

**SETTLEMENT AGREEMENT AND  
FULL AND FINAL RELEASE OF CLAIMS**

This Settlement Agreement and Full and Final Release of Claims (“Agreement”) is made and entered into by Andrew Habegger and Kelsey Habegger (“Plaintiffs”) and the City of Duluth (“Defendant.”) Plaintiffs and Defendant (collectively the “Parties”), enter this Agreement for the purpose of resolving all claims, controversies, alleged liabilities, and disputes between them. Agreement will be effective immediately upon the date of last signature on the signature page (“Effective Date.”)

**RECITALS**

WHEREAS, on or about June 13, 2024, Plaintiffs commenced legal action in United States District Court for the District of Minnesota against Defendant in *Andrew Habegger and Kelsey Habegger v. City of Duluth*, Court File No. 24-cv-2265 PJS/LIB (the “Action”); and

WHEREAS, on or about August 1, 2024, Defendant answered and denied all liability and admitted no wrongdoing; and

WHEREAS, on or about April 24, 2025, the Parties, in order to avoid the costs, burdens, and uncertainties of litigation, attended a Settlement Conference before Magistrate Judge Leo I. Brisbois and negotiated a settlement concerning the Action and any potential future action arising from the facts and circumstances alleged in the Action.

NOW, THEREFORE, the Parties, desiring to fully and finally settle the Action and any other claims, known or unknown, that Plaintiffs may have against Defendant and parties known or unknown, including employees, or agents of Defendant, arising from the facts alleged in the Action, and in consideration of the promises and covenants hereinafter contained, and intending to be legally bound, enter into this Agreement and agree as follows:

**TERMS OF AGREEMENT**

1. **Release of all claims:** Plaintiffs hereby fully and finally release the Defendant, from any and all claims, causes of action, and damages, of any kind or nature whatsoever, known or unknown, that were asserted in the Action or that could have been asserted in the Action, relating to or arising out of in any way the events described in the Action, including but not limited to all claims for damages, including but not limited to personal injury damages, injunctive relief, attorneys’ fees, costs, and other relief of any kind.
2. **No admission of liability or wrongdoing:** There is no admission of liability or wrongdoing by any Party, and all Parties understand that this settlement represents a mutual agreement to resolve disputed claims and buy present and future peace as between the Parties. This Agreement is not intended to be, nor shall it be construed as, an admission of any liability, fault, or wrongdoing by the Parties.
3. **Settlement Payment:** As consideration for this Agreement, Defendant shall make a single, lump-sum payment by and through counsel for Plaintiffs in the amount of thirty-three thousand dollars (\$33,000.00) (“the Settlement Payment”). This payment is inclusive of all

damages, fees, interest, costs, and disbursements. Plaintiffs acknowledge, agree, and represent that the consideration herein may or may not fully compensate Plaintiffs or their counsel. Plaintiffs' counsel shall provide counsel for Defendant with payee information and any necessary tax identification information. Defendant shall make the Settlement Payment within thirty (30) calendar days of the later of (a) receipt of payee information and any necessary tax identification information from Plaintiffs' counsel or (b) the date of Plaintiffs' filing of the Stipulation for Dismissal. As further consideration for this Agreement, Defendant shall administratively zero-balance Plaintiffs' current utility account with Defendant, namely account 240540540-010, forgiving any arrears as of the Effective Date of the Agreement.

4. **Dismissal of Action:** The Parties agree to dismiss the Action with prejudice and without costs. The Parties shall execute a stipulation for dismissal and Plaintiffs shall file the same within two (2) calendar days of the Effective Date.
5. **Attorneys' Fees and Costs:** The Parties shall be responsible for their own fees and costs related to the Action.
6. **Acknowledgments:** The Parties acknowledge and agree that:
  - a. This Agreement is entered into and executed voluntarily by each of the Parties hereto and without any duress or undue influence on the part of, or on behalf of, any such Party.
  - b. Each of the Parties hereto has been represented by counsel of its/their own choice, or has had the opportunity to be represented by counsel and to seek advice in connection with the negotiations for, and in the preparation of, this Agreement and that he, she, or it has read this Agreement and that he, she or it is fully aware of its contents and legal effects. All Parties who are representing themselves are warned to obtain the advice of an attorney before signing this Agreement.
  - c. The drafting and negotiation of this Agreement has been undertaken by all Parties hereto and their respective counsel. This Agreement shall be deemed to have been drafted jointly by all of the Parties hereto with no presumption in favor of one Party over another in the event of any ambiguity.
7. **No Tax Representations:** No party has made any representations to the other concerning any tax implications of entering into this Agreement. The parties acknowledge that they may seek independent tax advice. Plaintiffs acknowledge and agree that, should the consideration set forth above, or any part thereof, be subject to any taxes, penalties, or interest, Plaintiffs and/or their counsel shall be solely responsible for all such taxes, penalties, or interest.
8. **Liens and Subrogation:** Plaintiffs specifically represent and warrant that all medical, hospital, and other expenses, if any, arising out of the Action have been paid or will be paid out of the proceeds of this Agreement. Plaintiffs specifically represent and warrant no person, firm, corporation, governmental entity or other entity has any right to proceed by way of subrogation, enforcement of a lien or otherwise against the Defendant. Defendant

