WALTER HINTON, ET AL., Case No. CACE 07 30358 And RAY ADDERLEY, ET AL., Case No. CACE11008499 *Plaintiffs*, vs. CITY OF FORT LAUDERDALE, A Florida municipality, Defendant.	IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA JUDGE: PATTI ENGLANDER HENNING

COMPROMISE AGREEMENT

Subject to the approval of the Court, this Compromise Agreement (the "Agreement") is entered into among Individual Plaintiffs, as defined herein, on behalf of themselves as residents, property owners, and individuals who were otherwise exposed to the Lincoln Park Complex constituents of concern as defined herein, who allege they have been injured by elevated levels of arsenic and dioxin and other potential constituents of concern resulting from the Lincoln Park Area of Impact, as defined herein, and Defendant City of Fort Lauderdale, by and through their respective counsel. For purposes of this Agreement, Plaintiffs and Defendant shall be referred to collectively as "Parties" and singularly as "Party." The Parties intend for the Compromise Agreement to fully, finally, and forever resolve, discharge, and settle the Settled Claims, as defined herein, subject to both the terms and conditions of the Compromise Agreement and final, non-appealable approval of the Court.

WHEREAS, Plaintiffs stand by the allegations contained in their respective Complaints;

WHEREAS, Defendant denies Plaintiffs' allegations and maintains that it has meritorious defenses to Plaintiffs' claims and that the concentrations of any constituents of concern in the Lincoln Park Area of Impact are adequately protective of human health and the environment and do not constitute a risk to the community;

WHEREAS, Defendant has concluded, despite the belief that it is not liable for the claims asserted and the belief that it has good defenses thereto, that it will enter into this Compromise Agreement to avoid the further time and expense and risks associated with continued litigation, and to put to rest with finality all claims that have been or could have been asserted against it in the pending cases of *Walter Hinton, et al. v. City of Ft. Lauderdale,* Case No: 07-30358 and *Ray Adderley, et al. vs. City of Ft. Lauderdale*, CACE-11008499 (the "Litigation");

WHEREAS, Plaintiffs have thoroughly analyzed the facts and the law regarding this Litigation and have concluded that a Compromise with Defendant according to the terms set forth below is in the best interests of Plaintiffs and the Class;

WHEREAS, arm's-length Compromise negotiations have taken place between counsel for Plaintiffs and counsel for Defendant, and a well-qualified mediator, and this Compromise Agreement, which embodies all of the terms and conditions of the Compromise between Defendant and Plaintiffs has been reached as a result of the Parties' negotiations, subject to approval of the Court;

WHEREAS, Plaintiffs and Defendant agree that this Compromise Agreement shall not be deemed or construed to be an admission of responsibility or evidence of the truth of any of Plaintiffs' claims or allegations in the Litigation or any other actions, nor shall it be admissible to prove the truth of such allegations, nor estop the City from asserting any defense to future litigation unrelated to the Compromise Agreement;

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is hereby stipulated and agreed by and among the undersigned Parties that this action be settled, compromised and dismissed on the merits with prejudice as to the Released Parties, subject to the final, non-appealable approval of the Court, on the following terms and conditions.

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Definitions

As used in this Agreement, the following terms shall have the following meanings:

A. "City" means: The City of Fort Lauderdale, Florida; its Mayor and Commissioners and elected officials, past and present; its employees; and all Released Parties as defined herein.

B. "Claims Notice Program" or "Notice" means: the program, for distributing Notice to Eligible Plaintiffs negotiated by the Parties, and subject to approval by the Court, which contemplates providing Notice by mail, publication, posting, a Compromise website, and notice by other potential means. Upon conclusion of the notice period, any website will be removed and not available through internet searches.

C. "Class" or "Classes" means: collectively the Medical Monitoring Class and the Property Damage Class.

D. "Compensation Personal Injury Grid" means: the Grid, as described in Exhibit A of this Agreement.

E. "Contingency Fee Contract" means private retention contracts entered into between individual clients and law firms within the meaning of the Laws of the State of Florida.

F. "Effective Date" means: the expiration of the time for appeal or to seek permission to appeal from the Court's final approval of the Compromise Agreement and entry of the Final Judgment or, if an appeal from an approval and Final Judgment is taken, the affirmance of such Final Judgment in its entirety, without modification, by the court of last resort to which an appeal of such Final Judgment may be taken and upon which no more than five (5) percent opt outs from the collective Classes have been received.

G. "Eligible Plaintiff" means: any member of the Class, any named Plaintiffs in the Litigation, and any person claiming Exposure within the Lincoln Park Area of Impact who demonstrates bodily injury or property damage to the satisfaction of the Special Master, and any representative of a minor or incompetent plaintiff who has demonstrated authority to release the Settled Claims and to receive benefits under this Compromise Agreement.

H. "Exposure" means: alleged exposure to constituents of concern that emanated from Lincoln Park incinerator, which includes living in the Durrs Neighborhood for 10 years or more, attending Lincoln Park Elementary School, or playing in Lincoln Park up until the time it was closed for remediation.

I. "Lien Resolution Administrator" means: EPIQ, who shall establish procedures and protocols to identify and resolve liens held or asserted by Governmental Payors or Medicare Part C or Part D Program sponsors with respect to any Program Award Payment.

J. "Lincoln Park Area of Impact" means: the area depicted in a street map attached as an Exhibit to this Compromise Agreement, see Exhibit B.

K. "Litigation" or "Actions" means: *Hinton, et al. vs. City of Ft. Lauderdale*, Case No: 07-30358, in the Circuit Court of the 17th Judicial Circuit, in and for Broward County, Florida and *Ray Adderley, et al. vs. City of Ft. Lauderdale*, Case No: 11-008499.

L. "Medical Monitoring Class" means: any named Plaintiffs in the Litigation together with any person having been subject to exposure as defined in paragraph H.

