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RESOLUTION NO. 26-20

**A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT WITH MUTUAL
RELEASE AND WAIVER WITH JOHN PETERS AND DECLARING AN
EMERGENCY**

WHEREAS, the City of Jackson and John Peters are parties to a lawsuit pending in the Jackson County Court of Common Pleas, captioned *City of Jackson, Ohio v. John Peters*, Case No. 19CIV0139, asserting claims against each other, (“lawsuit”); and

WHEREAS, the Parties have each denied and disputed the claims by the other in the lawsuit, and continue to do so; and

WHEREAS, to avoid further litigation, the Parties are desirous of fully and finally resolving the litigation and all actual or potential claims by them and the matters stated herein; and

WHEREAS, the City has received the Settlement Agreement with Mutual Release and Waiver, attached hereto as **Exhibit 1** and signed by John Peters on or about June 26, 2020; and

WHEREAS, this City Council is in agreement with the terms of settlement expressed in **Exhibit 1**;

NOW THEREFORE BE IT RESOLVED, the City Council hereby authorizes and directs as follows:

Section One. Council President will execute the Settlement Agreement with Mutual Release and Waiver, attached hereto as **Exhibit 1**, if upon the expiration of the revocation period defined in paragraph five (5) of that Agreement John Peters has not rescinded.

Section Two. Upon execution of the Agreement, Council President will deliver a fully-executed copy to the City’s legal counsel of record, who will sign and file with the Court a Joint Notice of Voluntary Dismissal With Prejudice of the lawsuit within ten (10) calendar days of execution.

Section Three. The City Auditor will be notified of the Agreement and dismissal and will issue settlement payment under the terms of the Agreement within ten (10) calendar days after dismissal.

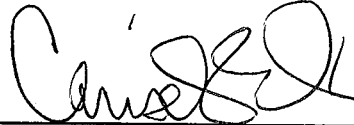
Section Four. This Resolution is hereby declared to be an emergency Resolution, necessary for the immediate preservation of the public peace, health or safety of the City of Jackson and for the reason set forth above. Therefore, this Resolution shall go into effect upon the Council President’s execution of the Agreement;

Section Five. In the event this Resolution receives a majority vote for passage but fails to receive the required number of votes to pass as an emergency, then this Resolution shall be deemed

to have passed with no emergency clause and shall take effect as the earliest time permitted by law.


Section Six. It is hereby found and determined that all formal actions of this Council relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that the deliberations of this Council that resulted in such formal actions were in a meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

PASSED AN ADOPTED by the Legislative Authority of the Political Subdivision on this 13 day of July, 2020.



President of Council

ATTEST:



Clerk of the Legislative Authority

Approved this 13 day of July, 2020.



Mayor

Settlement Agreement
with Mutual Release and Waiver

This Settlement Agreement with Mutual Release and Waiver (“Agreement”) is entered into between the City of Jackson, Ohio, (“City”), and John Peters, on behalf of himself and his heirs, executors, administrators, successors, assigns, agents, attorneys and representatives, (“Peters”), (collectively, “the Parties”), effective the last date signed below.

WHEREAS, the City filed a Complaint in the Jackson County Court of Common Pleas, which was captioned *City of Jackson, Ohio v. John Peters*, Case No. 19CIV0139, seeking declaratory and injunctive relief regarding a settlement agreement entered into between the City and Peters in June 1997; and

WHEREAS, in response, Peters filed a Counterclaim alleging violations of the Open Meetings Act against the City; and

WHEREAS, the Parties have each denied and disputed the claims by the other, and continue to do so; and

WHEREAS, to avoid further litigation, the Parties are desirous of fully and finally resolving the litigation and all actual or potential claims by them and the matters stated herein;

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and in full settlement and satisfaction of *City of Jackson, Ohio v. John Peters*, Case No. 19CIV0139, and any and all other claims by or available to them against the other, whether known or unknown, the Parties agree as follows.

1. **No admission of fault or wrongdoing.** The Parties each expressly deny any fault or wrongdoing and deny any liability whatsoever. The Parties acknowledge that neither is a prevailing party in the litigation and that they are entering into this Agreement solely to end the litigation and conclude the matters herein.
2. **Dismissal of the Lawsuit.** The Parties will, through their representatives, file a Joint Notice of Voluntary Dismissal With Prejudice, attached hereto as **Exhibit A**, in *City of Jackson, Ohio v. John Peters*, Case No. 19CIV0139 within ten (10) calendar days of the execution of this Agreement.
3. **Payment.** The City agrees to cause Peters to be paid the amount of \$10,674.00 within ten (10) calendar days after dismissal of Case No. 19CIV0139.
4. **Costs.** Any unpaid ordinary Court costs assessed by the Jackson County Clerk of Courts Case No. 19CIV0139, still remaining after the City’s deposits and Mr. Peters’ deposits are applied, will be paid by the City.
5. **Release and Wavier by Peters.** For purposes of this paragraph, the City of Jackson includes the City of Jackson and each of its boards, councils, commissions, offices,

departments and agencies, and all of its current and former elected or appointed officials, employees, agents, representatives, attorneys, advisors, insurers, or anyone else acting for or on behalf of the City of, all in their official and individual capacities, who are intended to benefit from this release and waiver.

