

**IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI**

OLIVER LATTA individually and on	)	
behalf of all others similarly situated, et al.,	)	
	)	
Plaintiffs,	)	
v.	)	Case No.16SL-CC01881
	)	
HANNIBAL BOARD OF PUBLIC	)	Division 10
WORKS, et al.,	)	
	)	
Defendants.	)	

**SETTLEMENT AGREEMENT**

Subject to the preliminary and final approval of the Court, and as further set forth below, this Settlement Agreement is made by and between the Class Representatives defined below, individually and on behalf of the Settlement Classes defined below (“Plaintiffs”), and Defendants City of Hannibal and Hannibal Board of Public Works (“Hannibal Defendants”). Plaintiffs and Hannibal Defendants are collectively referred to as the “Parties.”

WHEREAS, Plaintiffs filed a putative class action lawsuit, *Latta, et al. v. City of Hannibal, et al.*, Case No. 16SL-CC01881, now pending in the Circuit Court of Saint Louis County, State of Missouri alleging a variety of claims against the Hannibal Defendants related to water quality (the “Lawsuit”);

WHEREAS, on October 6, 2016, Plaintiffs filed their Amended Class Action Petition (“Petition”);

WHEREAS, in the Petition, Plaintiffs allege that the Hannibal Defendants failed to provide safe potable drinking water;

WHEREAS, Plaintiffs have sought relief, including but not limited to damages, injunctive relief, punitive damages and attorney fees and costs for the alleged conduct of the Hannibal Defendants;

WHEREAS, Christopher Nidel, Jonathan Nace, Daniel Ryan, Steven German, and Joel Rubenstein have served as Plaintiffs' Counsel in the Lawsuit;

WHEREAS, on January 20, 2017, the Hannibal Defendants filed an Answer and Affirmative Defenses to the Petition, which asserted a number of defenses to Plaintiffs' claims, denied that the Hannibal Defendants violated any law or other duty, and denied each of the Plaintiffs' claims of liability, wrongdoing, injuries, damages, and entitlement to any relief;

WHEREAS, as a result of extensive arm's-length negotiations, Plaintiffs and the Hannibal Defendants reached an agreement in principle to settle and resolve the claims asserted in the Lawsuit, based on the terms and conditions set forth below and subject to the approval of the Court;

WHEREAS, Plaintiffs' Counsel have investigated the facts relating to the claims in the Lawsuit and the underlying events and transactions forming the subject matter of the Lawsuit, have analyzed the applicable legal principles, and have concluded, based upon their investigation, taking into account the sharply contested issues involved, including the risk of class certification and proof and legal defenses which may be an impediment to prevailing in whole or in part on the claims asserted, and taking into account the risks, uncertainties, burdens, and costs of further prosecution of the Lawsuit, and taking into account the substantial benefits to be received pursuant to this Settlement Agreement, that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of Plaintiffs and the Settlement Classes;

WHEREAS, Plaintiffs' Counsel represent and warrant that they are fully authorized to enter into this Settlement Agreement;

WHEREAS, the Hannibal Defendants, solely for the purpose of avoiding the burden, expense, risk, and uncertainty of continuing to litigate the Lawsuit, and for the purpose of putting to rest all controversies engendered by the Lawsuit, and without any admission of liability or wrongdoing whatsoever, desire to settle the Lawsuit and all claims asserted in or subsumed by the Lawsuit, including unasserted claims related to the subject matter of the Lawsuit that Plaintiffs could have asserted in the Lawsuit, on the terms and conditions set forth in this Settlement Agreement; and

WHEREAS, the Hannibal Defendants have provided evidence of a lack of available resources to compensate the Class more fully.

NOW, THEREFORE, without any admission or concession by Plaintiffs of any lack of merit to their allegations and claims, and without any admission or concession by the Hannibal Defendants of any liability or wrongdoing or lack of merit in their defenses, in consideration of the foregoing clauses and the mutual covenants, terms, representations, and payments contained herein, and subject to the final approval of the Court, Plaintiffs and the Hannibal Defendants agree as follows:

**Definitions**

1. As used in this Settlement Agreement, the terms set forth in this section will have the following meanings:

(a) "Class Member" means any member of a Settlement Class who has not submitted a valid Request for Exclusion from this Settlement Agreement, as preliminarily and finally approved by the Court.

(b) “Class Representatives” means Oliver Latta, Vickie Brooks, Crystal Stephens and Christine Stolte.

(c) “Court” means Judge Michael T. Jamison, Circuit Court of Saint Louis County, State of Missouri, or such other judge to whom the Lawsuit may hereafter be assigned.

**Settlement Classes**

2. For the purposes of this Settlement Agreement only, Plaintiffs will seek, and the Hannibal Defendants will not oppose, certification of settlement classes consisting of the classes described below, to which the Hannibal Defendants will provide settlement consideration and from which the Hannibal Defendants will obtain a release of claims, subject to the Court’s preliminary approval of this Settlement Agreement, the provision of notice to members of the settlement classes, and the Court’s final approval of the notice provided and this Settlement Agreement, under the terms and conditions stated below.