M. "Objection Date" means: Thirty (30) calendar days after Notice issues of the preliminary approval of the Compromise Agreement by the Court.

N. "Order and Final Judgment" means: the final order entered by the Court approving this Compromise Agreement on terms substantially identical to the terms of this Compromise Agreement and dismissing the Actions with prejudice against the Defendant.

O. "Person" means: a natural person and, for purposes of releases only, the Durrs Homeowner's Association.

P. "Personal Injury Plaintiff" means: all plaintiffs who have filed a claim for personal injuries in *Walter Hinton et al., v. City of Fort Lauderdale*, 07-300358 and *Ray Adderley, et al., v. City of Fort Lauderdale*, CACE11008499, or who have shown Exposure within the Lincoln Park Area of Impact and demonstrated bodily injury to the satisfaction of the Special Master.

Q. "Program Award Payment" means: those sums payable under the Compromise Agreement which are authorized by the Special Master, and where applicable, implemented by the Administrator.

R. "Property Class" means: residents currently owning property for residential purposes located within the Lincoln Park Area of Impact. No property owned by the City in the Lincoln Park Area of Impact shall be eligible for inclusion.

S. "Property Class Plaintiff" means an Eligible Plaintiff who qualifies for a Program Award Payment from the Property Class Damage Fund.

T. "Property Plaintiff" means: all plaintiffs who have filed a claim for property damage in the following cases: *Walter Hinton et al., v. City of Fort Lauderdale*, 07-300358 and *Ray Adderley, et al., v. City of Fort Lauderdale*, CACE11008499, or are located within the Lincoln Park Area of Impact.

U. "Released Parties" shall refer jointly and severally, individually and collectively to the City and its past and present, direct and indirect, parents, subsidiaries, affiliates, officers, directors, employees, agents (including, but not limited to, brokers and landmen), attorneys, financial and business advisors, consultants, trusts, trustees, partners or general or limited partnerships, servants, and representatives (and the parents', subsidiaries', and affiliates' past and present officers, directors, employees, agents (including, but not limited to brokers and landmen), attorneys, financial and business advisors, consultants, trusts,

trustees, partners or general or limited partnerships, servants, and representatives), and any predecessors, successors, heirs, spouses, family members, estates executors, administrators, insurers, and assigns of each of the foregoing.

V. "Resident" means: a person who lived ten years or more within the Lincoln Park Area of Impact.

W. "Settled Claims" means: any and all claims, debts, demands, rights or causes of action or liabilities whatsoever (including, but not limited to, any claims for damages, interest, attorneys' fees and disbursements, expert or consulting fees and disbursements, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or un-liquidated, at law or in equity, matured or un-matured, including both known claims and unknown claims (i) that have been asserted in this Litigation by the Plaintiffs or members of the Class, or involve similarly situated persons in the Lincoln Park Area of Impact, or any of them against any of the Released Parties; or (ii) that could have been asserted in this or any other forum by the Plaintiffs or members of the Class, or similarly situated persons in the Lincoln Park Area of Impact, or any of them against any of the Released Parties, which arise out of or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, included or referred to in the Litigation.

X. "Special Master" means: Matt Garretson of Wolf Garretson, as recommended by Plaintiffs' Counsel and appointed by the Court, to perform the responsibilities assigned to the Special Master under this Agreement.

SCOPE AND EFFECT OF COMPROMISE

2.1 The obligations incurred pursuant to this Compromise Agreement shall be in full and final disposition of the Settled Claims and of this Litigation as against all Released Parties.

2.2 Upon the Effective Date, all Eligible Plaintiffs, and each of them, on behalf of themselves, their heirs, executors, successors and assigns, shall, with respect to each and every one of the Settled Claims, release and forever discharge, and shall forever be enjoined from prosecuting, any and all Settled Claims against any of the Released Parties.

THE COMPROMISE CONSIDERATION

3.1 Total Compromise Amount. Subject to the other terms of this Agreement, within 10 days of the Effective Date, Defendant shall place into the Qualified Settlement Fund the sum of $18,000,000.00 as the total Compromise Amount, to be distributed at the direction of the Special Master pursuant to this Agreement. The Compromise Amount to be paid by the City shall not exceed $18,000,000.00.

3.2 Exclusive Components of the Compromise Amount. The Compromise Amount shall consist of:

a. **Litigation Injury Fund**: is for all Eligible Plaintiffs who are alleged to have suffered bodily injury and property damage in the Lincoln Park Area of Impact, in *Walter Hinton et al., v. City of Fort Lauderdale*, 07-300358 and *Ray Adderley, et al., v. City of Fort Lauderdale*, CACE11008499, or who have shown Exposure within the Lincoln Park Area of Impact and demonstrated bodily injury to the satisfaction of the Special Master. The Special Master shall maintain a reserve account of no less than $250,000.00 in the Litigation Injury Fund for any person who establishes Exposure within the Lincoln Park Area of Impact for a period of one (1) year after the Effective Date. Any sums remaining in the reserve account upon the conclusion of the one (1) year period shall be distributed pro rata to the Eligible Plaintiffs.

b. **Property Damage Class Fund**: is for all members of the Property Damage Class.

c. **Medical Monitoring Class Fund**: is for all members of the Medical Monitoring Class as described in Section L of the Definitions section of the Compromise Agreement.

d. **Administrative Expenses:** The reasonable compensation, expenses and out-of-pocket costs of the Special Master, for services consistent with the terms of this Agreement, shall be paid out of the Compromise Amount. Further, reasonable fees, expenses and out-of-pocket costs of the Administrator of the Qualified Settlement Fund and the Lien Resolution Administrator for services directed by the Plaintiffs' Counsel, consistent with the terms of this Agreement, shall be paid out of the Compromise Amount.

