

## MUTUAL RELEASE, SETTLEMENT AGREEMENT AND COVENANT NOT TO SUE

This Mutual Release of all Claims, Settlement Agreement, and Covenant not to Sue (hereinafter referred to as "Agreement") is made by and between Stephen D. Paulsell (hereinafter referred to as "Paulsell") and the Boone County Fire Protection District (hereinafter referred to as "BCFPD").

**Whereas** Paulsell has been employed as the Fire Chief for BCFPD and believes and claims that said employment is pursuant to an agreement dated March 24, 2005; and

**Whereas**, BCFPD has denied the validity of said employment agreement and/or other claims regarding his employment made or that could have been made by Paulsell; and

**Whereas**, Paulsell and BCFPD desire to settle, compromise and resolve the same;

**Now, therefore**, in consideration of the mutual covenants and conditions set forth in this Agreement, Paulsell and BCFPD do hereby agree to this Agreement and the terms set forth below.

- A. Non-admission of liability:** Neither this Agreement nor any action taken hereunder is to be construed as an admission by the BCFPD of the validity of the aforementioned employment agreement or any other claims or allegations made or that could have been made pursuant to Paulsell's employment, nor does the entry into this Agreement by Paulsell constitute any admissions by Paulsell regarding any claims that have been made by BCFPD or that could have been made by BCFPD.
- B. Retirement:** In consideration of this Agreement and the payments provided for herein, Paulsell does hereby retire from his employment with BCFPD, effective January 1, 2009. Within fourteen (14) days of the execution of this Agreement, Paulsell shall remove his personal effects (certificates, commendations and plaques issued to Paulsell in his name only, personal artwork, personal files, personal helmet and coat) from the BCFPD Headquarters or other properties. In addition, Paulsell shall return any BCFPD property, including but not limited to, uniforms, cell phones, pagers, etc. by said time or shall have made satisfactory arrangements to do so by said time. While Paulsell shall remain on the BCFPD payroll through December 31, 2008, he shall have no rights or duties as Fire Chief, effective upon execution of this Agreement. In announcing his retirement, Paulsell shall announce that it was done by agreement with the Board of Directors of BCFPD.
- C. Release of all claims and Covenant not to Sue:** Paulsell and his successors, assigns, agents, beneficiaries, personal representatives, heirs and descendants, do hereby release and forever discharge BCFPD and all of its respective predecessors, successors, assigns, officers, directors, elected and appointed representatives, fiduciaries, employees, agents, attorneys, insurers, re-insurers and any related person or entity (hereinafter sometimes collectively referred to as "released parties") from any

and all claims, damages, lawsuits, injuries, liabilities and causes of action or demands, including any and all claims for attorney's fees, court costs, and any other expenses, monies, benefits, severance pay, accrued vacation, or other sums that might be due pursuant to the aforementioned employment agreement, or any other sums related to any other claims made or that could have been made, known or unknown, that he might now have or might have in the future, arising out of his employment with BCFPD, including, but not necessarily limited to all rights and all claims that he has asserted or might have asserted for breach of contract, hostile work environment, disparate treatment, retaliation, constructive discharge, denial of equal protection, failure to train and failure to supervise, denial of first amendment rights, and all claims that were or could have been asserted Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §2000e, et seq.), the Employee Retirement Income Security Act (29 U.S.C. §1001, et seq.), the Consolidated Omnibus Budget Reconciliation Act of 1985 (27 U.S.C. §1161, et seq.), the Americans with Disabilities Act (42 U.S.C. §12101, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. §701, et seq.), the Family and Medical Leave Act (20 U.S.C. §2601, et seq.), the Equal Pay Act (29 U.S.C. §206, et seq.), the Age Discrimination and Employment Act (ADEA), (29 U.S.C. §621, et seq.), the Fair Labor Standards Act (29 U.S.C. §201, et seq.), the Missouri Human Rights Act (Mo. Rev. Stat. §213.010, et. seq.), and any other law prohibiting employment discrimination. Paulsell expressly accepts and assumes the risk that additional or different facts or claims may be discovered after execution of this release in full, and he agrees that this release in full, including the language of this paragraph, will remain effective not withstanding any such discovery. In addition, BCFPD releases Paulsell from any and all claims, known or unknown, that it may have against him arising out of his employment, including any claims for any overpayment of any salary, benefits, or otherwise, it being the intent that this be a mutual release of all claims that the parties may have between them. Paulsell's release of BCFPD shall in no way effect his right to vested benefits under the Retirement Plan or the Deferred Compensation Plan.

In conjunction with this Agreement, the parties do hereby now and forever, covenant and agree not to sue each other and to refrain forever from instituting, pursuing, pressing, collecting, or and in any way aiding or proceeding upon any and all claims, demands, judgments, debts, causes of action, suits or proceedings of any kind, nature or description, past, present or future, known or unknown, related to Paulsell's employment excluding enforcement of any executory portions of this Agreement. This covenant not to sue shall serve as a bar to any attempted proceeding by either of the parties against each other.