3. For the purposes of this settlement only, Plaintiffs will seek, and the Hannibal Defendants will not oppose, the Court’s certification of two classes (the “Settlement Classes”), for all the claims and forms of relief asserted in the Lawsuit. The Settlement Classes are defined as follows:

(a) **“RATE-PAYER CLASS”**: All current residents of the State of Missouri who, at any time between September 1, 2011 and February 28, 2016, were billed and paid for water provided by the City of Hannibal, Missouri public water supply system.

(b) **“MEDICAL-MONITORING CLASS”**: All current residents of the State of Missouri who, for a minimum period of three years, between the dates of September 2011 and February 2016, resided in the City of Hannibal, and drank and/or bathed in water provided by the City of Hannibal, Missouri public water supply system.

4. Excluded from the Settlement Classes are (A) the Hannibal Defendants; (B) any person, firm, trust, corporation, officer, member, director or other individual or entity in which

the Hannibal Defendants have a controlling interest; (C) counsel for the Parties; (D) the key representatives associated with this matter on behalf of the Settlement Administrator identified below; (E) the judge, the judge's immediate staff and judge's immediate family; and (F) the legal representatives, agents, successors-in-interest or assigns of any such excluded party.

5. The Parties stipulate and agree that the definitions of the proposed classes in the Lawsuit are amended to be the same as the Settlement Classes, and that the Court's orders preliminarily and finally approving this Settlement Agreement shall so amend the operative petition.

6. Certification of the Settlement Classes applies to all claims brought against the Hannibal Defendants in the Petition, including without limitation all forms of injunctive relief, damages, and statutory remedies sought in the Petition.

7. In the event the settlement is not approved, all such settlement class certifications and amendments to pleadings shall be null and void without prejudice to the Parties seeking respectively to certify or oppose certification of any class.

8. Plaintiffs will seek, and the Hannibal Defendants will not oppose, the Court's appointment of Christopher Nidel, Jonathan Nace, Daniel Ryan, Steven German, and Joel Rubenstein as counsel for the Settlement Classes ("Class Counsel"), and the appointment of the Class Representatives as representatives of the Settlement Classes as indicated above.

### **Settlement Consideration**

9. Medical Monitoring. Subject to the provisions hereof, the Hannibal Defendants will pay or cause to be paid a total of Two Hundred Five Thousand Dollars (\$205,000.00) for medical monitoring for the benefit of the Medical-Monitoring Class ("Medical Monitoring Settlement Amount") as set forth herein and as more fully outlined in Paragraph 37(a), the

payment of which shall fully satisfy any and all of the Hannibal Defendants' payment obligations pursuant to this Settlement Agreement, except as set forth in Paragraphs 11-13.

10. Injunctive Settlement for the Rate Payer Class. As further consideration for settlement, Plaintiffs shall seek entry of a consent judgment against the Hannibal Defendants and in favor of the Rate Payer Class, which the Hannibal Defendants shall not oppose, that contains the following terms only: (a) the Hannibal Defendants jointly shall commit a minimum of \$5,000,000 to investigate and implement water quality improvements; (b) the improvements will include a focus on reducing or replacing chloramination as a primary disinfection methodology. The consent judgment will provide that the Court retains jurisdiction over this case until the injunctive relief has been fully effectuated. This agreement is not intended to, nor does it alter, any duty, obligation or responsibility imposed by any agency, statute, rule, regulation, directive or order concerning the provision of water to the public.

11. Class Representative Incentive Payment. The Medical Monitoring Settlement Amount does not include any incentive payment sought by the Plaintiff class representatives, which Plaintiffs will request from the Court, and the Hannibal Defendants agree to pay and not to oppose any application to the Court for payment of such incentive fees, in an amount not greater than \$4,000 per class representative.

12. Attorney Fees and Costs. The Medical Monitoring Settlement Amount does not include any attorneys' fees or costs that may be awarded by the Court. Class Counsel shall request, and the Hannibal Defendants shall not oppose, attorneys' fees and costs. Class Counsel's request is subject to a cap of Three Hundred Nine Thousand Dollars (\$309,000.00), plus any remainder of the Medical Monitoring Settlement Amount, as outlined in Paragraph 42 ("Attorneys' Fees Cap"). The Attorneys' Fees Cap shall include all expenses or costs that Class

Counsel has or will incur. The Hannibal Defendants shall not otherwise be liable for any costs, fees, or expenses of any of the Plaintiffs' attorneys, experts, advisors, agents, or representatives, or any other costs, fees or expenses of any kind. With respect to this Settlement Agreement, Plaintiffs, the Settlement Classes, and their attorneys, experts, advisors, agents, and representatives agree to waive any claim for, and will not seek, any attorneys' fees, expenses or costs in an amount in excess of those outlined in this paragraph. For purposes of this paragraph, the term "costs" includes, but is not limited to, fees and expenses of expert witnesses and consultants, and costs and expenses associated with discovery, motion practice, hearings before the Court or other judicial officer, appeals and mediation.

