

CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Confidential Settlement Agreement and General Release (“Agreement”) is entered into by Laura McBride (“McBride”) and Carla Barnes (“Barnes”), each a “Party”, and the County of McLean, named as indemnitor, and collectively referred to herein as the “Parties,” on the date set forth below (“Effective Date”), in consideration of, and subject to, the payments, promises, terms, and conditions set forth herein.

RECITALS

WHEREAS, McBride was an employee of the County of McLean and Barnes was the Public Defender for McLean County;

WHEREAS, McBride filed a lawsuit in the United States District Court for the Central District of Illinois (Case No. 1:18 cv 01424) (the “Lawsuit”), alleging various claims against Barnes arising out of her employment with the County of McLean and the elimination of her position as Criminal Defense Investigator with the Public Defender’s office;

WHEREAS, Barnes denies the allegations against her in the Lawsuit, denies any liability to McBride and does not admit or acknowledge any wrongdoing;

WHEREAS, the Parties, to avoid the costs and delays associated with litigation, have fully compromised and resolved all claims, defenses and disputes relating to or arising from the Lawsuit or which could have been raised as part of the Lawsuit, and agree as follows:

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which each of the Parties acknowledges, the Parties hereby agree as follows:

1. **Recitals.** The recitals set forth above are true and correct, and incorporated herein and made a part hereof as if fully set forth herein.
2. **No Admissions and No Liability.** The Parties acknowledge that this Agreement represents a compromise and final settlement of disputed claims and agree that the performance of the conditions and provisions of this Agreement, including the Settlement Payment is not to be construed as an admission of any liability or wrongdoing whatsoever by any Party to this Agreement. The Parties are entering into this Agreement merely to avoid the costs, delays and inconvenience associated with protracted litigation of this matter including but not limited to the prevailing party attorney fee shifting statute provided for in McBride’s section 1983 claim.
3. **Payment.** In consideration for the promises and undertakings contained in this Agreement, and in full settlement for all damages, including attorneys’ fees and costs, to which McBride made a claim in the Lawsuit, the County of McLean (“County”) shall pay to McBride the total lump sum total of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) (the “Settlement Payment”) in full satisfaction of all claims and disputes between the Parties and subject to the payment provisions set forth in paragraph 4. Within ten (10)____business days after the Effective Date of this Agreement shall deliver the Settlement Payment to McBride’s counsel.

4. **Characterization of Payment.** The Parties intend and hereby stipulate that the Settlement Payment set forth in Paragraph 3 is comprised of the following component parts. The Settlement Payment will be paid as follows:

- a. One check made payable to Laura McBride for non-wage related payments in the amount of Eighty-Seven Thousand Five Hundred Dollars (\$87,500.00), which will be reported on Form 1099-MISC in Box 3.
- b. One check made payable to McBride's attorneys, "Kralovec McClain, LLC", in the amount of Thirty-Seven Thousand Five Hundred Dollars (\$37,500.00) as and for attorneys' fees. Such amount will be reported on Form 1099-MISC in Box 10 for Kralovec McClain, LLC.
- c. McBride shall be solely responsible for, and is legally bound to make payment of any taxes determined to be due and owing (including penalties and interest related thereto) by her to any federal, state, local, or regional taxing authority as a result of the Settlement Payment. McBride understands that Barnes and the County have not made, and McBride does not rely upon, any representations regarding the tax treatment of the sums paid pursuant to this Agreement. McBride agrees to indemnify and forever hold Barnes and the County harmless against loss from any and all further claims, demands, and actions in law or equity relating to any taxes owed on the Settlement Payment, or by any taxing authority with respect to the allocations of the Settlement Payment, including, claims, demands, or actions involving the payment or withholding of federal taxes, state taxes and local taxes, or Social Security payments, including interest and penalties.

5. **Release.**

a. By McBride. In consideration of the mutual covenants in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, McBride and her spouse, descendants, dependents, heirs, representatives, agents, attorneys, successors, and assigns, hereby waive, release, and discharge Barnes in her individual and official capacities and the County, from any and all complaints, claims, charges, claims for relief, demands, suits, actions, and causes of action, whether in law or in equity, whether administrative, judicial, or other, which they have asserted or could assert against Barnes and the County or any of its employees, elected officials, or appointed officials, at any time or up until the execution of this Agreement, specifically including, but not limited to, any and all claims alleged as part of the Lawsuit, any claims arising from her employment with the County whether known or unknown, and claims at common law or under any statute, ordinance, rule, regulation, order, policy, or law, whether federal, state, or local, on any grounds whatsoever, known or unknown, including any and all claims arising under Illinois's fair employment statutes, Illinois common law, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Civil Rights Acts of 1866 and 1871, the Immigration Reform and Control Act, the Fair Labor Standards Act, the Employee Retirement and Income Security Act, the federal Family and Medical Leave Act, the Americans with Disabilities Act, the Equal Pay Act, the Age Discrimination in Employment Act, the Older Workers' Benefit Protection Act, and any and all actions for breach of contract, express or implied, breach of the covenant of good faith and fair dealing, express or implied, wrongful termination in violation of public policy, all other claims for wrongful termination and constructive discharge, and all other tort claims, including assault, battery, intentional or negligent infliction of emotional distress, invasion of privacy, negligence, negligent investigation, negligent hiring or retention, defamation, libel or slander, intentional or negligent

