

SETTLEMENT AGREEMENT

This Settlement Agreement ("AGREEMENT") is made by and between The City of Spokane ("THE CITY OF SPOKANE"), and The Insurance Company of the State of Pennsylvania ("ICSOP").

RECITALS

WHEREAS, ICSOP issued Special Excess Liability Policy for Public Entities, Policy Number 3052653 from September 1, 2005 to September 1, 2006 ("POLICY") to the City of Spokane; and,

WHEREAS, The Estate of Otto Zehm, deceased, and Ann Zehm, in her personal capacity and as a representative of the Estate of Otto Zehm sued THE CITY OF SPOKANE in the United States District Court for the Eastern District of Washington, Case no. CV 09-80-LRS ("ZEHM LAWSUIT"), alleging, among other causes of action, wrongful death, violations of civil rights under § 1983, and misrepresentation; and,

WHEREAS, THE CITY OF SPOKANE provided notice to ICSOP seeking defense and indemnity ("CLAIM"); and,

WHEREAS, the parties to this AGREEMENT have agreed to resolve all disputes that may exist between them under the POLICY arising out of the CLAIM and the ZEHM LAWSUIT Settlement.

AGREEMENT

NOW THEREFORE, in accordance with the foregoing recitals, ICSOP and THE CITY OF SPOKANE hereby agree, represent and warrant as follows:

1. In consideration of ICSOP paying the sum of Nine Hundred Forty Nine Thousand, Four Hundred and Forty Five Dollars and 92 Cents (\$949,445.92), within ninety (90) days of ICSOP's receipt of a fully executed copy of the Settlement Agreement in the ZEHM LAWSUIT and as long as ICSOP has received a fully executed copy of this AGREEMENT, THE CITY OF SPOKANE, for itself and for its present or former, agencies (including, but not limited to, the Spokane Police Department, the Spokane Fire Department, and the Spokane City Attorneys Office), employees, agents, attorneys, affiliates, operating units, divisions, insurers, reinsurers, assigns, representatives, heirs, executors, associates, administrators and their attorneys, and their representatives, heirs, executors, administrators, and/or assignees (the "RELEASING PARTIES"), does hereby acknowledge full and complete satisfaction of, and does hereby fully, finally, and forever settles, releases, discharges, and acquits ICSOP, Chartis Claims, Inc. and any insurance company now part of the American International Group

or Chartis, Inc., and their present and former officers, directors, partners, principals, employees, agents, trustees, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, insurers, reinsurers, assigns, representatives, heirs, executors, associates and administrators, (the "RELEASED PARTIES") from and with respect to any and all claims, demands, suits, obligations, costs, damages, losses, claims for sums of money, contracts, controversies, agreements, judgments, and demands whatsoever, rights, liabilities, actions and causes of action of any nature, known or unknown, suspected or unsuspected, fixed or contingent in law or in equity, including, but not limited to, any claim of reimbursement of defense costs, and all extra-contractual claims, including, but not limited to, claims for bad faith, that the RELEASING PARTIES now have, claim to have, or in the future may have against the RELEASED PARTIES, under the POLICY, arising out of the CLAIM, and the ZEHM SETTLEMENT AGREEMENT.

2. Payment shall be made to Ann Zehm (SS# Genevieve Mann as PR of Estate of Otto Zehm (Estate EIN 68-6253039) and Paukert & Troppmann, PLLC (Tax ID# 26-4242760).

3. The parties to this AGREEMENT understand, acknowledge and agree that the negotiation, execution and performance of this AGREEMENT shall not constitute, or be construed as, an admission of any liability or infirmity of defense or claim whatsoever by any party. This AGREEMENT is a compromise of the unique circumstances presented herein and shall have no precedential value with respect to any other claim which has been or may be submitted to the RELEASED PARTIES for coverage under any policy of insurance.

4. The parties to this AGREEMENT understand, acknowledge and agree that this AGREEMENT constitutes the entire agreement among the parties relating to the matters specified herein, and that this AGREEMENT may not be altered, amended, modified or otherwise changed in any respect whatsoever, except by a duly executed writing.

5. It is agreed that by making payment pursuant to this AGREEMENT, ICSOP is not acting as a volunteer.

6. The parties to this AGREEMENT understand, represent and warrant that each enters into this AGREEMENT upon the legal advice of its attorneys, that said attorneys have explained the terms of this AGREEMENT, and that each party has read, fully understands, and knowingly and voluntarily accepts the terms of this AGREEMENT.

7. THE CITY OF SPOKANE acknowledges, represents and warrant that it has not assigned, sold, transferred or otherwise disposed of any of the claims released herein, including, but not limited to, the right to obtain insurance coverage under any insurance policy issued to THE CITY OF SPOKANE by ICSOP or any insurance company now part of the American International Group or Chartis, Inc. The City of

Spokane further acknowledges, represents and warrants that there are no liens against the proceeds of the POLICY.

8. The signatories to this AGREEMENT who sign on behalf of another hereby warrant they have the authority to sign on behalf of said entities.

9. The City of Spokane agrees to defend and to indemnify and hold harmless ICSOP from and against any demand, claim, suit or request for relief, action, or forbearance of any kind, by any person or entity claiming to be insured or entitled to insurance under the POLICY arising out of, or in any way related to the acknowledgements, representations and warranties made in paragraphs 6, 7, and 8, above.

10. In the ZEHM LAWSUIT, the following persons were named as defendants: Jim Nicks, Karl Thompson, Steven Braun, Zach Dahle, Erin Raleigh, Dan Torok, Ron Voeller, Jason Uberaga and Theresa Ferguson (hereafter the "NAMED INDIVIDUAL DEFENDANTS"). In the event any NAMED INDIVIDUAL DEFENDANT makes a claim against ICSOP under the POLICY, claiming a right to indemnity, costs or expenses, including but not limited to defense costs, arising out of his or her status as a NAMED INDIVIDUAL DEFENDANT, the City of Spokane agrees to defend (with counsel of ICSOP's choosing), indemnify and hold harmless ICSOP against any such claim(s).

11. This AGREEMENT may be executed in one or more counterparts and all executed counterparts, and each of them, shall be deemed to be one and the same instrument. The parties to this AGREEMENT shall exchange original signed counterparts.

12. This AGREEMENT, or any uncertainty or ambiguity herein, shall not be construed against any party, but shall be construed as if all parties to this AGREEMENT prepared the AGREEMENT.

13. Any dispute arising under this AGREEMENT shall be submitted to binding arbitration before the Hon. Michael J. Hogan.

14. If any term, provision, covenant or condition of this AGREEMENT shall be held by the arbitrator to be invalid, it shall be severed from any remaining portion hereof, and the remainder shall stand in full force and effect and shall in no way be affected, impaired or invalidated, to the extent the original intent of the PARTIES remains.

15. This AGREEMENT, in all respects, shall be interpreted, enforced and governed under the laws of the State of Washington.

16. This AGREEMENT is effective upon signing by all parties hereto.

IN WITNESS WHEREOF, THE CITY OF SPOKANE, and ICSOP, acting on their own behalf or through authorized representatives, have caused this agreement to be executed this 31st day of July, 2012.

INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA

By: Allen R. McKay
Title: Complex Director, CHARTIS CLAIMS, INC., claims administrator for The Insurance Company of the State of Pennsylvania
Date: 8/9/12

THE CITY OF SPOKANE

By: [Signature]
Title: City Attorney
Date: 7/31/12