13. Costs for Claims and Notice Administration. The Hannibal Defendants will pay any reasonable costs for the notice and claims process associated with providing notice of settlement and for processing any claims by putative class members, including the preparation and provision of notice, the administration of the claims process, distributing payments, and oversight and reporting of the notice program, as more fully described in Paragraphs 31-43.

14. As to the Hannibal Defendants the provisions of Paragraphs 9 to 13 shall exhaust and fully satisfy any and all of the Hannibal Defendants' payment obligations under this Settlement Agreement, and shall extinguish entirely any further obligation, responsibility, or liability to pay any settlement sums, attorneys' fees, litigation costs, expenses incurred in administering this Settlement Agreement, including the cost of class notice, the claims process, taxes, or sums of any kind to Plaintiffs, the Settlement Classes, Class Counsel, and any other counsel, experts, advisors, agents, and representatives. In no circumstances shall this Settlement Agreement be construed to require the Hannibal Defendants to pay more, and except in accordance with the provisions of Paragraphs 9 to 13 of this Settlement Agreement, the Hannibal

Defendants shall not be liable for (i) any of the costs or expenses of the litigation of the Lawsuit, including attorneys' fees or expenses, fees and expenses of any expert witnesses and consultants, or costs and expenses associated with discovery, motion practice, hearings before the Court or other judicial officer, or mediation; or (ii) any expenses incurred in administering this Settlement Agreement.

15. This Settlement Agreement shall become final five business days after all of the following conditions have occurred and been satisfied:

(a) The Court has entered: (i) a final non-appealable order approving this Settlement Agreement under Missouri Rule of Civil Procedure 52.08; (ii) an injunctive order as described in Paragraph 10; and (iii) a final non-appealable judgment granting the relief described in this Settlement Agreement, including the relief described in Paragraph 44; and

(b) The time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement, injunctive relief and entry of final judgment as to the Hannibal Defendants described in subsection (a) of this paragraph has expired or, if appealed, approvals of this Settlement Agreement and any final judgment as to the Hannibal Defendants have been affirmed by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

16. Within thirty (30) days of the Settlement Agreement becoming final as outlined in Paragraph 15 of this Settlement Agreement, the Hannibal Defendants shall pay to Class Counsel the amounts identified in Paragraphs 11 and 12 for distribution (the "Settlement Fund"). The Hannibal Defendants will pay, as necessary, any reasonable costs charged by the Settlement Administrator pursuant to Paragraph 13.

17. Upon the Settlement Agreement becoming final as outlined in Paragraph 15 of this Settlement Agreement, the Parties will direct the Settlement Administrator to apply and distribute the Medical Monitoring Settlement Amount in the manner provided herein.

18. The proceeds of the Medical Monitoring Settlement Amount shall be allocated to each Medical-Monitoring Class Member, as defined above, in accordance with the payment plan summarized in Paragraph 41.

19. In no event shall the Hannibal Defendants have any obligation, responsibility, or liability, including liability for costs and expenses, arising from or relating to the administration, maintenance, distribution, or disposition of its payments, or the Settlement Fund, except as described in Paragraph 13.

20. The Hannibal Defendants shall not have any responsibility for, or interest in, or liability whatsoever with respect to the allocation among counsel for the Settlement Classes, and/or any other person who may assert some claim thereto, of any fee and expense award that the Court may make in the Lawsuit.

21. Taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon the Hannibal Defendants with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as “qualified settlement funds” for federal or state income tax purposes (“Taxes”) shall be paid out of the Settlement Fund held by the Settlement Administrator. The Settlement Administrator shall be responsible for issuance of any 1099s or other necessary documents and make any filings associated with any Taxes.

22. Neither the Hannibal Defendants nor its counsel shall have any liability or responsibility for the Taxes, or for maintaining or securing any desired tax status for the Settlement Fund, nor for any negligence, fraud, or malfeasance regarding the Settlement Fund. Further, Taxes shall be treated as, and considered to be, a cost of administration of the Settlement Fund, and shall be timely paid by the Settlement Administrator out of the Medical Monitoring Settlement Amount without prior order from the Court, and the Settlement Administrator shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes. The Parties agree to cooperate with the Settlement Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of Paragraphs 21-22.

### **Release of Claims**

23. The “Releasing Parties” in this Settlement Agreement are all Class Representatives and all members of the Settlement Classes and their respective heirs, executors, administrators, trustees, successors, assigns, agents, executors, beneficiaries, attorneys, representatives and anyone claiming by, through or on behalf of the Classes, who have not timely opted out to exclude themselves from the Lawsuit and this Settlement Agreement as provided below.

24. The “Released Parties” in this Settlement Agreement are the City of Hannibal and Hannibal Board of Public Works, and their respective past and present officers, directors, board or council members, agents, employees, contractors, insurers, legal representatives, trustees, parents, associates, affiliates, joint ventures, subsidiaries, divisions, partners, heirs, executors,

administrators, purchasers, predecessors, successors, legal representatives, contractors and assigns.