misrepresentation, fraud, whistleblowing, and any and all other laws and regulations relating to employment termination, employment discrimination, harassment or retaliation, and any and all claims for attorneys' fees and costs.

b. By Barnes. In consideration of the mutual covenants in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Barnes hereby waives, releases, and discharges McBride from any and all complaints, claims, charges, claims for relief, demands, suits, actions, and causes of action, whether in law or in equity, whether administrative, judicial, or other, which Barnes could assert against McBride at common law or under any statute, ordinance, rule, regulation, order, policy, or law, whether federal, state, or local, on any grounds whatsoever, arising out of the Lawsuit, or McBride's employment with the County, whether known or unknown as of the Effective Date, including but not limited to, any and all actions for tort claims, including assault, battery, intentional or negligent infliction of emotional distress, invasion of privacy, negligence, defamation, libel or slander, intentional or negligent misrepresentation, fraud, and any and all claims for attorneys' fees and costs known to Barnes as of the Effective Date.

6. **Rights and Claims Excluded From the Release.** Excluded from the release in Section 5 above are: (i) any rights which cannot be waived as a matter of law; and (ii) any claims arising from the breach of this Agreement.

7. **Termination of All Actions and Covenant Not To Sue.**

a. Dismissal with Prejudice of the Lawsuit. On or before May 18, 2022, assuming the McLean County Board has approved this Agreement, the Parties agree to file a stipulation of dismissal with prejudice, dismissing all claims and counterclaims in the Lawsuit with prejudice, and with each Party taking full responsibility and liability for their own attorneys' fees and costs. The Parties expressly agree to execute any further or additional instruments as may reasonably be required, and to perform any other acts necessary, to effectuate and carry out the purposes of this Agreement.

b. Covenant Not To Sue. Except as may be necessary to enforce this Agreement, to the fullest extent permitted by law, McBride agrees not to permit, authorize, initiate, join, or continue any lawsuit or other proceedings against Barnes, in either her individual or official capacity, or the County, based in whole or in part on any claim released under this Agreement.

Confidentiality. Each Party covenants that, at no time, before the Effective Date of this Agreement, has a Party disclosed, orally or in writing, the amount of the Settlement Payment, other than to a Party's respective spouse, attorney or tax consultant. The Parties agree, as a material provision of this Agreement, from the date of signing this Agreement onward, they will keep the existence of this Agreement, the negotiations and discussions leading to this Agreement, and the terms and conditions of this Agreement, strictly confidential and, except as required by law, will not review, discuss or disclose, orally or in writing, the existence of this Agreement, the negotiations leading to this Agreement, or any of its terms and conditions with any persons, organization, or entity, other than a Party's spouse, attorney, or tax consultant, on the condition that disclosure by such persons shall be deemed a breach of this Agreement. If inquiries arise regarding the Lawsuit or this Agreement by anyone other than those listed above, a Party will simply state that the "the matter has been amicably resolved" and will make no further comment. If a Party is required by law through subpoena or otherwise to disclose information described in this paragraph, it will immediately contact the other Party's attorney to inform her of that fact and to provide an opportunity to challenge the legal process which would

result in disclosure of such information. Notwithstanding the foregoing, a Party may disclose this Agreement and its terms to: members of her respective immediate family; her legal counsel; her tax advisors, auditors, and fiscal agents; and as otherwise required by law, including but not limited to making truthful statements or disclosures regarding the Lawsuit or this Agreement, as compelled by subpoena, court order and/or legal process. Each Party further recognizes and agrees that the damages a Party would sustain in the event of a breach of confidentiality will be difficult if not impossible to ascertain. Therefore, each Party agrees that, in the event of a proven breach of confidentiality as herein described, the non-breaching Party shall be entitled to damages in the amount of \$1,000.00 per occurrence of each individual breach, in addition to attorney's fees and costs of enforcement of this provision as the sole and exclusive remedy as liquidated damages for a Party's breach of confidentiality. Each Party acknowledges and agrees that the payment of \$1,000.00 per occurrence plus attorney's fees and costs as liquidated damages pursuant hereto is fair and reasonable in light of all the circumstances existing on the date of this Agreement, including the reasonable estimation of the possible range of damages to a Party in the event of a breach of this Agreement. The Parties hereby agree that the damages that would be suffered by a Party in the event of such a breach of this provision would be impossible to determine accurately and that proof of the amount of such damages would be costly and inconvenient.