3.3 The Compromise Amount shall not be increased for any reason.

3.4 The Compromise Amount is a reasonable compromise. Each Party agrees to support the Compromise Amount as a reasonable resolution of all Claims against the Defendant. In no circumstances shall the reasonableness and/or adequacy of the Compromise Amount be challenged by: (i) any Plaintiff who registers with the Final Compromise Agreement by executing the Release and Covenant Not to Sue; or (ii) any signatory to this Agreement.

3.5 The consideration for the Releases and Covenants Not to Sue is: (i) Defendant's execution of the Agreement, and (ii) the Plaintiffs' receipt of the Compromise Amount in accordance with the terms of the Agreement; and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by Eligible Plaintiffs and the Class.

3.6 A Legal Representative of a minor or incompetent is not entitled to receive a Program Award Payment under this Compromise Agreement for such minor or incompetent absent

proof of authority to release the Settled Claims and receive any such Program Award Payment on behalf of such minor or incompetent.

3.7 By executing the Agreement, each Eligible Plaintiff: (i) acknowledges that any Program Award Payment constitutes damages on account of property damages, personal injuries or physical injuries or physical sickness arising from the alleged exposure to constituents of concern in the Lincoln Park Area of Impact and no portion of the proceeds paid under the Agreement represents punitive or exemplary damages, penalties or fines nor prejudgment or post judgment interest, or non-physical injuries; (ii) waives and releases any and all claims for punitive or exemplary damages, penalties or fines or prejudgment or post judgment interest, or non-physical injuries; and (iii) waives and releases any claims for attorney's fees or litigation costs except as provided in the Compromise Agreement.

3.8 Class representatives shall be compensated as part of the Compromise Amount.

THE QUALIFIED SETTLEMENT FUND

4.1 The City shall pay the Compromise Amount into the Qualified Settlement Fund within ten (10) days of the Effective Date of this Agreement.

4.2 The funds paid into the Qualified Settlement Fund shall be used to satisfy Program Award Payments to Eligible Plaintiffs pursuant to the requirements and criteria set forth in this Agreement and to pay any other costs, fees, and expenses permitted by this Agreement.

4.3 The Qualified Settlement Fund shall be invested in United States Government Treasury obligations or money market funds invested solely in United States Treasury obligations, provided, however, that such portions of the Qualified Settlement Fund as may reasonably be needed to pay current expenses associated with issuing the Claims Notice Program and administering the Qualified Settlement Fund may be deposited in a federally insured bank account. All interest earned by the Qualified Settlement Fund become and remain part of each such Fund.

4.4 The City shall not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, use, or administration of the Qualified Settlement Fund, including, but not limited to, the costs and expenses of such investment, distribution, or administration.

4.5 The Special Master shall be solely responsible, subject to oversight of the Court, for directing the Administrator of the Qualified Settlement Fund to file all informational and other tax returns necessary to report any taxable or net taxable income earned by the Qualified Settlement Fund. The Administrator shall disburse from the Qualified Settlement Fund as and when legally required, any tax payments, including interest and penalties due on income earned by the Qualified Settlement Fund. The City shall have no responsibility to make any filings relating to the Qualified Settlement Fund and shall have no responsibility to pay tax on any income earned by the Qualified Settlement Fund or to pay any taxes on the Qualified Settlement Fund. Other than as specifically set forth herein, the City shall have no responsibility for the payment of taxes or tax expenses. The City disclaims any responsibility for characterizing, for tax purposes, the actual

settlement amount paid to any claimant, or for the impact such payment has on any federal, state, local or other governmental benefit for that recipient.

4.6 For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "Special Master" of the Qualified Settlement Fund shall be Matthew Garretson, who shall timely and properly file or cause to be filed on a timely basis, all tax returns necessary or advisable with respect to the Qualified Settlement Fund (including without limitation all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B-2(1)).

4.7 The Special Master shall cause the Administrator to treat, the Qualified Settlement Fund as being at all times "qualified settlement funds" within the meaning of Treas. Reg. § 1.468B-l. The Parties, Plaintiffs' Counsel, Defendants' Counsel, and the Administrator will not ask the Court to take any action inconsistent with the treatment of the Qualified Settlement Fund in such manner. In addition, the Administrator and, as required, the Parties shall timely make such elections as necessary or advisable to carry out the provisions of this paragraph, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-l(i)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Administrator to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter to cause the appropriate filing to occur. All provisions of this Agreement shall be interpreted in a manner that is consistent with the Qualified Settlement Fund being "qualified settlement fund" within the meaning of Treas. Reg.§ 1.468B-l.

RESPONSIBILITIES OF THE SPECIAL MASTER

5.1 The Special Master shall have the following responsibilities with respect to this Agreement:

5.1.1 Developing an allocation methodology in accordance with the requirements of ABA Model Rule 1.8;

5.1.2 Consulting on the communication and disclosures to Plaintiffs regarding the claim evaluation process and allocation methodology consistent with the terms of the Agreement;

5.1.3 Reviewing claims data, evaluating claims and approving the allocation of settlement proceeds consistent with the terms of the Agreement;

5.1.4 Coordinating and collaborating with other third parties, including but not limited to, the Administrator of the Qualified Settlement Fund and the Lien Resolution Administrator, as directed by the Plaintiffs, Parties or Court, consistent with the terms of the Agreement;

5.1.5 Coordinating and collaborating with Plaintiffs' Counsel to enable Plaintiffs' Counsel to complete tasks necessary to communicate and / or make payment to Plaintiffs or Class Members;

5.1.6 Providing Notice of the Settlement and registration for benefits;

5.1.7 Developing a comprehensive Outreach Campaign concerning the importance and availability of initial medical evaluations, followed by, if appropriate, generally accepted testing procedures;

5.1.8 Evaluating the feasibility of various cost-efficient options and related costs for telemedicine services to conduct initial evaluations to screen for indicators / symptoms;

5.1.9 Determining the clinical standards for the evaluation and testing and negotiate the rates with any of the Preferred Providers consistent with Exhibit C - Medical Monitoring who may be enrolled in the program;

5.1.10 Developing scheduling, billing, payment and other protocols with the Preferred Providers consistent with Exhibit C - Medical Monitoring; and

5.1.11 Such other and further responsibilities as are necessary to effectively and efficiently administer the Compromise Agreement or as assigned by the Court.