25. In addition to the effect of any final judgment entered in accordance with this Settlement Agreement, including but not limited to any preclusive effect, the Releasing Parties hereby expressly and irrevocably waive and fully, finally, and forever settle, discharge, remise and release the Released Parties from any and all manner of claims, demands, judgments, actions, suits, obligations, promises and causes of action, whether individual, class, or otherwise in nature, for damages whenever incurred, and for liabilities of any nature whatsoever, including for penalties, fines, charges, costs, expenses, injunctive relief, declaratory relief, attorneys' fees, claims for contribution or indemnification, or the like, whether known or unknown, suspected or unsuspected, in law or equity, that any Releasing Party ever had or now has arising out of or relating in any way to: (i) any and all claims, demands, obligations, actions, or causes of action asserted in the Lawsuit; and/or (ii) any and all claims, demands, obligations, actions, or causes of action (including but not limited to, negligence, negligence per se, strict liability, abnormally dangerous activity, willful and wanton misconduct, intentional infliction of emotional distress, negligent infliction of emotional distress, civil conspiracy, declaratory relief, punitive and other damages, injunctive relief of any kind, attorney fees, costs and expenses, or obligations or other matters of whatever nature, whether based on contract, tort, statute, regulation, common law, equity, or other law) arising out of the factual allegations that gave rise to the basis for the claims made for damages asserted in this Lawsuit ("Released Claims"). All past, current or future personal injury claims, property damage claims, and loss of use or enjoyment claims are excluded from the Released Claims ("Excluded Claims").

26. For the avoidance of doubt, the types of claims released in the preceding paragraph are released regardless of the type of cause of action, common law principle, or statute under which they are asserted, and the Excluded Claims are not released regardless of the type of cause of action, common law principle, or statute under which they could be asserted.

27. Each Releasing Party further expressly and irrevocably waives and fully, finally, and forever settles and releases, upon the Court's final approval of this Settlement Agreement, any and all defenses, rights, and benefits that the Releasing Party may have or that may be derived from the provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in Paragraphs 23-26. The Parties understand, and their attorneys have explained, the importance, meaning and legal effect of this section.

28. The Releasing Parties hereby covenant and agree that they shall not, hereafter, seek to establish liability against any of the Released Parties based, in whole or in part, upon any of the Released Claims.

### **Preliminary Court Approval**

29. Plaintiffs and the Hannibal Defendants shall recommend approval of this Settlement Agreement by the Court and all reviewing courts. Plaintiffs and the Hannibal Defendants shall use their best efforts to effectuate this Settlement Agreement and obtain judicial approval for the establishment of procedures to secure the prompt, complete, and final dismissals with prejudice of the Lawsuit.

30. On or before June 12, 2018, Class Counsel shall submit to the Court a Motion for Preliminary Approval of this Settlement Agreement, which will set a hearing date for preliminary approval and recommend approval of this Settlement Agreement by the Court as being fair, reasonable and adequate. With the filing, Plaintiffs will request a hearing date for the

Final Approval Hearing. As part of that filing, or contemporaneously therewith, Plaintiffs shall seek, and the Hannibal Defendants will not oppose, the Court's entry of an order(s) (the "Preliminary Approval Order"), to:

(a) Preliminarily approve this Settlement Agreement.

(b) Approve the provisional certification of the Settlement Classes for settlement purposes only, and declare that in the event of termination of this Settlement Agreement as provided below, certification of the Settlement Classes shall automatically be vacated and the Hannibal Defendants may fully contest certification of any class as if no Settlement Classes had been certified.

(c) Appoint Christopher Nidel, Jonathan Nace, Daniel Ryan, Steven German, and Joel Rubenstein as Class Counsel.

(d) Determine that notice and exclusion rights should be provided to members of the Settlement Classes.

(e) Approve the method of notice to be provided to the Settlement Classes that will be submitted by the Parties (the "Notice Plan"), and find that it complies with the requirements of Missouri Rule of Civil Procedure 52.08.

(f) Approve the procedures described below for members of the Settlement Classes to submit claims for payment from the Medical Monitoring Settlement Amount, opt out to exclude themselves from those Classes, the Lawsuit, and this Settlement Agreement, or object to this Settlement Agreement.

(g) Stay all proceedings in the Lawsuit, except those related to effectuating and complying with the Settlement Agreement, pending the Court's determination of whether the Settlement Agreement should be finally approved.

(h) Indicate that the Court has considered the interests of the Center for Medicare and Medicaid Services and has determined that Medicare's conditional payments are under the reporting threshold. Approve reducing the amount of any reimbursement owed to the Missouri Department of Social Services to zero dollars (\$0) pursuant to RSMo § 208.215.11.

**Notice and Claims Process**

31. The Hannibal Defendants and/or a third-party may administer the notice and claims process.

Notice

32. Within thirty (30) days of Preliminary Approval of the Settlement Agreement, the Parties, with assistance of a third-party as necessary, shall provide notice to the Settlement Classes of the claims, objection and exclusion procedures through the Notice Plan approved by the Court. The Parties will work together to develop the form and manner of notice, which will comply with the requirements of Missouri Rule of Civil Procedure 52.08.

33. Notice may include direct notice by mail as part of monthly utility bills or related communications, publication notice and/or notice made available on the Hannibal Defendants' website or such other notice deemed satisfactory by the Court.

