assignments, Inc. may have the Annuity Issuer mail payment directly to the Payee. The Payee shall be responsible for maintaining a current mailing address with the Structured Assignments, Inc. It is agreed that the cost of purchase of this annuity policy shall be \$300,000.00 inclusive of fees, if any for the purchase of said annuity on or before March 15, 2019 by check drawn to the order of Structured Assignments, Inc. The State shall cause this check to be delivered to the same in a timely manner.

Upon the State's funding of the full annuity premium to Structured Assignments, Inc. through a payment of \$300,000.00 and full execution of the assignment documents, Structured Assignments, Inc. will accept and assume ALL of the State's liability to make the Periodic Payments. Payee hereby accepts and consents to such assignment by the State and assumption by Structured Assignments, Inc. Effective on the Effective Date of the Non-Qualified Assignment and Release Agreement attached as Exhibit 3 and incorporated by reference herein, Payee hereby releases and discharges the State from all liability to

make the Periodic Payments, including the failure of Assignee to make any of the Periodic Payments and/or Annuity Issuer to fund any of the Periodic Payments for any reason whatsoever. Plaintiff agrees never to look to the State for payment of any benefits should Structured Assignments, Inc. or its designee fail to make the Periodic Payments for any reason whatsoever.

6.0 Discharge of Obligation

The obligation of the State and/or Assignees to make each Periodic Payment shall be discharged upon the mailing of a valid check in the amount of such payment to the designated address of the Payee named in Section 1.1, or the deposit by electronic funds transfer in the amount of such payment to an account designated by the Payee identified in Section 1.1.

4823-9224-4835, v. 1