ATTORNEYS' FEES, COSTS AND EXPENSES

6.1 The Compromise Amount shall include all of Plaintiffs' Counsel fees, costs and, including without limitation the fees, costs and expenses of all Individual Plaintiffs' Counsel's vendors, consultants and experts, including the Special Master, with respect to the claims against the City. Eligible Plaintiffs, members of the Class, and Plaintiffs' Counsel shall hold the City harmless from any and all fees, litigation expenses, and disbursements arising out of the Settled Claims. The City shall not be liable for any attorney's fees, administrative fees, costs, or expenses except as may be included in the Compromise Amount.

6.2 Except as may be necessary to secure approval of the Compromise Agreement from the Court, Defendant agrees not to object to any (a) motion seeking the payment of Plaintiffs' Counsel's attorneys' fees, costs, and expenses, which will be filed within sixty (60) days following entry of an Order preliminarily approving the Compromise and authorizing notice, and (b) order awarding attorneys' fees, costs, and expenses to Plaintiffs' Counsel.

ESTABLISHMENT OF THE LITIGATION INJURY FUND

7.1 Within thirty (30) days of the entry of the Preliminary Approval Order of the Agreement, Plaintiffs will move the Court for an order (i) approving the establishment of a Litigation Injury Fund and (ii) the Litigation Injury Fund will be taken from the Compromise Amount identified in Section 3.1 of this Agreement.

7.2 Plaintiffs' Counsel shall administer the Litigation Injury Fund, subject to the jurisdiction of the Court, and promptly pay to each qualifying Eligible Plaintiff a Program Award

Payment pursuant to the terms of this Agreement and the accompanying Compensation Personal Injury Grid, attached hereto as Exhibit A.

7.3 The Special Master shall maintain a reserve account of no less than $250,000.00 for one (1) year after the Effective Date for purposes of making payments to any person who resided within the Lincoln Park Area of Impact for at least ten (10) years and has the medical conditions associated with exposure and has been determined by the Special Master to be eligible for compensation and is not a named plaintiff in the Litigation. Any person who fails to assert a claim for bodily injury to the Special Master within one (1) year of the Effective Date will be barred from seeking any relief from the City.

ESTABLISHMENT OF A MEDICAL MONITORING CLASS FUND

8.1 Within thirty (30) days of the entry of the Preliminary Approval Order of the Agreement, Plaintiffs will move the Court for an order (i) approving the establishment of a Medical Monitoring Class Fund ("MMCF") created through a trust agreement (the "Trust Agreement") attached hereto as Exhibit C. In accordance with the Compromise Agreement, the Compromise consideration to the MMCF will be taken from the Compromise Amount identified in Section 3.1 of this Agreement. That payment, and the earnings thereon, will be held by the MMCF until disbursed in accordance with the terms of the Compromise Agreement for payments to Preferred Providers consistent with Exhibit C, to attorneys for fees and costs, to lien holders, to governmental entities having an interest in the Compromise Amount, and federal and state taxing authorities for tax liabilities of the MMCF. The Compromise Amount, and the earnings thereon, shall remain subject to the jurisdiction of the Court until termination of the MMCF.

8.2 The motion will also request that the Court approve the appointment of Citibank, N.A. as custodian of the MMCF (the "Custodian") and approve the appointment of the administrator of the MMCF (as a "Qualified Compromise Fund") within the meaning of Section 1.468B-2(k)(3) of the Regulations, to administer the MMCF.

8.3 Any unexhausted funds remaining in the MMCF upon conclusion of the claim period established by the Court shall be transferred to Preferred Providers.

ESTABLISHMENT OF A PROPERTY DAMAGE CLASS FUND

9.1 Within thirty (30) days of the entry of the Preliminary Approval Order of the Agreement, Plaintiffs will move the Court for an order (i) approving the establishment of a Property Damage Class Fund and (ii) the Property Damage Class Fund will be taken from the Compromise Amount identified in Section 3.1 of this Agreement.

9.2 Plaintiffs' Counsel shall administer the Property Damage Class Fund, subject to the jurisdiction of the Court, and promptly pay to each member of the Property Damage Class Fund the compensation approved by the Court.

9.3 For purposes of the Property Damage Class Fund, disbursements shall be made based upon the individual property itself, regardless of the number of owners of such property. Property owners shall be responsible for distribution of any proceeds as between each other.

9.4 Any monies not distributed after administration of the Property Damage Class Fund shall revert to the Litigation Injury Fund and be distributed on a pro-rata basis by the Special Master to the Personal Injury Plaintiffs pursuant to the terms of this Agreement and accompanying Exhibits.

ELIGIBILITY

10.1 For the avoidance of doubt, it is understood and agreed that (i) subject to clause (ii), the Legal Representative of, a particular natural person (including a deceased natural person), in such capacity, has the same status hereunder as such particular natural person, and (ii) a natural person (including a deceased natural person) and his or her Legal Representative(s) shall constitute a single Eligible Plaintiff.

ADMINISTRATION OF COMPROMISE

11.1 This Compromise Agreement shall be administered by Plaintiffs' Counsel and the Special Master, the administration of which shall be subject to the supervision of the Court. Within 30 days after giving Notice as provided in this Agreement, and periodically thereafter until final approval by the Court, Plaintiffs' Counsel shall inform the Court and the City's Counsel of the number of persons who have elected to opt out of the Class. Plaintiffs' Counsel shall also inform the Court and the City's Counsel if at any time the opt out numbers exceed those necessary to consummate the Compromise Agreement. Plaintiffs' Counsel may delegate parts or all of the administration of the Medical Monitoring Class Fund and the Property Damage Class Fund to a qualified Special Master to be selected by Plaintiffs' Counsel and approved by the Court.