**D. No obligation to employ:** Paulsell understands and agrees that BCFPD has no obligation to employ, hire, or rehire him, to consider him for hire in any respect at any location, office, or place of business with regard to employment or potential employment.

**E. Confidentiality:** The parties agree to keep the fact, terms and provisions of this Agreement in complete and absolute confidence, and agree not to reveal them to any person, other than to their accountants, tax consultants, attorneys, taxing authorities, or

spouse without written permission from the non-disclosing party. Without such permission, the parties shall only reveal that this matter is "resolved" and that they are "not at liberty to discuss it further." The parties and their attorneys agree that neither they nor persons to whom they have made disclosure of this agreement as authorized above will make any statements to the press, media or to former or current employees or volunteers of BCFPD regarding the terms of this Agreement. The parties recognize and agree that either may be required to respond to a request for information concerning this Agreement in the event such inquiry is made pursuant to the Missouri "Sunshine Act" (if made to BCFPD) or, in response to a court order or subpoena. Any such disclosure under those circumstances will be deemed not to be a violation of this confidentiality provision. In the event this Agreement is disclosed pursuant to a "Sunshine Act" request, then, in such event, the parties agree that neither of them will make any defamatory comments about each other or the terms of this Agreement. The parties acknowledge that Paulsell shall be at liberty to discuss other matters involving his employment with BCFPD as long as he does not discuss the terms and provisions of this Agreement except as allowed herein. The provision herein regarding confidentiality shall also apply to the Board of Directors of BCFPD and to the individual members of the Board of Directors of the Boone County Fire Protection District. This provision shall not prohibit Paulsell from announcing his retirement as stated above.

**F. Public Comment:** The parties both agree to not make any defamatory, false, inaccurate or untruthful statements regarding the other to the press, public, or any third parties in regard to Paulsell's employment with BCFPD. The provisions of this paragraph shall also apply to the Board of Directors of the Boone County Fire Protection District and individually to the members of The Board of Directors of The Boone County Fire Protection District.

**G. Further Provisions:** Paulsell agrees that he shall not be affiliated with Missouri Task Force One or be maintained on the MOTF1 Roster as long as MOTF1 is sponsored by BCFPD. In the event MOFT1 is sponsored by any entity or agency other than BCFPD then Paulsell shall be entitled to be a member of the same. Paulsell will be permitted to enter upon any BCFPD property in a like manner as any member of the public.

**H. Consideration:** In consideration of the Agreement set forth herein, the receipt and sufficiency of which is hereby acknowledged, BCFPD will provide the following:

1. Paulsell shall be entitled to the remainder of his regular 2008 annual salary (\$177,058.44) for the remainder of the calendar year of 2008, the same to be paid at regular payroll intervals. In addition, BCFPD will continue to pay Paulsell and his dependent's health insurance premiums for the remainder of 2008. Thereafter Paulsell will have COBRA rights as to continuation of health insurance.
2. BCFPD will make the annual payments to The Jackson National Deferred Compensation Plan, in a like manner as has been done in prior years, and

will also make the annual 2008 Pension Plan payments to Lincoln in a like manner as previous years. These payments will be made no later than January 15, 2009. These payments will be for the calendar year 2008 and Paulsell will not be entitled to any further retirement benefits or deferred compensation benefits after December 31, 2008.

3. Paulsell is currently the named insured under a whole life policy with Transamerica Occidental Life Insurance Company, Policy Number 92281819. If the same has not already been assigned to Paulsell as owner of the policy, the same shall be assigned to Paulsell. Paulsell shall be responsible for any premium payments after the date of such assignment or the execution of this Agreement, whichever date is later. Any disability policy that also exists as to Paulsell with Assurity Life Insurance, Policy Number 4003147432 shall also be assigned to Paulsell and it shall become his responsibility for any premium payments after the date of such assignment.
4. BCFPD will make payment to Paulsell in the total sum of \$300,000.00 representing payment of any severance pay, accrued vacation, other accrued benefits, and/or sums for any other claims alleged by Paulsell or that could have been made by Paulsell. The payment shall, at the option of Paulsell, either be a lump sum on or before January 5<sup>th</sup>, 2009, or spread out over the calendar years 2009 and 2010, with Paulsell to receive no more than two payments each year, which said payments shall be made after Paulsell having given two weeks notice to BCFPD. It is the intent of the parties that the payments provided here shall be made in no more than four payments over the next two calendar years. From said sum, normal deductions including withholding for income tax and employment tax purposes consisting of Federal withholding; FICA withholding, Medicare/Medicaid withholding, and Missouri withholding shall be made and shall be reported on a W-2 for Paulsell for the calendar year 2009 or the calendar years 2009 and 2010. Despite such payments, Paulsell shall not be entitled to any retirement, pension or deferred compensation benefits or payments for the calendar year 2009 or thereafter.