Exclusion, Objection and Claims Procedures

34. The Parties will request that the Preliminary Approval Order provide for a period of no more than thirty (30) days after completion of the notice, for any member of the Settlement Classes who does not wish to participate in this Settlement Agreement to opt out and be excluded from the Settlement Classes. Any Class Member may opt out of the Class by submitting a written or online Request for Exclusion to the Settlement Administrator within the timeframe indicated in the notice ("Request for Exclusion"). Such Request for Exclusion may be effected

in the form and manner approved by the Court. Any member of the Settlement Classes who fails to object as required shall waive and forfeit any and all rights they may have to appear separately and/or to object and shall be bound by this Settlement and by all other proceedings, orders and judgments in the Lawsuit.

35. Within ten (10) days after the conclusion of the period for exclusion, the Settlement Administrator shall provide counsel for the Parties with a list of each member of the Settlement Classes who submitted a Request for Exclusion to be excluded from this Settlement Agreement, stating whether the Request for Exclusion was properly and timely made, and attaching a copy of all documentation, if any, concerning each Request for Exclusion submitted.

36. The Parties will request that the Preliminary Approval Order provide for a period of no more than thirty (30) days after completion of the notice, for any member of the Settlement Classes who does not submit a request for exclusion to object to this Settlement Agreement or any request for Class Counsel's attorneys' fees, costs or expenses. Any objection must be submitted in writing to the Court, the Settlement Administrator and all attorneys of record in the Lawsuit designated to receive such notice within the timeframe indicated in the notice, and must include sufficient information to confirm the objector is a member of a Settlement Class and state the objection being made. Such objection may be effected in the form and manner approved by the Court.

37. The Parties will request that the Preliminary Approval Order provide for a period of no more than sixty (60) days after the Final Approval Hearing, for any member of the Settlement Classes who does not submit a request for exclusion to submit a written claim form to the Settlement Administrator for payment from the Medical Monitoring Settlement Amount ("Claim Form").

(a) Any Claim Form submitted to the Settlement Administrator must be submitted in writing or online and signed under penalty of perjury and contain, at a minimum, the following information: (i) name; (ii) address; (iii) if different, address to establish membership in the Medical-Monitoring Class; (iv) the receipt or invoice for a urinalysis for blood and urine cytology for which the claimant is seeking reimbursement and which reflects that the test was administered before sixty (60) days following Final Court Approval of the Settlement Agreement (the “Medical Monitoring Period”); (v) identify whether any insurance or other payee source was available for the test, and the amount thereof; (vi) affirm that for a minimum period of three years between September 2011 and February 2016, the claimant drank and/or bathed in water provided by the City of Hannibal public water system; and (vii) affirm that the Class Member falls within the Medical-Monitoring Class.

38. The Settlement Administrator shall approve and administer all claims made to or against any portion of the Medical Monitoring Settlement Amount.

39. The Settlement Administrator will collect, review, audit and verify the validity of timely submitted Claim Forms to determine the validity of claims and examine the proof submitted on claims, which may include use of anti-fraud measures, normal procedures applied to determine if claims are fraudulently submitted, confirmation that the claim is not duplicative of another submitted claim, verification that the Claim Form is adequately completed with the required information, validation of the claimant’s identity and address compared with the addresses on file with the Hannibal Defendants, and verify that the claimant falls within the Medical-Monitoring Class. The Settlement Administrator will approve claims for qualifying submissions made for tests billed with CTP Codes 81001 (urinalysis) and 88112 (urine cytology).

40. Within ninety (90) days after the expiration of Medical Monitoring Period, the Settlement Administrator shall submit a report to the Parties' counsel (a) regarding the basis for rejection of any claims (the "Rejected Claims"); and (b) verification that all valid claims have been paid under this Settlement Agreement. Any disputes over Rejected Claims shall be resolved by the Court.

Payment to Members of Medical-Monitoring Class

41. After verifying the claims as outlined in Paragraph 39, and subject to the terms of Paragraph 40, the amount of the Medical Monitoring Settlement Fund shall be distributed by the Settlement Administrator as follows:

(a) The Settlement Administrator will calculate each claimant's requested reimbursement for timely and qualifying submissions made for tests billed with CTP Codes 81001 (urinalysis) and 88112 (urine cytology) (minus any applicable insurance or other payee source).

(b) The Settlement Administrator shall add all approved claims as calculated pursuant to Paragraph 41(a) together to calculate a total amount of reimbursement. Then, the Settlement Administrator shall determine a payment for each qualifying claim on a pro-rata basis, based on the total dollar value of all approved claims and the number of all approved claims (not to exceed the net actual out-of-pocket costs submitted by a claimant). If approved claims of all members of the Medical-Monitoring Class on an aggregate basis exceed the Medical Monitoring Settlement Fund, the payment to Class Members will be reduced accordingly on a per claim proportionate basis to not exceed the Medical Monitoring Settlement Fund.

(c) The Settlement Administrator will ensure that only one claim is approved per Class Member.

