

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

A RESOLUTION authorizing the Acting County Counselor to settle claims arising from property damage at the Truman Medical Center Lakewood facility, for a total payment of by the County of \$537,275.26 from insurance proceeds.

RESOLUTION # 17180, February 22, 2010

INTRODUCED BY Henry C. Rizzo, County Legislator

WHEREAS, on or about June 18, 2009, a break occurred in the chiller system at the Truman Medical Center Lakewood facility resulting in a leak and subsequent property damage (the Incident); and,

WHEREAS, after a thorough investigation and negotiations, the Acting County Counselor recommends settlement, whereunder the amount of \$537,275.26 would be paid by the County to Truman Medical Center, Inc., from insurance proceeds as full and final settlement of any claim arising from the Incident; and,

WHEREAS, the proposed settlement is in the best interest of the health, safety and welfare of the citizens of Jackson County; now therefore,

BE IT RESOLVED by the County Legislature of Jackson County, Missouri, that the Acting County Counselor be and hereby is authorized to settle the claims of Truman Medical Center relating to the Incident herein described, with a total payment of \$537,275.26, in full, final and complete release of all claims against the County and all of its employees, officers, agents and servants as to any damages incurred; and,

BE IT FURTHER RESOLVED that the Acting County Counselor be and hereby is authorized to execute any and all documents necessary to effect this settlement; and,

BE IT FURTHER RESOLVED that the Director of Finance and Purchasing be and hereby is authorized to issue checks in an amount totaling \$537,275.26, in full and complete settlement of this claim, pursuant to the specific direction of the Acting County Counselor.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:

Pamela Jellen
Deputy/Assistant County Counselor
Certificate of Passage

W. M. Suplee
Acting County Counselor

I hereby certify that the attached resolution, Resolution # 17180 of February 22, 2010, was duly passed on February 22, 2010 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

2.22.10
Date

Mary Jo Spino
Mary Jo Spino, Clerk of Legislature

There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.

ACCOUNT NUMBER: 060 5160 56380

ACCOUNT TITLE: Self Insurance Fund
Non-Departmental
Uninsured Claimants

NOT TO EXCEED: \$537,275.26

February 22, 2010
Date

D. J. Moore
Director of Finance and Purchasing

Fiscal Note:

This expenditure was included in the Annual Budget.

Date: February 19, 2010

RES # 17180

<u>Department / Division</u>	<u>Character/Description</u>	<u>Not to Exceed</u>
Worker's Compensation Fund - 060		
<u>5160 - Non Deptmntl Self-Insurance</u>	<u>56380 - Uninsured</u>	<u>537,275.26</u>

Mary Rasmussen
Budgeting

Total 537,275.26

SETTLEMENT AGREEMENT AND MUTUAL RELEASES

This Settlement Agreement and Mutual Releases ("Agreement") made between Jackson County, Missouri ("County") and Truman Medical Center, Incorporated ("TMC") and jointly referred to as the "Parties" is made as compensation and settlement of all claims between the Parties arising from the property damage that occurred at the TMC Lakewood facility on or about June 18, 2009 as a result of a leak that occurred when a break occurred in the chiller system ("the Incident"). The Parties agree to the following terms:

GENERAL RELEASE BY PARTIES

1. "County" means Jackson County, Missouri, to include its elected officials, officers, officials, employees, agents, and representatives.
2. "TMC" means Truman Medical Center, Incorporated, its directors, members, employees, counsel, heirs, successors, predecessors assigns, agents, associates, consultants, advisers, parents, and subsidiaries and representatives, including legal representatives.
3. County and TMC hereby release and hold harmless from each other any and all claims, damages, lawsuits, injuries, liabilities and causes of action that they may have towards one another, whether known to the Parties or not, arising out of their interaction with one another as it relates to the Incident.
4. County and TMC understand and agree that they are hereby releasing each other from all rights and claims that they might be able to assert under any federal or state constitutional provision, statute or common law or under any County ordinance, policy or procedure. The Parties understand that by signing this Agreement, they are waiving and giving up any rights they might have to seek arbitration, bring suit and collect damages, costs, expenses, attorneys' fees, or otherwise recover any money from one another or for any action or inaction of the parties concerning or relating to the Incident, except as provided in this Agreement.
5. Both Parties agree that payment of \$537,275.26 by County to TMC represents a full and complete compromise and full settlement of any claim between the Parties arising from the Incident, and that no additional action of any kind, other than this Agreement being executed, is to be taken.
6. TMC will indemnify and hold harmless the County from any claims, claims of regulatory agencies, damages, lawsuits, injuries, liabilities and causes of action resulting from the accidental discharge of ethylene glycol or any other potentially hazardous material that may have occurred on or about June 18, 2009.

ADDITIONAL TERMS

7. Nothing in this Agreement shall be construed as an admission of liability or wrongdoing by the County or by TMC, in that all such liability and wrongdoing being expressly denied by each of them. Except to the extent pre-empted by federal law, the provisions of this Agreement shall be construed under the laws of the State of Missouri and are severable. If any one or more provisions are or may be determined by a court of competent jurisdiction to be unenforceable, in whole or in part, the remaining provisions of this Agreement shall nevertheless be binding and enforceable to the maximum extent permitted by law. It is agreed by the Parties that should any provision of this Agreement require interpretation or construction, the person or entity interpreting or construing this Agreement shall not apply a presumption that the provisions shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who prepared the agreement.

READ, UNDERSTAND AND VOLUNTARILY SIGNED AGREEMENT

8. The County and TMC state that they have read this Agreement, and understand it. They further acknowledge that they have had sufficient time to consider this Agreement and that they have signed it voluntarily. The Parties acknowledge that neither has been coerced or pressured by any other person or the other party to sign this Agreement. They further understand that this Agreement contains all of the terms and agreements relating to the matters covered by this Agreement, and they are not relying upon any oral statements or representations of any other party or their employees, officers, representatives or attorneys.

THIS AGREEMENT IS EXECUTED ON THE 16th DAY OF Feb. 2010.

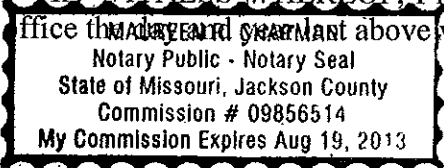
Truman Medical Center, Incorporated

By: [Signature]
Its: JOHN W. BLUFORD
PRESIDENT / CEO

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 16th day of Feb, ²⁰¹⁰ 2009, before me, appeared John W. Bluford, known to me or proved to be the person named and being duly sworn, did acknowledge that he/she has read the foregoing Agreement and that he/she has signed this Agreement as his/her free and voluntary act and deed and that he is authorized to sign on behalf of and bind Truman Medical Center, Incorporated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office this 16th day of Feb, 2010.



[Signature]
Notary Public

My Commission Expires: 8-19-2013

JACKSON COUNTY, MISSOURI ("COUNTY")

By: _____
William G. Snyder, Acting County Counselor