

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (the “Agreement”) is made by and between the Township of Waterford, a Minnesota political subdivision, whose address is 3847 321st Street West, Northfield, Minnesota 55057 (the “Township”), and the City of Northfield, a Minnesota municipal corporation, whose address is 801 Washington Street, Northfield, Minnesota 55057 (the “City”); (collectively the “Parties”).

WHEREAS, the City and Township previously entered into a Joint Resolution for Orderly Annexation, dated April 21, 1980, entitled “A Joint Resolution to be Presented to the Minnesota Municipal Board as to the Orderly Annexation by the City of Northfield and Township of Waterford” (hereinafter the “1980 Joint Resolution”); and

WHEREAS, the terms and conditions contained in the 1980 Joint Resolution provided for the annexation to the City of a single 20-acre parcel of property known as the Sheldahl Property (the “Property”), which annexation was completed in 1980; and

WHEREAS, there have been no other annexations from the Township to the City pursuant to the 1980 Joint Resolution since the 1980 annexation of the Property; and

WHEREAS, until approximately November 2010, the City, as a result of the 1980 annexation of the Property, made annual tax payments to the Township, with total tax payments made from the City to the Township of approximately \$73,906.

WHEREAS, at the time the 1980 Joint Resolution was executed, there was no statutory authority for tax reimbursement payments from a city to a township as a result of annexation; and

WHEREAS, subsequent to execution of the 1980 Joint Resolution by the Parties, the Legislature enacted Minn. Stat. § 414.036 (1981) providing legal authority for tax reimbursement payments under certain limitations, and the Legislature also passed special legislation on behalf of the Parties; and

WHEREAS, Minnesota Statutes, section 414.036, subsequently enacted in 1981, limited the tax reimbursement payments from annexations to a maximum of six years; and

WHEREAS, the City has previously taken the position that since the Property was annexed in 1980, all other terms and conditions contained the 1980 Joint Resolution have been fulfilled by operation of law and that tax reimbursement is equally limited by operation of law and cannot continue; and

WHEREAS, as a result of the foregoing position, the Northfield City Council, pursuant to Resolution 2010-079, dated October 5, 2010, determined that the 1980 Joint Resolution had expired and that no additional tax reimbursement payments to the Township could be made related to the annexation of the Property because there was no statutory authority for the continuation of such tax reimbursement payments related to this single 1980 annexation; and

WHEREAS, the Township has consistently disputed the above-referenced City position and has asserted certain claims against the City that the 1980 Joint Resolution remains in force and effect and that the Township is entitled to ongoing continuing tax reimbursement payments under the same from the City, but has not filed a formal legal claim in a court of competent jurisdiction; and

WHEREAS, the City Charter provides in part in Section 9.1, as follows:

“The council may contribute city funds to any entity to promote the health, safety, and welfare of the city, if the gift does not have as its primary objective the benefit of a private interest.”

; and

WHEREAS, the above Charter provision grants the City specific legal authority to make a payment from the City to the Township in settlement of the above-mentioned dispute provided such payment will promote the health, safety, and welfare of the City and does not have as its primary objective the benefit of a private interest; and

WHEREAS, the City Council by adopting this Agreement hereby finds that the consideration paid herein to the Township in settlement of the above-mentioned dispute will promote the health, safety, and welfare of the City by facilitating resolution of this dispute between government jurisdictions and fostering future cooperative relations and efforts between the Parties, and does not have as its primary objective the benefit of a private interest; and

WHEREAS, pursuant to the terms set forth below, the City and Township now agree to a full, complete and final settlement of all claims arising out of or that could arise out of the 1980 Joint Resolution and that the 1980 Joint Resolution has terminated.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the Parties hereby agree as follows:

1. **RELEASE OF CLAIMS.** In consideration for the payment to be made by the City to the Township as provided in paragraph 2 hereof, the Township, on behalf of itself and its officials, employees, subsidiaries, affiliates, executives, officers, directors, agents, insurers, predecessors, successors, assigns, heirs and any person or entity claiming by or through it, hereby fully, completely and forever releases the City, its employees, officials, other agents, successors or assigns from any and all manner of action and causes of action, suits, debts, obligations, choses in action, contracts, instruments, covenants, warranties, claims, sums of money, rents, judgments, damages, commissions, compensation for purported personal services rendered, demands and rights whatsoever, in law or in equity, known or unknown, asserted or unasserted, now existing or which may hereafter accrue, in any way arising out of or relating to the 1980 Joint Resolution.
2. **CONSIDERATION.**
 - a. The City agrees to pay the Township, and the Township agrees to accept, the sum of \$71,820.75 in full settlement of the Township’s claims and this dispute and as consideration for the other terms and conditions of this Agreement, the sufficiency of which is hereby acknowledged.
 - b. As further consideration for the terms and conditions of this Agreement, the Township and the City hereby acknowledge, understand and agree that the 1980 Joint Resolution has terminated and shall be of no further force and effect, and that all obligations with respect to the same by the Parties, of any kind or nature whatsoever, have been completed in their entirety.
 - c. The payment provided in paragraph 2.a. above shall be made by the City to the Township within sixty (60) days following the effective date of this Agreement.

3. **MUTUAL NONDISPARAGEMENT.** The Parties mutually agree that they shall not disparage or defame each other in any respect or make any negative comments concerning the matters that were or could have been alleged in any lawsuit that could have been or has been commenced regarding the matters covered by this Agreement.
4. **GENERAL TERMS.**
 - a. The recitals to this Agreement are hereby made a part hereof.
 - b. The Parties agree that this Agreement, payment of any sum of money, and any and all negotiations, documents, and discussions associated with it, shall not constitute or be deemed or construed to be an admission or evidence of any violation of any statute or law, contractual right or any other duty or obligation of any Party, or of any liability or wrongdoing by any person or entity, or of the truth of any of the claims or allegations contained in any claims or cause of action, and evidence thereof shall not be used directly or indirectly, in any way, whether in claim or cause of action or in any other action, proceeding or lawsuit, except in an action to enforce any obligation or right under this Agreement.
 - c. The Parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et. seq.*
 - d. The Parties consent to the jurisdiction of the Courts of the State of Minnesota for any suit arising out of or relating to the performance of this Agreement.
 - e. This Agreement shall be governed by and interpreted according to the substantive laws of the State of Minnesota without regard to its choice of law or conflict of laws principles.
 - f. This Agreement constitutes the entire agreement between the Parties pertaining to the settlement of all issues and claims, whether know or unknown, asserted or unasserted, related to the 1980 Joint Resolution and supersedes any earlier drafts or communication between the Parties. This Agreement may not be modified or amended except in writing executed by the Parties.
 - g. This Agreement shall be binding upon, and inure to the benefit of the agents, successors, heirs, assigns, employees, and officials of the City and the Township.
 - h. The Parties warrant that the persons signing this Agreement are authorized signatories for the persons or entities represented, and indemnify and hold each other harmless against any assertion of lack of such authority.
 - i. No Party 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.
 - j. This Agreement may be executed in counterparts with each countersigned copy of the Agreement having the full force and effect of an original Agreement.
 - k. This Agreement shall be effective following adoption hereof by the respective governing bodies of the Parties on the date that the last Party hereto signs and dates said document.

[Signature pages to follow.]

CITY OF NORTHFIELD, MINNESOTA

Dated _____

By: _____
Dana Graham, Its Mayor

ATTEST:

By: _____
Deb Little, Its City Clerk

TOWNSHIP OF WATERFORD, MINNESOTA

Dated _____

By: _____
Liz Messner, Its Chair

ATTEST:

By: _____
Elizabeth Wheeler, Its Town Clerk