(d) No reimbursement will be provided until all claims subject to reimbursement have been received and approved or rejected.

42. Any amount remaining of the Medical Monitoring Settlement Fund after payment of the claims described in Paragraph 41 shall be paid to Class Counsel within 120 days of the close of the Medical Monitoring Period.

43. The Settlement Administrator shall provide a final accounting to the Parties of all funds deposited into and/or or paid from the Medical Monitoring Settlement Amount.

**Final Court Approval**

44. As soon as practicable after expiration of the period to opt out or object, Class Counsel will make a motion for the Court to enter an order (the “Order Granting Final Approval”) and a judgment (“Judgment”) that will:

(a) Determine that the Court has personal jurisdiction over the Hannibal Defendants and all members of the Settlement Classes, and jurisdiction to finally approve this Settlement Agreement.

(b) Resolve any objections to this Settlement Agreement or any request by Class Counsel for fees, costs or expenses.

(c) Finally approve this Settlement Agreement as being fair, reasonable, and adequate for the members of the Settlement Classes within the meaning of Missouri Rule of Civil Procedure 52.08 and any other applicable rules, and direct its consummation according to its terms.

(d) Enter an injunction in the form described in Paragraph 10, and declare that in the event of termination of this Settlement Agreement, the injunction order shall automatically be vacated.

(e) Approve the releases set forth in Paragraphs 23-28 of this Settlement Agreement, and enjoin the members of the Settlement Classes and anyone acting on their behalf from asserting any of the released claims.

(f) Define the Settlement Classes and finally certify them for settlement purposes only and identify those who are excluded from the Settlement Classes, and declare that in the event of termination of this Settlement Agreement, certification of the Settlement Classes shall automatically be vacated and the Hannibal Defendants may fully contest certification of any class as if no Settlement Classes had been certified.

(g) Approve the notice provided to the Settlement Classes as due, adequate, and sufficient, as the best practicable notice under the circumstances, and as fully satisfying the requirements of due process, the Missouri Rules of Civil Procedure, and any other applicable laws or rules.

(h) Approve the claims process used for the Settlement Classes as due, adequate and sufficient, and as fully satisfying the requirements of the Missouri Rules of Civil Procedure and any other applicable laws or rules.

(i) Direct that the Lawsuit be dismissed with prejudice, except as provided for in this Settlement Agreement and subject to the enforcement of this Settlement Agreement and injunctive relief identified in Paragraph 10, with each side to bear their respective attorneys' fees and costs other than those allowed by the Court as set out in Paragraphs 12 and 13 of this Settlement Agreement.

(j) Provide that the Court retains continuing jurisdiction over the Settlement Classes and the Hannibal Defendants to implement, administer, consummate, and enforce this Settlement Agreement and the Judgment and the Order Granting Final Approval.

(k) Determine under Missouri Rule of Civil Procedure 74 that there is no just reason for delay and direct that the judgment of dismissal with prejudice as to Defendant shall be final and appealable.

45. Once there is a non-appealable Judgment, Class Counsel shall fully comply with the terms of the Protective Order entered on September 1, 2017 in the Lawsuit and shall destroy or return to the Released Parties all documents and material produced, as required by the terms of the Protective Order, and all copies of same.

#### **Representations and Warranties**

46. Plaintiffs and Class Counsel represent and warrant that there are no pending personal injury claims in the Lawsuit, and that they are unaware of any such claims. Plaintiffs and Class Counsel further represent that they are unaware of any insurance, hospital, medical, Medicaid, Medicare, ERISA, Social Security, SSI, attorney liens, or any other type of lien of any kind whatsoever for any claims alleged in the Lawsuit, and that no parties other than those named in this Settlement Agreement have any interest in or right to the settlement proceeds being paid.

#### **Termination**

47. Plaintiffs and the Hannibal Defendants each may terminate this Settlement Agreement by providing written notice to counsel for the other parties and the Court within ten business days after any of the following occurrences:

(a) The Court does not enter a Preliminary Approval Order containing the provisions set forth in Paragraph 30 of this Settlement Agreement, or subsequently seeks to significantly modify any of its terms.

(b) The Court does not enter a Judgment and an Order Granting Final Approval containing the provisions set forth in Paragraph 44 of this Settlement Agreement, or subsequently seeks to significantly modify any of its terms. For the avoidance of doubt, any order of the Court that purports to impose additional financial obligations or other material obligations on the Hannibal Defendants, or Plaintiffs or Class Counsel, or any order on review or appeal that would have the foregoing effect, constitutes a basis for termination of this Settlement Agreement.

(c) The Court does not provisionally or finally certify for settlement purposes only the Settlement Classes as defined in Paragraph 3 above, or significantly limits or changes the composition of those Classes.

(d) Any terms of this Settlement Agreement, the Court's Preliminary Approval Order, the Court's Judgment, or the Court's Order Granting Final Approval are not substantially affirmed or are significantly modified on any appeal or otherwise. A modification or reversal on appeal of any amount of attorneys' fees and expenses awarded by the Court, or of an order approving a plan of distribution from the Settlement Fund, shall not be deemed a basis for termination of this Settlement Agreement.