RELEASES AND PLAINTIFFS' COVENANTS NOT TO SUE

12.1 Plaintiffs' Releases and Covenants Not to Sue. Eligible Plaintiffs and members of the Class accepting any compensation or benefits under this Compromise Agreement will execute Releases and Covenants Not to Sue in the form attached hereto as Exhibit D. In the Releases and Covenants Not to Sue, Plaintiffs and Class Members and their successors, assigns, heirs and beneficiaries, if any, and, for deceased Plaintiffs, the executor, Administrator or personal representative of the Plaintiff's estate, will release, each and all of the Settled Claims. In addition, in the Releases and Covenants Not to Sue, Plaintiffs and members of the Class and their successors, assigns, heirs and beneficiaries, if any, and, for deceased Plaintiffs, the executor, Claims Administrator or personal representative of the Plaintiff's estate, will covenant not to sue the Released Parties on the Settled Claims. Plaintiffs and members of the Class covenant and agree that they, and each of them, shall not, after the Effective Date of this Compromise Agreement, assert any claim or commence or continue any proceeding seeking to recover against any of the Released Parties for any of the Settled Claims. Settled Claims involving minors or legally incapacitated individuals would be subject to the approval provisions outlined in Paragraph 18.1.

It is the express intent of the Parties that all Settled Claims within the Lincoln Park Area of Impact be compromised and adjudicated as part of this Compromise Agreement.

12.2 Plaintiffs' and Class Members' Waiver of Contest to Governmental Action. Eligible Plaintiffs and members of the Class as a duty and obligation under the Compromise Agreement agree not to oppose efforts by the City to remediate or otherwise address any residual alleged constituents of concern in the Lincoln Park Area of Impact, including but not limited to non-opposition to any actions of the City seeking approval of its activities at the site from the Florida Department of Environmental Protection or U.S. Environmental Protection Agency. Members of the Property Damage Class Fund agree to reasonably cooperate with the City in conducting any site work that may be deemed necessary to address any alleged constituents of concern.

12.3 Plaintiffs' and Class Members' Waiver of Their Right to Contest Their Releases and Covenants Not to Sue. Without limiting in any way any of the other provisions in this Section, Eligible Plaintiffs who execute a Release pursuant to the Final Compromise Agreement do so voluntarily and knowingly relinquish any right to contest any aspect of their Releases and Covenants Not to Sue.

12.4 Parties' Right to Enforce This Agreement. Nothing in this Section shall affect any Party or Parties' right to sue another Party or Parties to enforce this Agreement.

12.5 Return of Releases. If this Agreement is voided pursuant to this Agreement, any and all executed Releases and Covenants Not to Sue shall have no force or effect and shall be returned to Plaintiffs' Counsel.

12.6 Conditional Class Certification. The Parties consent to conditional certification of the Litigation as a class action for settlement purposes only as defined in the Compromise Agreement.

12.7 Reservation of Rights as To Class Certification for Compromise Purposes. Nothing in this Compromise Agreement shall constitute, in this or in any other action or proceeding, an admission by the City, or a finding or evidence that: (a) the City is liable for the Settled Claims; (b) any claims that either were brought or could have been brought in the Litigation are appropriate for class treatment; or (c) any requirement for class certification has been or could otherwise be satisfied.

LIENS, ASSIGNMENT RIGHTS AND OTHER THIRD-PARTY PAYOR CLAIMS

13.1 Global Waiver of Governmental Liens and Rights of Set-Off: The City, in order to resolve the Litigation, waives any rights to set-off, recovery, lien, and/or social services eligibility requirements, related to any City sponsored or underwritten governmental entitlement programs held by an governmental entity, or any other right of recovery, whether statutory, contractual or common law, against any Compromise Amount allocation to any Plaintiff, except outstanding property taxes which may be due the City; provided however this waiver shall be ineffective as against any federal or state requirement of recovery for which any failure of adherence may put

the City out of compliance with the administration of any such program. The waiver of offset against Compromise Amount shall be construed as expansively as possible and will include, among other programs and payments: (i) all past, present or future social services programs; (ii) all past, present and future workers' compensation benefits paid to any Plaintiff; and (iii) any and all recoveries, payments and allocations from any other entities or sources related to the Lincoln Park contamination. The waiver effected by this section shall not preclude the City from recovering any amounts otherwise due the City from any Plaintiff or member of the Class from funds other than those allocated under this Compromise Agreement, or as to third parties any governmental subsidy or insurance reimbursement as to any portion of the Compromise Amount or future remediation work.

13.2 Each Plaintiff shall identify to the Special Master all known lien holders with claims against any payment to be received by any Plaintiff or member of the Class under the Final Compromise Agreement, including without limitation, Medicare, Medicaid, the Florida Department of Health and Human Services, all third-party public or private payors that have paid for and/or reimbursed him or her for medical expenses, pharmacy expenses, disability benefits, or any other costs and expenses incurred due to or arising out of injuries alleged. The Special Master shall develop procedures with respect to each Plaintiff's or member of the Class' duty to identify all such lien holders, whether directly to the Special Master and / or through the Lien Resolution Administrator.

13.3 The Special Master shall exercise reasonable efforts to confirm the Medicare claim information provided by Plaintiffs and members of the Class, and, working with the Lien Resolution Administrator, to identify any additional Medicare claims not reported by Plaintiffs or members of the Class. The Special Master shall ensure all claims that have been or may be asserted by Medicare based upon the provision of medical care or treatment provided to the Plaintiff or member of the Class connected with or alleged to be connected with Claims settled pursuant to the Final Compromise Agreement are resolved, either by the Plaintiff or member of the Class or by their representative, such as counsel or the Lien Resolution Administrator; provided that nothing herein is intended to create a right of reimbursement where none would otherwise exist under applicable state or federal tort recovery statutes.