For and in consideration of the obligations in this Agreement, Peters hereby waives all claims he has against the City of Jackson and forever releases, relinquishes and discharges the City of Jackson from such claims and from liability, damages, attorney fees, costs and/or equitable relief for any claims he has or may have against the City of Jackson prior to and as of the effective date of this Agreement, whether known or unknown, legal or equitable, accruing or accrued, and including but not limited to, any claims asserted or threatened in Case No. 19CIV0139, any other claims under the Ohio Open Meetings Act, O.R.C. 121.22, and any other claim based upon any federal, state or local constitution, statute, ordinance, executive order, regulation, common law or public policy.

Peters understands that, among other claims, he is releasing any and all claims under the Age Discrimination in Employment Act and Older Worker Benefit Protection Act. In signing this Agreement and Release and Waiver, Peters understands that he has the right to seek counsel from others, including an attorney of his choosing, and acknowledges that he has been advised to consult legal counsel prior to signing this Agreement. Peters further affirms that he received this Agreement on 6/17/2020 and that he was given twenty-one (21) calendar days thereafter to consider this Agreement. Peters fully acknowledges that if he executed this Agreement prior to the expiration of the 21-day period, he warrants that he has done so knowingly and voluntarily. He understands that he has seven (7) days following his execution of this Agreement to revoke this Agreement. Any revocation must be made in writing and be received by the City of Jackson, City Council before the eighth (8th) calendar day after Peters signed this Agreement and must be accompanied by his original signed Agreement. This Agreement shall not become effective or enforceable until the seven (7) day revocation period has expired and both Parties have executed the Agreement.

6. **Release and Waiver by the City.** For and in consideration of the obligations in this Agreement, the City of Jackson hereby waives all claims it has against Peters, and forever releases, relinquishes and discharges Peters from such claims and from liability, damages, attorney fees, costs and/or equitable relief for any claims it has or may have against Peters prior to and as of the effective date of this Agreement, whether known or unknown, legal or equitable, accruing or accrued, and including but not limited to, any claims asserted or threatened in Case No. 19CIV0139.
7. **Non-Transferability.** The Parties agree that they have not assigned or otherwise transferred to any other person or entity any claim or right to assert any claims of any kind or character against the other and agree to indemnify and hold harmless each other against any such claims to be asserted by the other party.

8. **Severability.** In the event that any part of this Agreement is held invalid, illegal, or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected.

9. **Entire Agreement.** The Parties agree that the foregoing constitutes the entire agreement between them and that there exists no other agreements, oral or written, between them relating to any matters covered by this Agreement or relating to any other matter whatsoever, whether or not within the knowledge or contemplation of either or both Parties hereto at the time of execution of this Agreement. This Agreement supersedes any and all previous oral, written, express or implied contracts or agreements entered into by and between the parties.

10. **Voluntary Agreement.** The Parties acknowledge that they have had adequate time to review and consider this Agreement and to consult with their legal counsel with respect thereto. The Parties hereby acknowledge that they have entered into this Agreement voluntarily and of their own free will.

11. **Choice of Laws.** This Agreement in all respect will be interpreted, enforced, and governed by the laws of Ohio.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the year and date set forth below. This agreement shall become effective and binding upon the full execution date of this Agreement

Randy Evans 7-13-20
 For the City of Jackson date

Print Name/Title: RANDY EVANS, MAYOR

Cindi R. Kuhn 7-13-20
 Witness date

John Peters
 John Peters date

Richard M. Lewis 6/25/20
 Witness date
 RICHARD M. LEWIS

IN THE COURT OF COMMON PLEAS, JACKSON COUNTY, OHIO

The City of Jackson, Ohio,

Plaintiff,

vs.

John Peters,

Defendant.

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CASE NO. 19CIV0139

JUDGE: Christopher J. Regan

JOINT NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE

Now come the parties Plaintiff, City of Jackson and Defendant/Counterclaimant John Peters, through their respective undersigned counsel, and hereby provide notice of their dismissal of their respective claims and counterclaims and this action, with prejudice, pursuant to Rule 41(A) of the Ohio Rules of Civil Procedure. The Plaintiff City of Jackson will pay remaining unpaid Court costs.

Respectfully Submitted,

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Grant J. Bacon (0093708)
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Respectfully Submitted,

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