

Memorandum From Legal Department

To: Todd Thompson City Manager
Subject: Settlement Agreement
Date: September 30, 2022



There is currently litigation pending involving the Blackhawk Fire Protection District and the City of Rock Island. A proposed settlement agreement between the parties is attached.

RECOMMENDATION:

That Council approve the settlement agreement.

Submitted by: David Morrison City Attorney

Approved by: Todd Thompson, City Manager

GENERAL RELEASE AND SETTLEMENT OF ALL CLAIMS

I. GENERAL RELEASE

In consideration of the payment of the sum Five Thousand Dollars and No Cents (\$5,000.00), and further subject to the terms and conditions stated herein, the undersigned, the City of Rock Island, on behalf of all current and former officials, officers, employees, agents, servants, representatives, insurers, successors, and assigns (hereinafter referred to as "Releasers"), does hereby fully and finally release, acquit, and forever discharge the Blackhawk Fire Protection District and any and all of its current or former officials, officers, employees, agents, servants, representatives, insurers, successors, and assigns, including but not limited to Glatfelter Claims Management, Inc. and American Alternative Insurance Corporation, (hereinafter referred to as "Released Parties"), relating to any and all claims, claims for contribution, controversies, liabilities, judgments, causes of action, damages, demands, costs, liens, attorney's fees and expenses, known and unknown, vested or contingent, direct or indirect, first party or third party, whether recoverable under the Constitution, statutes, or common law of the United States of America or the State of Illinois, that Releasers may have, had, or may now have against the Released Parties arising from, in connection with, or relating in any way to (i) the occurrences alleged in the litigation filed in the Circuit Court of Rock Island County, Illinois, Docket Number 2019 L 0034 (the "Litigation"), and (ii) any and all other acts or omissions of any kind or nature committed or alleged to have been committed by the Released Parties that caused or may have caused any and all injuries or damages to Releasers from the beginning of time to the date of the execution of this Release." This Release expresses a full and complete settlement of a liability claimed by Releasers and denied by the Released Parties, irrespective of the aforesaid consideration.

II. LIENS AND TAXES

In the event that any lien(s), including but not limited to those held by attorneys, medical providers, physicians, and governmental programs such as Medicaid, are asserted or attempted to be asserted against any of the Released Parties, then Releasers agree that they will satisfy such lien(s) from the payments made by the Released Parties to Releasers pursuant to this Release. Releasers further agree to defend, indemnify and forever hold harmless the Released Parties from any and all such lien or liens. Releasers also agree to pay all taxes imposed by law as a result of the settlement and defend, indemnify and forever hold harmless the Released Parties from any such tax liability.

III. COUNCIL AND BOARD APPROVAL REQUIRED

Releasers acknowledge and agree that the settlement payment shall not be made until: (a) Releasers have signed and dated this Release; (b) the City Council of the City of Rock Island has approved this release and settlement agreement; (c) the Board of Blackhawk Fire Protection District has approved this release and settlement agreement.

IV. PAYMENT OF SETTLEMENT

Payment shall be paid to the City of Rock Island. Payment made by an insurer shall be deemed to be a payment by the party on whose behalf said payment is made. Payment shall be made within 30 days of the orders approving the settlement as required in Section III above.

V. NON-ADMISSION OF LIABILITY

Releasors acknowledge and agree this settlement is not an admission of liability of any unlawful or wrongful conduct by or on the part of any of the Released Parties, the same being denied, and shall not serve as evidence or notice of wrongdoing by or on the part of the Released Parties. Releasor also further acknowledges and agrees that this settlement is made solely to avoid the expense in time and money of further litigation and for the purpose of judicial economy.

VI. CONFIDENTIALITY AND NONDISPARAGEMENT

Releasors and their attorneys agree that they shall keep confidential and shall not disclose the terms and conditions of this Release and Settlement to any person or entity, except: 1) the extent required by law; 2) to accountants or tax preparers to the extent necessary for those persons to perform their duties.

The Releasors and their attorneys agree that they will not make, publish, or communicate any negative, disparaging, or derogatory comments regarding the Blackhawk Fire Protection District and any and all of its current or former officials, officers, employees, agents, servants, representatives related to the events which gave rise to the Litigation. Violation or breach of this Non-Disparagement provision shall result in payment of liquidated damages in the amount of the full settlement described herein and the payment of all attorney's fees and costs incurred in connection with any action taken to enforce said provisions. The Parties acknowledge and agree that this provision is a material term of this settlement. It is further understood that the mutual covenants in this Release and Settlement Agreement is valid consideration for this provision.

VII. DISMISSAL OF THE LITIGATION

Upon execution of this Release, Releasors shall file a Stipulation to Dismiss, in the form attached hereto as Exhibit A and executed by the parties' respective counsel, agreeing to the dismissal of the Litigation, with prejudice, and with each side to bear their own attorney fees and costs.

VII. NO ADDITIONAL BENEFITS

No promise has been made by the Released Parties to pay any other amounts now or in the future except as set forth in this Release. Releasors shall not be entitled to any additional benefits from the Released Parties other than those specifically set forth in this Release. This Release contains the entire agreement between the Parties, and Releasors acknowledge and agrees that no promise or representation not contained in this Agreement has been made to them.

XI. RELEASORS HAVE READ AND UNDERSTAND

Releasors acknowledge that they have read this Agreement discussed it with their counsel, understand its contents, and execute this Agreement of their own free will. The undersigned represent that they are fully authorized to enter into this Agreement.

XII. GOVERNING LAW AND VENUE.

This General Release and Settlement of All Claims shall be construed and interpreted in accordance with the laws of the State of Illinois. The venue of any action brought to enforce this Agreement shall be the Circuit Court of Rock Island County, Illinois.

XIII. EFFECTIVE DATE.

This General Release and Settlement of All Claims shall be effective as of the later date of its execution below.

The undersigned acknowledge and understand that they are making a final settlement and that this is a general release and settlement of all claims.

_____, City Manager for the City of Rock Island

Subscribed and sworn to before me
this _____ day of September, 2022.

Notary Public

Agreed as to form and substance:

David G. Morrison
1515 Fourth Avenue, Ste. 301
Rock Island, IL 61201
david@dgmorrisonlaw.com

**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
ROCK ISLAND COUNTY, ILLINOIS**

MELISSA CHAVEZ-HOUSTON, individually, as independent administrator of the estate of Maci Chavez, deceased, and as guardian of the estate, mother, and next best friend of I.C., a minor Plaintiff,)	
)	
)	Case No. 2019 L 34
vs.)	
CITY OF ROCK ISLAND, Defendant,)	
and)	
CITY OF ROCK ISLAND, Third-party Plaintiff,)	
vs.)	
BLACKHAWK FIRE PROTECTION DISTRICT, Third-party Defendant.)	

STIPULATION TO DISMISS

IT IS HEREBY stipulated and agreed by and between Third-Party Plaintiff, CITY OF ROCK ISLAND, and Third-Party Defendant BLACKHAWK FIRE PROTECTION DISTRICT, through their respective attorneys that the Third Party Complaint is hereby dismissed with prejudice pursuant to settlement, each side to bear its own fees and costs.

Attorney for Plaintiffs

Attorney for Blackhawk Fire Protection District

s/David M. Morrison
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EXHIBIT A