13.4 In addition to resolution of reimbursement claims defined in this Section, the Special Master and the Lien Resolution Administrator shall cooperate with the City and its outside service providers and respond to their reasonable requests for information required to fulfill the Compromise reporting duties associated with Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007.

13.5 All Other Liens, Assignment Rights and Other Third-Party Payor Claims. In addition to the foregoing provisions, all other liens, assignment rights and other third party payor claims – including, without limitation, all liens by all other third-party payors, all subrogation claims, liens, or other rights to payment relating to medical treatment or lost wages, or any liens based on any legal expenses, bills, or costs that have been or may be asserted by any health care provider, insurer, employer, attorney or other person or entity – shall remain the sole responsibility of Plaintiffs and members of the Class. Eligible Plaintiffs and members of the Class will satisfy,

indemnify, repay, and hold the City harmless from any and all such claims, liens, and rights to payment, including attorneys' fees or litigation costs.

13.6 Plaintiffs' Representations and Warranties Regarding All Liens, Assignment Rights and Other Third-Party Payor Claims. Prior to receiving any Compromise funds, each Plaintiff or member of the Class shall represent and warrant to the Special Master that any liens or other claims identified above have been or will be satisfied by the Eligible Plaintiff or member of the Class. The Special Master shall be under no obligation to cause any payment to be made to an Eligible Plaintiff or member of the Class who fails to provide satisfactory proof to the Administrator that all such liens have been or will be satisfied or compromised. The Special Master will establish payment and disbursement procedures with the Administrator of the Qualified Settlement Fund to withhold from any payment to be received by any Eligible Plaintiff or member of the Class the specific dollar amount or percentage of the payment that Medicare, Medicaid, the Florida Department of Health and Human Services agrees is the maximum amount it will seek to resolve any liens.

FUND QUALIFICATION

14.1 Medical Monitoring Class Fund Qualification. To qualify for Medical Monitoring, a person must either be 1) any named Plaintiffs in the Litigation; or 2) any person qualifying for class membership which requires that a person has lived in the Lincoln Park Impact Area for at least ten years. No individual person shall receive more than $200,000.00 in medical benefits from this fund. The decisions of the Special Master are final.

14.2 Property Damage Class Fund Qualification. To qualify for a Property Damage Fund award, an Eligible Plaintiff must be a resident owning property for residential purposes currently and continuously since April 11, 2007 located within the Lincoln Park Area of Impact. No property owned by the City in the Lincoln Park Area of Impact shall be eligible for inclusion.

14.3 Litigation Injury Fund Qualification. To qualify for a Litigation Injury Fund award, a person must be an Eligible Plaintiff, who has filed a claim for personal injuries in the following cases: *Walter Hinton et al., v. City of Fort Lauderdale*, 07-300358 and *Ray Adderley, et al., v. City of Fort Lauderdale*, CACE11008499, demonstrating Exposure, or who has shown Exposure within the Lincoln Park Area of Impact for at least ten years and demonstrated bodily injury resulting from said exposure and that said qualifying personal injury falls within the designated injuries of the Compensation Personal Injury Grid, Exhibit A, or property damage, to the satisfaction of the Special Master.

NOTICE

15.1 No later than 10 days after the Court issues a Preliminary Approval Order, the Special Master shall begin to implement the Notice Program, including distribution of Notice by mail, Notice by publication, and implementation of a website consistent with the Notice Program approved by the Court. Any costs associated with Notice shall be a part of the Compromise Amount and the City shall have no responsibility relative to the cost of such notice.

15.2 The Parties, and any person accepting benefits hereunder, agree that the form and publication of the Notice as detailed in this Section and the Claims Notice Program (described in Exhibit E) constitutes fair and adequate notice upon approval by the Court.

APPLICATION FOR ORDER FOR NOTICE AND HEARING

16.1 Within ten (10) days after execution of the Compromise Agreement, Plaintiffs shall submit to the Court a motion (which motion the City shall have the opportunity to review and approve and thereafter to which they shall not object except as to changes beyond the contemplation of the Parties) requesting entry of an Order preliminarily approving the Compromise Agreement, and authorizing dissemination of Notice, as outlined below, as well as a stay of all proceedings against the City except those proceedings provided for or required by this Compromise Agreement.

16.2 The motion shall seek an order:

a) Preliminarily approving the terms and conditions of the Compromise Agreement, including the appointment of the Special Master, subject to the Fairness Hearing and final approval by the Court in the Final Compromise Order;

b) Establishing the Notice and publication provisions advising the Eligible Plaintiffs of the proposed Compromise hearing and dispute processes;

c) Approving the establishment of a website upon which all Compromise documents and related forms shall be accessible; and

d) Finding that the Notice in the form of Exhibit E hereto fairly and adequately: (i) describes the terms and effect of this Agreement and the Compromise; (ii) gives adequate notice of the time and place of the Fairness Hearing for final approval of the Compromise; (iii) describes how the recipients of the Notice may object to approval of the Compromise; and (iv) constitutes due and sufficient notice of the matters set forth in the Notice to all individuals entitled to receive such Notice.

16.3 On the date set by the Court, the Parties shall participate in the hearing at which the Court will determine: whether the proposed Compromise of the Settled Claims on the terms and conditions provided for in this Agreement is fair, reasonable and adequate and should be approved by the Court; whether a judgment should be entered herein; whether the distribution of the Compromise Amount as provided in this Agreement should be approved; and to determine the amount of fees and expenses that should be awarded to Plaintiffs' Counsel (the "Fairness Hearing"). The Parties will reasonably cooperate with one another in obtaining acceptable Orders at the Fairness Hearing and will act in good faith to secure approval of the Compromise Agreement.