is not responsible for any medical, hospital, or other expenses or any subrogation, lien, or other claim arising out of the facts and circumstances of the Action. Plaintiffs agree they will satisfy all liens or any statutory obligations. Plaintiffs agree to hold harmless, indemnify, and defend Defendant from any cause of action from any and all known or unknown lien enforcement, statutory obligation, and subrogation claims arising from or related to the facts and circumstances of the Action. Plaintiffs specifically represent and warrant there are no attorneys' liens served, filed, or noticed with regard to this Action or the proceeds related to this cause of action, and the only attorneys who are entitled to any payment from the proceeds of this settlement are those at the Consumer Justice Center, P.A.

9. **Medicare, Medicaid, Social Security, and Social Security Disability:** Plaintiffs specifically represent that they are ineligible at this time for Medicare, Medicaid, Social Security, and Social Security Disability payments. Plaintiffs agree to consider the interests of Medicare pursuant to 42 U.S.C. § 1395y(b)(2) and its associated regulations. Plaintiffs further agree to indemnify and hold harmless the Defendant from any and all claims asserted by Medicare, Medicaid, Social Security for conditional payments, medical assistance, or any claim (past, present and future), including all rights arising out of 42 U.S.C. § 1395y(b)(2) and its associated regulations, including but not limited to Medicare's attorney's fees, if any are permitted under the statute. Plaintiffs also agree to satisfy all subrogation and lien interests of any Minnesota Medical Assistance or other State of Minnesota social benefit programs. Plaintiffs agree to fully satisfy, indemnify, and hold the Defendant harmless from any and all penalties, liens, conditional payments, demands, and actions in law or equity, or other payments that may be required if Plaintiffs' representations as to entitlement (or lack thereof) to Medicare or Social Security benefits is in any way misrepresented or incorrect. Further, the Parties acknowledge this Action may be reportable under the SCHIP law and the Plaintiffs will cooperate with the Defendant to fulfill all reporting requirements, if any.
10. **Severability:** Should any court of competent jurisdiction hold any of the provisions of this Agreement are unenforceable or invalid, the Parties intend for the remaining parts, terms, or provisions to remain enforceable and/or valid.
11. **Binding Effect:** This Agreement shall be binding on, and shall inure to the benefit of, the Parties hereto and their respective children, heirs, administrators, representatives, successors, and assigns.
12. **Governing Law:** The laws of the State of Minnesota shall govern this Agreement and any question arising hereunder shall be construed or determined according to such law.
13. **Counterparts:** This Agreement may be executed by the Parties in any number of counterparts, including by way of facsimile or electronic mail, and each of which shall be deemed to be an original and all of which, collectively, shall be deemed to be one and the same instrument.
14. **Integration Clause:** This Agreement contains the entire agreement between and among the Parties hereto, and supersedes all prior and contemporaneous discussions, negotiations,

understandings, and agreements, whether oral or written, express or implied, between or among them relating to the subject matter of this Agreement. This Agreement may not be amended orally, nor shall any purported oral amendment (even if accompanied by partial or complete performance in accordance therewith) be of any legal force or effect or constitute an amendment of this Agreement, but rather this Agreement may be amended only by an agreement in writing signed by the Parties.

- 15. Headings and Captions:** The headings and captions inserted into this Agreement are for convenience only and in no way define, limit, or otherwise describe the scope or intent of this Agreement, or any provision hereof, or in any way affect the interpretation of this Agreement.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement on the date set forth opposite their name below.

[Remainder of page left intentionally blank]

The undersigned hereby certify that they have read and fully understand all of the terms, provisions, and conditions of this Agreement and have executed this Agreement voluntarily.

**PLAINTIFFS**

\_\_\_\_\_  
Andrew Habegger

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kelsey Habegger

Dated: \_\_\_\_\_

[Remainder of page left intentionally blank]

The undersigned hereby certify that they have read and fully understand all of the terms, provisions, and conditions of this Agreement and have executed this Agreement voluntarily.

**DEFENDANT**  
CITY OF DULUTH

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

Countersigned:

\_\_\_\_\_  
City Auditor

Approved as to form:

\_\_\_\_\_  
City Attorney