

**CAUSE NO. 03-13-00838-CV**

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**IN THE COURT OF APPEALS  
THIRD COURT OF APPEALS DISTRICT  
AUSTIN, TEXAS**

**\*\*\***

**THE CITY OF CARROLLTON, TEXAS  
Appellant/Plaintiff**

**v.**

**KEN PAXTON, ATTORNEY GENERAL OF TEXAS  
Appellee/Defendant**

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**APPEAL FROM THE 53RD DISTRICT COURT  
OF TRAVIS COUNTY, TEXAS  
TRIAL COURT CAUSE NO. D-1-GV-12-001307  
HONORABLE SCOTT H. JENKINS, PRESIDING JUDGE**

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**SETTLEMENT AND RELEASE AGREEMENT**

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The parties to this Settlement Agreement and Release are as follows:

“Appellant/Plaintiff” is The City of Carrollton, Texas (“Appellant/Plaintiff” and/or the “City”), including its successors in interest, agents, officials, employees and assigns.

“Appellee/Defendant” is Ken Paxton, Attorney General of Texas (“Appellee/Defendant” and/or the “Attorney General”), including his successors in interest, agents, officials, employees and assigns.

“Parties” are the Appellant/Plaintiff and Appellee/Defendant referred to jointly.

**RECITALS**

WHEREAS, the City received four Public Information Act (PIA) requests from Steven E. Benzer (“Benzer” and/or “Requestor”), seeking information about residents and various police calls in his neighborhood within the City’s limits of the City of Carrollton, Texas. Pursuant to Government Code § 552.301, the City requested decisions from the Attorney General about whether information responsive to Benzer’s aforementioned requests were subject to the exceptions set forth in the statute. The City considered the decisions from the Attorney General inconsistent and filed its’ *Original Petition for Declaratory Judgment* suit under Cause No. D-1-

GV-12-001307; styled *City of Carrollton, Texas v. Greg Abbott*<sup>1</sup>, *Attorney General of Texas* in the 419<sup>th</sup> Judicial District Court of Travis County, Texas, to obtain relief from the District Court on September 7, 2012. The Attorney General responded. The parties filed Cross-Motions for Summary Judgment and Responses and a hearing on the Motions was held on September 17, 2013.

WHEREAS, on November 27, 2013, Hon. Scott H. Jenkins issued a *Final Judgment* in favor of the Attorney's General's Motion for Summary Judgment and denied the City's Motion. He further ordered the information at issue be released to the Requestor consistent with the Attorney General's ruling and ordered that the City pay the Attorney General's attorney's fees and court costs. The City appealed the decision to the Third Court of Appeals under Cause No. 03-13-00838-CV and styled *City of Carrollton v. Greg Abbott, Attorney General of Texas*, Third Court of Appeals, Austin, Texas and briefing ensued. Oral arguments were heard on May 22, 2014. On April 14, 2016 the Appellate Court affirmed the trial court's judgment.

WHEREAS, in lieu of further appeal, the PARTIES agree to accept the Court of Appeals' ruling in this matter and desire to resolve this dispute at a minimum of costs and to avoid continued litigation;

WHEREAS, the PARTIES desire to enter into this Settlement and Release Agreement in full settlement and discharge of all claims or counterclaims which have, or might be made, by reason of the legal issues described in the suits styled above.

NOW, THEREFORE, the APPELLANT/PLAINTIFF and APPELLEE/DEFENDANT agree as follows:

## **1.0 Settlement Terms**

- A. The City shall make available for release all previously un-produced responsive information to the Requestor, via cost estimate letter<sup>2</sup>. The City may redact information specifically mandated by Texas statute to be confidential by law and protected from public disclosure consistent with the Texas Attorney General's Letter Ruling related to the request(s).
- B. The City waives any right to further appeal this matter.
- C. The Attorney General hereby waives the recovery of any and all attorneys' fees and costs awarded in this matter.
- D. Each Party to this Agreement will bear their own costs relating to this litigation and appeal.

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<sup>1</sup> At the time of the filing of the suit, Greg Abbott was officeholder for the Office of the Attorney General of Texas.

<sup>2</sup> The City will make the responsive information, consistent with the Attorney General's ruling, available to Requestor upon receipt of payment from Requestor for costs associated with compiling the responsive information, in accordance with Tex. Gov't Code § 552.261.

- E. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to compromise disputed claims fully, and nothing in this Agreement shall be construed as an admission of fault or liability, all fault and liability being expressly denied by all parties to this Agreement.

## **2.0 Acknowledgment of Settlement Terms & Conditions**

- A. In entering into this Settlement and Release Agreement, the Parties represent that the terms of this Settlement and Release Agreement are fully understood and voluntarily accepted by them.
- B. The Parties represent that they have consulted with or been given the opportunity to consult with their attorneys before executing this Settlement and Release Agreement.
- C. Upon full satisfaction of the settlement terms stated in Section 1.0 above, this agreement shall serve as a complete Release of all claims and complete satisfaction of any judgment involving the Parties in the instant litigation referenced by the style shown above.

## **3.0 Warranty of Capacity to Execute Agreement**

- A. The PARTIES represent, warrant, and contract that no other person, attorney, law firm or entity has, or has had, any interest in the claims, demands, obligations, or causes of action referred to in this Settlement and Release Agreement, except as otherwise set forth herein or that if any such interest exists, it will be fully satisfied with this settlement agreement; that each party respectively, have the sole right and exclusive authority to execute this Settlement and Release Agreement; and that the PARTIES have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement and Release Agreement.

## **4.0 Governing Law**

- A. This Settlement and Release Agreement shall be construed and interpreted in accordance with the laws of the State of Texas.

## **5.0 Additional Documents**

- A. The PARTIES agree to cooperate fully and execute any and all supplementary documents and to take all additional action which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement and Release Agreement.

**6.0 Effectiveness**

- A. This Settlement and Release Agreement shall become effective immediately following execution by the PARTIES and completion of all terms set forth in Section 1.0 herein.
- B. This Agreement may be executed in multiple originals.

**THE STATE OF TEXAS** §

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**COUNTY OF \_\_\_\_\_** §

BEFORE ME, the undersigned Notary Public, on this the \_\_\_\_ day of \_\_\_\_\_, 2016, personally appeared \_\_\_\_\_, \_\_\_\_\_ for THE CITY OF CARROLLTON, TEXAS, who being by me duly sworn on his/her oath deposed and said that he/she is the duly authorized agent for THE CITY OF CARROLLTON, TEXAS and that that he/she has read the above and foregoing Settlement and Release Agreement and that every statement contained therein is within his personal knowledge and true and correct.

Date: \_\_\_\_\_, 2016

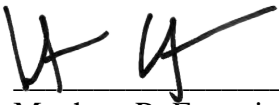
\_\_\_\_\_  
THE CITY OF CARROLLTON, TEXAS

\_\_\_\_\_  
Notary Public, State of Texas

APPROVED AS TO FORM:

By: \_\_\_\_\_  
George E. Hyde  
State Bar No.: 45006157  
**ATTORNEY FOR APPELLANT/PLAINTIFF**  
**THE CITY OF CARROLLTON, TEXAS**

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE TEXAS ATTORNEY  
GENERAL:

By:   
\_\_\_\_\_  
Matthew R. Entsminger  
State Bar No.: 24059723  
Assistant Attorney General  
**ATTORNEY FOR APPELLEE/DEFENDANT**  
**KEN PAXTON, ATTORNEY GENERAL OF TEXAS**