(e) Any court issues an order affecting in whole or in part the Settlement Class definitions in Paragraph 3 above, the settlement consideration in Paragraphs 9-13 above, the release of claims in Paragraphs 23-28 above, or other material terms or conditions of this Settlement Agreement.

48. In the event that the number of members of the Settlement Classes who timely and validly request exclusion exceeds 20% of putative class members of the Settlement Classes, based on the estimated sizes of the Classes, the Hannibal Defendants may terminate this Settlement Agreement by providing written notice to Class Counsel and the Court within ten business days after counsel for the Settlement Administrator to provide the list of requests for exclusion described in Paragraph 35 of this Settlement Agreement.

49. In the event of an occurrence giving rise to a basis for termination of this Settlement Agreement, Plaintiffs and Defendant agree to negotiate reasonably and in good faith within thirty (30) days of any termination or disapproval by the Court, in whole or in part, to negotiate an appropriate amended Settlement Agreement.

50. In the event of termination of this Settlement Agreement:

(a) This Settlement Agreement shall be null and void, and of no force and effect, except as provided in subparagraphs (b)-(f) below.

(b) The Hannibal Defendants shall not be required to make any further payments to the Medical Monitoring Settlement Amount, and all sums that the Hannibal Defendants paid that are held by the Settlement Administrator shall be immediately paid to an account designated by the Hannibal Defendants.

(c) Any certification of the Settlement Classes by the Court, made pursuant to this Settlement Agreement, will automatically be vacated. The Hannibal Defendants will retain all defenses to certification and their non-opposition to the Settlement Classes for settlement purposes only shall not be used as evidence, and shall not be admissible as such, in support of class certification in the Lawsuit, or any other civil action or proceeding.

(d) Plaintiffs and the Hannibal Defendants shall revert to their positions prior to the execution of this Settlement Agreement, including with respect to the appropriateness of class certification, as if the Settlement Agreement had not been reached or executed.

(e) Plaintiffs will be given an opportunity and reasonable time to continue litigation that they have foregone in lieu of this Settlement Agreement, and may seek class certification with or without consent of the Defendants at a time to be determined by Court Order.

(f) The terms and conditions of this Settlement Agreement, the facts and circumstances surrounding this settlement, any publicly disseminated information regarding the Settlement Agreement, and any orders or motion filings or objections concerning the Settlement Agreement (including without limitation the Court's Preliminary Approval Order, the Order Granting Final Approval, the Judgment, and all motion papers concerning those Orders), may not thereafter be used as evidence, and shall not be admissible as such, in the Lawsuit, or any other civil action or proceeding.

### **Communications**

51. Plaintiffs, the Hannibal Defendants, and their respective counsel, including Class Counsel, shall not engage in any conduct or make any statements, directly or indirectly, to encourage, promote, or solicit members of the Settlement Classes or their counsel to request exclusion from the Settlement Classes or to object to this Settlement Agreement, or to facilitate, induce, or cause the non-fulfillment of a condition or the occurrence of an event giving rise to a right to terminate this Settlement Agreement.

52. Each party, their respective counsel, or anyone else acting on behalf of them, shall use reasonable efforts to ensure that any public statement made in connection with the Settlement

is consistent with and fair comment on the contents of the Notice, the allegations contained in the operative Petition and Answer, or confirmation that the Parties entered this Settlement Agreement. No party, or their respective counsel, or anyone else acting on behalf of them, may issue any press release, with the exception of any notice provided under the Notice Plan. The Parties' counsel may, however, make information about the Settlement available on their law firm website or blog so long as it is consistent with the other requirements of this Paragraph.

**Continuing Jurisdiction**

53. The Court will retain continuing jurisdiction over the Plaintiffs, the Settlement Classes, and the Hannibal Defendants to implement, administer, consummate, and enforce the Settlement Agreement, the Judgment, the injunction and the Order Granting Final Approval.

54. Plaintiffs, the Settlement Classes, and the Hannibal Defendants hereby irrevocably submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement, the Judgment, the injunction or the Order Granting Final Approval, or to the applicability of this Settlement Agreement, the Judgment, the injunction or the Order Granting Final Approval, which cannot be resolved by negotiation and agreement by Plaintiffs and the Hannibal Defendants. Without limiting the generality of the foregoing, it is hereby agreed that any dispute, including but not limited to any suit, action, or proceeding by a Plaintiff or member of the Settlement Classes, in which the provisions of this Settlement Agreement, the Judgment, the injunction or the Order Granting Final Approval are asserted as a defense in whole or in part to any claim or cause of action, or otherwise raised as an objection, constitutes a suit, action, or proceeding arising out of or relating to this Settlement Agreement, the Judgment, the injunction or the Order Granting Final Approval.

55. In the event that the provisions of this Settlement Agreement, the Judgment, the injunction or the Order Granting Final Approval are asserted by the Hannibal Defendants as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection in any other suit, action, or proceeding by a Plaintiff or member of the Settlement Classes, it is hereby agreed that the Hannibal Defendants may seek, and that Plaintiffs and Settlement Class members will not oppose, a stay of that suit, action, or proceeding until the Court has entered an order or judgment determining any issues relating to the defense or objections based on such provisions.