**I. Existing Retirement Plan and Deferred Compensation Plan:** Paulsell is entitled to retain all existing Retirement Plan and Deferred Compensation Plan amounts that are vested and shall be entitled to "roll" the same over into an IRA or other qualified retirement plan if he so elects.

**J. Last Date of Employment:** It is understood and agreed by and between the parties that Paulsell's last day of employment with the BCFPD shall be December 31, 2008.

**K. Attorney's Fees:** Each of the parties hereto shall be responsible for their own attorney's fees incurred in regard to any representation, negotiations or dealings leading up to the execution of this Agreement.

**L. Read, Understand and Voluntarily Sign Agreement:** In making this Agreement, the parties rely wholly upon their own judgment, belief and knowledge and the advice of their respective legal counsel or representative. The parties each acknowledge that they have been given a reasonable time within which to consider this Agreement, that they have read and understand this Agreement and that they enter into this Agreement freely and voluntarily.

**M. Entire Agreement:** This Agreement constitutes the full, complete and entire Agreement of the parties. There are no representations, promises, or agreements, whether expressed or implied, that are not set forth in this Agreement. All executed copies of this Agreement, whether signed in counterparts or otherwise or duplicate or originals, are equally admissible into evidence.

**N. ADEA Provision:** Paulsell understands that pursuant to the ADEA he has twenty-one (21) days to consider this Agreement, but may voluntarily execute this Agreement before the end of the twenty-one (21) day period. Paulsell further understands that he may revoke his Agreement to waive any claims he may have under the ADEA during the seven (7) days following his execution of this Agreement. Paulsell agrees to deliver any such revocation in writing to BCFPD within seven (7) days of his execution of this Agreement. Paulsell understands that the aspects of this Agreement regarding his release of claims under the ADEA shall not become effective until the expiration of seven (7) days from the date of his execution of this Agreement. If Paulsell elects to revoke his waiver and release of ADEA claims, this Agreement only as to such claims shall thereafter be null and void. The remaining terms and provisions of this Agreement shall remain in full force and effect. Paulsell acknowledges that he has been advised to consult with an attorney regarding his rights under the ADEA prior to the execution of this Agreement and that he has consulted with an attorney regarding his rights under the ADEA or has voluntarily chosen not to do so.

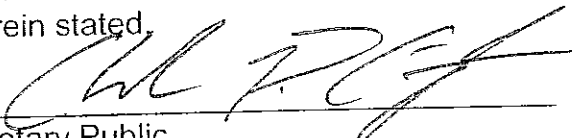
**I HAVE READ THE FOREGOING MUTUAL RELEASE, SETTLEMENT AGREEMENT AND COVENANT NOT TO SUE, FULLY UNDERSTAND IT AND AGREE AND ACCEPT THE TERMS THEREIN.**

  
STEPHEN D. PAULSELL

11/25/08  
Date

STATE OF MISSOURI     )  
  )ss.  
COUNTY OF BOONE     )

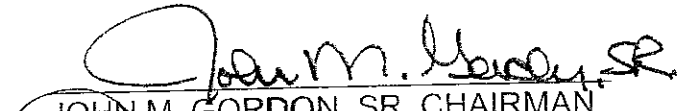
Now on this 25<sup>th</sup> day of November, 2008, before me,  
Stephen D. Paulsell, a Notary Public in and for said state,  
personally appeared Stephen D. Paulsell, who after being duly sworn, acknowledged to  
me that he executed the foregoing Mutual Release, Settlement Agreement and  
Covenant not to Sue, for the purposes therein stated.

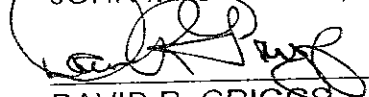
  
\_\_\_\_\_  
Notary Public

My commission expires:  
April 19, 2012

**CHARLES PCUNNINGHAM**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Boone County  
My Commission Expires: April 19, 2012  
Commission# 08382062

APPROVED THIS 25<sup>th</sup> DAY OF NOVEMBER, 2008

  
\_\_\_\_\_  
JOHN M. GORDON, SR. CHAIRMAN

  
\_\_\_\_\_  
DAVID R. GRIGGS

  
\_\_\_\_\_  
SHELLY DOMETRORCH

  
\_\_\_\_\_  
JOHN SAM WILLIAMSON

  
\_\_\_\_\_  
PHYLLIS FUGIT

THE ABOVE BEING THE BOARD OF DIRECTORS, BOONE COUNTY FIRE PROTECTION DISTRICT