APPLICATION FOR ORDER AND FINAL JUDGMENT

17.1 Subject to the City's review and approval, which shall not be unreasonably withheld, Eligible Plaintiffs and members of the Class shall within fifteen (15) days after the Effective Date of this Agreement seek, and the City shall not object to (provided that no material term is changed by the Court), entry of a final judgment order:

a) directing that the Actions be dismissed with prejudice;

b) reserving exclusive jurisdiction over the administration and consummation of this Compromise Agreement, the Special Master, and the Class funds; and

c) finding under Florida Rules of Civil Procedure that there is no just reason for delay and directing that the judgment of dismissal as to the City shall be final and entered forthwith.

APPLICATION FOR APPROVAL OF COMPROMISE AS TO MINORS

18.1 If deemed necessary by the Court, a Guardian Ad Litem shall be nominated by the Parties and approved by the Court to examine this Agreement and make a recommendation to the Court regarding the fairness, reasonableness and adequacy of this Agreement to determine whether the Compromise is in the best interest of any minor or incompetent seeking benefits under the Compromise Agreement. The Guardian Ad Litem shall investigate the potential claims for minor or incompetents, and shall, following such investigation, report the results of his or her independent investigation to the Parties, and make a recommendation to the Court as to the fairness, reasonableness and adequacy of this Agreement to determine whether the Compromise is in the best interest of such minor or incompetent. Compensation of the Guardian Ad Litem will be paid out of the Compromise Amount.

OBJECTIONS TO AND COMMENTS IN SUPPORT OF THE COMPROMISE

19.1 Any Plaintiff or similarly situated person within the Lincoln Park Area of Impact who intends to object to the Compromise Agreement must do so on or before the Objection Date.

19.2 All objections to and comments in support of the Compromise must be sent in writing or submitted via the online process. In order to object, the Plaintiff or similarly situated person within the Lincoln Park Area of Impact must include in the objection submitted to the Court and served on Plaintiffs' Counsel and Counsel for the Defendant the following information:

a) The name, address and telephone number of the Person objecting and, if represented by counsel, of his or her counsel;

b) A written statement of all grounds for the objection;

c) A statement of whether the objector intends to appear at the Fairness Hearing; and

d) If the objector intends to appear at the Fairness Hearing through counsel, the objection must also identify the attorney(s) representing the objector who may appear at the Fairness Hearing.

19.3 Any Plaintiff or similarly situated person within the Lincoln Park Area of Impact who fails to timely file and serve a written objection on or before the Objection Date shall not be permitted to object to the approval of the Compromise at the Fairness Hearing and shall be foreclosed from seeking any review of the Compromise or the terms of the Agreement by appeal or other means. Unless otherwise ordered by the Court, Plaintiffs or similarly situated persons within the Lincoln Park Area of Impact who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the Compromise unless otherwise directed by the Court.

19.4 Any objector electing to be represented by counsel shall be solely responsible for any fees and costs incurred or charged by such counsel, and in no event shall the Parties be responsible for such fees or costs.

TAXES

20.1 For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "Administrator" of the MMF shall be the Administrator operating at the direction of the Special Master, who shall timely and properly file or cause to be filed on a timely basis, all tax returns necessary or advisable with respect to the MMF (including without limitation all income tax returns, all informational returns, and all returns described in Treas. Reg. § 1.468B-2(1)).

MISCELLANEOUS PROVISIONS

21.1 All of the Exhibits attached to this Agreement are hereby incorporated by reference as though fully set forth herein.

21.2 Governing Law: This Agreement shall be governed in all respects by the laws of the State of Florida.

21.3 Exclusive Venue in the Event of Any Disputes: The Parties agree that the venue of any dispute regarding this Agreement shall be in the Seventeenth Judicial Circuit Court of Florida, and will be referred to as *Hinton, et al. v. City of Fort Lauderdale Case No. 07-030358(26) and Adderley, et al. v. City of Fort Lauderdale, Case No. CACE11008499(26).*

21.4 Merger Clause: This Agreement constitutes the Parties' entire agreement as respects its subject matter. All discussions and any and all oral or written agreements previously entered into or entertained by Parties or any of them concerning this Agreement or any of its subject matter are hereby merged into this Agreement. No representations, warranties, or inducements have been made by any Party concerning this Agreement and its Exhibits other than those contained and memorialized in such documents.

21.5 Plaintiffs' Counsel and Defendant's counsel will cooperate and undertake all reasonable actions in order to accomplish the entry of Final Judgment.

21.6 The Parties intend this Compromise Agreement to be a final and complete resolution of all disputes asserted or which could have been asserted by Eligible Plaintiffs or members of the Class or similarly situated persons within the Lincoln Park Area of Impact against the Released Parties with respect to the Settled Claims. Accordingly, Plaintiffs' Counsel and the City agree not to assert in any forum that this Litigation was brought by Plaintiffs or defended by the City in bad faith or without a reasonable basis. The Parties shall assert no claims of any violation of the applicable Florida Rules of Civil Procedure or Florida State Bar relating to the prosecution, defense, or Compromise of the Litigation. The Parties agree that the amount paid and the other terms of this Compromise were negotiated at arm's length in good faith by the Parties and reflect a Compromise that was reached voluntarily after consultation by each Party with their own experienced legal counsel and an experienced mediator

21.7 This Agreement may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by all Parties or their respective successors-in-interest.

21.8 The headings herein are used for the purpose of convenience only and are not meant to have legal effect.

21.9 The administration and consummation of this Compromise as embodied in this Agreement shall be under the authority of the Court and the Court shall retain jurisdiction for the purpose of entering orders enforcing the terms of this Agreement.

21.10 All counsel and any other person executing this Agreement and any of the Exhibits or any related Compromise documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to this Agreement to effectuate its terms.