**Additional Terms and Conditions**

56. Plaintiffs, the Settlement Classes, the Hannibal Defendants, their respective counsel, and Class Counsel shall execute all documents and perform any additional acts reasonably necessary and proper to effectuate the terms of this Settlement Agreement and to obtain the benefit of this Settlement Agreement for Plaintiffs, the Settlement Classes, and the Hannibal Defendants.

57. The Hannibal Defendants specifically deny any and all liability in the Lawsuit. By entering into this Settlement, it is expressly understood and agreed that the Hannibal Defendants are not admitting any liability or wrongdoing whatsoever to Plaintiffs, any member of the Settlement Classes, or any other person or entity, and is not admitting the truth of any allegations or circumstances, nor are the Hannibal Defendants waiving any defense or affirmative defense.

58. This Settlement Agreement, and all negotiations, documents, and discussions associated with it, shall not be construed as, or deemed to be, evidence of any admission of any liability or wrongdoing on the part of the Hannibal Defendants or any of the Released Parties, or

of the truth or merit of any allegations or claims in the Lawsuit, or evidence of any admission on the part of Plaintiffs and the Settlement Classes that their potential claims lack merit, or the propriety of the certification of a damages or liability class in the Lawsuit; and shall not be offered or accepted as evidence of such in any litigation, arbitration, or other proceeding between or among Plaintiffs or members of the Settlement Classes and the Hannibal Defendants or any Released Party, and shall have no precedential value; provided, however, that nothing contained herein shall preclude use of this Settlement Agreement in any proceeding to enforce the Settlement Agreement. This paragraph shall survive any termination or rescission of the Settlement Agreement.

59. This Settlement Agreement constitutes the entire, complete, and integrated agreement between and among Plaintiffs, on behalf of themselves and the Settlement Classes, and the Hannibal Defendants with respect to the settlement of the Lawsuit, and is not subject to any condition not provided for in this Settlement Agreement. This Settlement Agreement supersedes all prior and contemporaneous negotiations and agreements and may not be modified or amended except by a writing signed by Plaintiffs and the Hannibal Defendants or their respective counsel.

60. This Settlement Agreement shall not be construed more strictly against any party to it merely because it may have been prepared by counsel for one of them, it being recognized that because of the arm's-length negotiations resulting in this Settlement Agreement, all parties to this Settlement Agreement have contributed substantially and materially to the preparation of it. All headings used in this Settlement Agreement are for reference and convenience only and shall not affect the meaning or interpretation of this Settlement Agreement.

61. The waiver by Plaintiffs, the Settlement Classes, or the Hannibal Defendants of any breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach of this Settlement Agreement, whether prior, subsequent, or contemporaneous.

62. This Settlement Agreement shall be construed, enforced, and administered in accordance with the substantive laws of the State of Missouri without reference to its conflict of laws principles.

63. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Plaintiffs and the Released Parties. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by Plaintiffs shall be binding upon all members of the Settlement Classes and the Releasing Parties.

64. Any notice or materials to be provided to Plaintiffs or the Settlement Classes pursuant to this Settlement Agreement shall be sent by e-mail and overnight delivery to:

Jonathan B. Nace, Esq.  
Nidel & Nace, PLLC  
5335 Wisconsin Ave., NW  
Suite 440  
Washington, DC 20015  
jon@nidellaw.com

or such other persons or addresses as Class Counsel may designate by giving notice to the other Parties.

65. Any notice or materials to be provided to the Hannibal Defendants pursuant to this Settlement Agreement shall be sent by e-mail and overnight delivery to:

Greg C. Mollett  
Abby L. Risner  
Greensfelder, Hemker, & Gale, P.C.  
10 South Broadway, Suite 2000  
St. Louis, MO 63102  
gcm@greensfelder.com  
alr@greensfelder.com

or such other persons or addresses as the Hannibal Defendants may designate by giving notice to the other Parties.

66. In entering into and executing this Settlement Agreement, Plaintiffs and the Hannibal Defendants warrant that they are acting upon their respective independent judgments and upon the advice of their respective counsel, and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other person or entity, other than the warranties and representations expressly made in this Settlement Agreement.

67. This Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument. A signature by facsimile or in PDF format will constitute sufficient execution of this Settlement Agreement.

IN WITNESS WHEREOF, the signatories have read and understood this Settlement Agreement, have executed it, represent that the undersigned are authorized to execute this Settlement Agreement on behalf of their respectively represented parties, have agreed to be bound by its terms, and have duly executed this Settlement Agreement.

05/30/18

Date

*Oliver C Latta*

Oliver Latta

05/30/18

Date

*Vickie Brooks*

Vickie Brooks

05/30/18

Date

*Crystal L. Stephens*

Crystal Stephens

06/01/18

Date

*Christine Stolte*

Christine Stolte

6-1-2018

Date

*[Signature]*

Class Counsel

Date

City of Hannibal

Date

Hannibal Board of Public Works