

RELEASE AND SETTLEMENT AGREEMENT

NEIL WILLIAMS, individually and as Personal Representative of the Estate of Tobin “Toby” Williams, (“Mr. Williams”) desires to settle and discharge any and all claims which have or could have been asserted by Mr. Williams against the **CITY OF SANTA FE** and its current and/or former employees, agents, predecessors and successors, elected officials, officers, representatives, attorneys, and insurers (“Released Parties”) as a result of an incident occurring on April 1, 2019, in Santa Fe County, New Mexico (“incident”) as alleged in the Tort Claims Notice dated April 17, 2019 from Mr. Lee R. Hunt.

The parties agree as follows:

1. The City of Santa Fe will pay the sum of five hundred thousand dollars and no cents (\$500,000.00) in full settlement of all claims and demands against the Released Parties resulting from or relating to the incident and all claims and demands made in or relating to all other claims which Mr. Williams and the Estate may have against the Released Parties, including attorneys' fees, costs of suit, subrogation claims, or claims made by third parties. Mr. Williams forever releases all claims that have been brought, or that could have been brought in relation to this incident as alleged in the Tort Claims Notice dated April 17, 2019 from Mr. Lee R. Hunt.

2. Mr. Williams, his assigns, and successors hereby fully and unconditionally dismiss, release, and forever discharge the Released Parties and their representatives, officials, employees, predecessors and successors, insurers, attorneys, agents, and assigns from any and all claims (including attorneys' fees and costs of suit), charges, causes of action, subrogation claims, or demands of any kind and nature whatsoever arising out of this lawsuit and the incident, whether asserted or not.

3. Mr. Williams hereby represents that he is unaware of any subrogation claims, liens, or other third parties who have insured, paid, or indemnified, or rendered medical services to Tobin Williams in connection with the losses or expenses claimed as damages in this lawsuit. If any such subrogation claims or other demands are presented, Mr. Williams agrees to pay or to settle all such demands from the proceeds of this settlement and indemnify and hold the Released Parties harmless from any and all such claims. In addition, Mr. Williams agrees to reimburse the Released Parties for all reasonable attorneys' fees and costs in defending against any such subrogation claims or demands by third parties.

4. The parties hereby stipulate and agree that they and their counsel have considered the interests of Medicare in this case and have confirmed that Medicare has not paid for any medical care received by Tobin Williams in connection with the incident.

5. Mr. Williams acknowledges that the consideration received under this Settlement Agreement is intended to and does release and discharge the Released Parties, their agents, representatives, successors, assigns, and insurers from any claims or consequences arising from the incident and hereby waives any right to assert in the future any claims not known or suspected, even though if such claims were known, such knowledge would materially affect the terms of this Settlement Agreement.

6. Mr. Williams agrees to pay his attorneys' fees and other legal costs from the settlement proceeds. The Released Parties are not responsible for Mr. Williams's legal fees or costs.

7. Mr. Williams contends that all sums set forth herein constitute damages on account of personal physical injuries or sickness, within the meaning of § 104(a)(2) of the Internal Revenue Code of 1986, as amended.

8. Mr. Williams is responsible for any and all tax liabilities, if any, relative to the proceeds of this settlement. Mr. Williams acknowledges that neither the Released Parties nor their attorneys have made any representations whatsoever as to any tax consequences Mr. Williams may incur as a result of the settlement.

9. This Agreement is not an admission of fault on the part of the Released Parties. This is a settlement of a disputed claim and may not be used in any other litigation pursuant to Evidence Rule 408.

10. Mr. Williams acknowledges that the Released Parties have not made any promises or representations other than those recited in this Agreement to induce them to enter into this Agreement.

11. The terms of this Agreement are contractual, fully enforceable, and are not mere recital.

12. Mr. Williams and the Released Parties expressly waive the filing of this settlement agreement set forth in Rule 1-106(B)(3) NMRA.

13. In the event that any paragraph or portion of this Agreement should be later determined unenforceable, all other paragraphs of this Agreement shall remain in full force and effect.

14. This Agreement contains the entire agreement between Mr. Williams and the Released Parties with regard to the matters set forth herein. There are no other understandings or agreements, oral or otherwise, between the parties except as expressly set forth herein.

15. Mr. Williams affirms that he is competent to enter into this settlement agreement and that he is not currently under the care of a person licensed to practice the healing arts for any personal injury they claim to have incurred as a result of this incident.

16. This Agreement shall be construed and interpreted in accordance with the laws of the State of New Mexico.