21.11 Plaintiffs' Counsel and the City's Counsel agree to cooperate fully with one another in seeking Preliminary Approval by the Court of the Compromise and approval of the Notice the Order for Notice and Hearing, the Order and Final Judgment, this Agreement and this Compromise, and to promptly agree upon and execute all such other documentation as may be reasonably required to obtain final approval by the Court of the terms and conditions of this Compromise.

21.12 The terms of this Compromise Agreement have been jointly executed by Plaintiffs and the City. Neither Plaintiffs nor the City shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

FINAL COMPROMISE AND AGREEMENT PROVISIONS

22.1 Dismissal with Prejudice: Within fifteen (15) days after the Effective Date, and payment has been received, Eligible Plaintiffs shall dismiss with prejudice, and without exception, all of their Claims against the City using the form of Stipulated Order of Dismissal with Prejudice Pursuant to Final Compromise Agreement attached as Exhibit F to this Agreement. Any Eligible Plaintiff identified and approved by the Special Master after the Effective Date shall assent to such dismissal and file his joinder with the Court.

22.2 Enforceability: Each of the provisions of this Final Compromise Agreement shall be deemed to be severable in the event any provision or provisions of this Final Compromise Agreement are deemed or become voided or unenforceable, in which event the remaining provision or provisions shall remain in full force and effect unless the provision(s) rendered void or unenforceable cause this Final Compromise Agreement to fail in any of its essential purposes.

22.3 Legislative Approval. Notwithstanding anything contained herein to the contrary, to the extent that it is determined that any amount allocable under this Compromise Agreement is subject to and exceeds any cap imposed under Fl. Stat. 768.28, then the parties agree that they will jointly seek legislative approval.

IN WITNESS WHEREOF, the City and the Plaintiffs execute this Agreement as follows:

CITY OF FORT LAUDERDALE

Dean J. Trantalis, Mayor

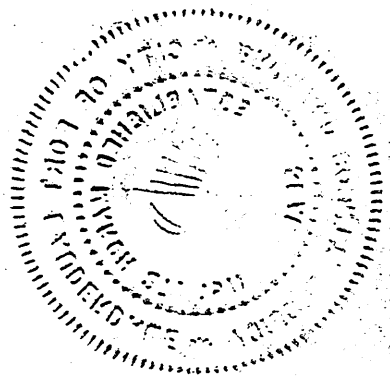
Christopher J. Lagerbloom,
City Manager

ATTEST:

Jeffrey A. Modarelli
City Clerk

Approved as to form:

Alain E. Boileau
City Attorney



T Collins

By: Ta'Veca Collins
As representative of Hinton
Plaintiffs

COUNTY OF BROWARD)
)SS
STATE OF FLORIDA:

The foregoing instrument was acknowledge before me by means of ☑ physical presence or ☐ online notarization, this 28th day of July, 2020 by Cecilia Quevedo

(SEAL) Notary Public, State of Florida

(Signature of Notary Public)

Notary Public State of Florida
Cecilia Quevedo
My Commission GG 108669
Expires 05/25/2021

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ✓ or Produced Identification

Type of Identification

Robbie M. Walker Shropshire
By: Robbie M. Walker-Shropshire
For Herself and as Class Representative
for the Medical Monitoring and Property
Sub-Classes set forth in this Agreement

STATE OF FLORIDA: COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this 11th day of July, 2020, by Robbie M. Walker Shropshire.

Notary Public State of Florida
Cecilia Quevedo
My Commission GG 108669
Expires 05/25/2021

(SEAL) Notary Public, State of

(Signature of Notary Public)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ✓ OR Produced Identification ___

Type of Identification Produced:

Approved as to Form:

Reginald J. Clyne, Esq.
Kimare S. Dyer, Esq.
Quintairos, Prieto, Wood & Boyer, P.A.
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kimare.dyer@qpwblaw.com

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Louise R. Caro, Esq.
Aaron R. Modiano, Esq.
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lcaro@napolilaw.com
amodiano@napolilaw.com

Approved as to Form:

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lcaro@napolilaw.com
amodiano@napolilaw.com

COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

(2)(L)(G) 8/7/2020

Today's Date: 8/4/2020

DOCUMENT TITLE: COMPROMISE AGREEMENT (HINTON/ADDERLEY v. CFL)

COMM. MTG. DATE: 5/19/2020 **CAM #:** 20-0397 **ITEM #:** M-2 **CAM attached:** ☒YES ☐NO

Routing Origin: CAO **Router Name/Ext:** Jolene C./5035 **Action Summary attached:** ☒YES ☐NO

CIP FUNDED: ☐ YES ☒ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least $50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

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1) City Attorney's Office: Documents to be signed/routed? ☒YES ☐NO # of originals attached: 2

Is attached Granicus document Final? ☒YES ☐NO Approved as to Form: ☒YES ☐NO

Date to CCO: 8/4/2020 Alain E. Boileau (Attorney's Name) AB (Initials)

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2) City Clerk's Office: # of originals: 2 **Routed to:** City Manager's Office **Date:** 8/4/2020

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3) City Manager's Office: CMO LOG #: Aug 6 Document received from: _____

Assigned to: CHRIS LAGERBLOOM ☐ TARLESHA SMITH☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: **Tarlesha Smith** _____ (Initial/Date)

☐ **PENDING APPROVAL** *(See comments below)*
Comments/Questions:_____

Forward 2 originals to ☒ Mayor ☐ CCO **Date:** 8-5-2020

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4) Mayor/CRA Chairman: Please sign as indicated. Forward 2 originals to CCO for attestation/City seal (as applicable) **Date:** _____

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5) City Clerk: Forward 2 originals to CAO for **FINAL APPROVAL** **Date:** _____

6) CAO forwards 2 originals to **CCO** **Date:** _____

7) City Clerk: Scan original and forwards 2 originals to: Alain E. Boileau/CAO

Attach ____ certified Reso # _____ ☐YES ☒NO **Original Route form to:** Jolene C.

Rev. 1/27/2020