The County agrees that it, its directors, and members of administration, will not disclose the existence or terms of this Agreement to any person inside or outside County government, other than to those having a material and legitimate business necessity for the information.

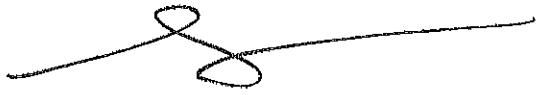
8. **Mutual Non-Disparagement**. As a material inducement for Barnes to enter into this Agreement, McBride agrees not to disparage Barnes in any manner likely to be harmful to her professional or personal reputation. Barnes agrees not to disparage McBride in any manner likely to be harmful to McBride's professional or personal reputation. Notwithstanding the foregoing, nothing in this Agreement shall prevent McBride or Barnes from responding accurately and fully to any question, inquiry or request for information when response is required by legal process. The Parties agree that the liquidated damages provisions contained in paragraph 8 of this Agreement apply in the event of a breach of this mutual non-disparagement provision as the non-breaching parties' sole and exclusive remedy.
9. **Governing Law and Jurisdiction /Waiver of Jury Trial**. This Agreement will be governed by and construed in accordance with laws and judicial decisions of the State of Illinois, without regard to its principles of conflicts of laws. Any action regarding this Agreement must be brought and prosecuted in the United States District Court for the Central District of Illinois, and the Parties will not dispute that personal jurisdiction or venue is appropriate and convenient. The Parties further agree that in the event that such an action is commenced, the right to a jury trial is waived.
10. **Representation by Counsel**. The Parties acknowledge that they have been represented by and have relied upon counsel of their own choosing in the negotiations for the preparation of this Agreement, that they have had a reasonable period of time to consider whether to enter this Agreement, that they have read this Agreement, have had its contents fully explained to them by

their counsel, and are fully aware of and understand all of its terms and the legal consequences thereof.

11. **Contractual Capacity.** The individuals executing this Agreement below attest that they have full legal authority to execute this Agreement; that none of the claims released herein have been assigned to any third party; and that the payments made pursuant to this Agreement are not subject to any lien or setoff.
12. **Interpretation, Severability, and Enforcement.**
 - (a) Interpretation. The headings in this Agreement are purely for convenience and are not to be used as an aid in interpreting its terms. The Parties agree that they participated equally in drafting and negotiating the terms of this Agreement and that this Agreement shall not be construed against either Party as the author or drafter of this Agreement.
 - (b) Severability. Should any provision of this Agreement be declared or be determined by any court to be illegal, invalid, or unenforceable, the validity of the remaining parts, terms, or provisions shall not be affected thereby and the illegal, invalid or unenforceable part, term, or provision shall be deemed not to be a part of this Agreement.
13. **Entire Agreement.** This Agreement constitutes the complete agreement between the Parties as to the subjects contemplated herein. No other promises or agreements, either express or implied, shall be binding upon such Parties unless hereinafter reduced to writing and signed by the Parties. The failure of any Board Member to sign this Agreement in his or her personal capacity shall not affect the validity or enforceability of this Agreement.
14. **Execution of Agreement.** This Agreement may be executed in two counterparts, including with executed signature pages exchanged electronically via scanned and emailed .pdf copies, each of which will be deemed an original, and all of which together will constitute one and the same instrument.
15. **Voluntary and Knowing.** This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties.
16. **No Assignment or Transfer of Claims.** Each Party represents and warrants that it is the rightful owner of and has not encumbered, assigned, or transferred, nor will it in the future attempt to encumber, assign, or transfer, any claim for relief or cause of action released herein.
17. **Effective Date.** The terms of this Agreement will be effective as of the date of approval by the County of McLean Board and executed and delivered by the Parties for signature. Each Party shall execute this agreement within two (2) business days of the County of McLean Board approving this Agreement.

EACH UNDERSIGNED PARTY HEREBY DECLARES THAT THEY HAVE READ AND UNDERSTAND ALL OF THE TERMS OF THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE, AND BY EXECUTION HEREOF VOLUNTARILY ACCEPT THE TERMS WITH THE INTENT TO BE LEGALLY BOUND BY THEM.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

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| Dated: _____, 2022 LAURA MCBRIDE _____ | Dated: <u>5-18</u> , 2022 CARLA BARNES  _____ |
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Dated: 5-18, 2022

COUNTY OF MCLEAN

