

RECORD OF RESOLUTIONS

Dayton Legal Blank, Inc., Form No. 30045

Resolution No. _____

Passed _____, 20____

CITY OF BELPRE RESOLUTION NO. 28 (2024-25)

A RESOLUTION AUTHORIZING THE PRESIDENT OF THE BELPRE CITY COUNCIL, LARRY MARTIN, TO A SETTLEMENT AGREEMENT AND RELEASE

WHEREAS, a complaint was filed in the Court of Common Pleas for Washington County, Ohio by Open Government Advocates against the City of Belpre City Council, et al (Case No. 24OT267) against the Defendants seeking an injunction and other relief, alleging that the Belpre City Council did not comply with Ohio Revised Code Section 121.22 in regard to executive sessions and voting, and Plaintiff and Defendant, City of Belpre City Council have agreed to settle this litigation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BELPRE, OHIO, THAT:

SECTION I

The City Council for the City of Belpre has reviewed the proposed Settlement Agreement and Release, a copy of which is attached herein as "Exhibit A", and the City of Belpre hereby finds that it is in the best interest of the City of Belpre, Ohio, the Belpre City Council, and the citizens of Belpre to settle the pending litigation.

SECTION II

The President of the Belpre City Council, Larry Martin, is hereby authorized to execute the Settlement Agreement and Release attached herein "Exhibit A".

SECTION III

The City Council hereby authorized the Belpre City Auditor to pay the sum of Four Thousand Five Hundred Dollars (\$4500.00) by check, payable to Barron Peck & Bennie Schlemmer Co., LPA from the General Fund for the City of Belpre.

SECTION IV

This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, welfare and safety, and for the further reason that the litigation will be terminated without further expenses to the City of Belpre, Ohio. Wherefore, this Resolution shall take effect and be in full force from and immediately after its passage by Council and signing by the Mayor.

RECORD OF RESOLUTIONS

Dayton Legal Blank, Inc., Form No. 30045

Resolution No. _____

Passed _____ 20____

PASSED: April 14, 2025

Joseph B. Martin
PRESIDENT OF COUNCIL

ATTEST: Kimberly S. Meredith

PRESENTED TO MAYOR: 4/14/25

Susan J. Chabolla
MAYOR

APPROVED BY MAYOR: 4/14/25

CLERK'S CERTIFICATION OF PUBLICATION

The undersigned Clerk of the Council of the City of Belpre, Ohio, does hereby certify that on April 14, 2025, this Resolution was published by posting a copy of the same at the five public places designated by the City Council in Ordinance No. 18 (2006-07).

April 14, 2025
Date

Kimberly S. Meredith
CLERK

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made as of this 24th day of March, 2025, by and between the **City of Belpre City Council** and City of Belpre Council members in their official capacities, including **Dave Ferguson, Nate Godfrey, Penne Riffle, Bill Locke, Rick Seebaugh, Lyndsay Dennis, John Ambrozy, and Larry Martin** ("defendants" or "Council") and **Open Government Advocates** ("Plaintiff") (Plaintiff and Defendant collectively, the "Parties").

WHEREAS, Plaintiff filed a complaint in the Court of Common Pleas for Washington County, captioned *Open Government Advocates v. City of Belpre City Council, et al.* (Case No. 24OT267), against the Defendants seeking an injunction and other relief alleging that, among other things, the Board did not comply with Section 121.22 of the Ohio Revised Code in regard to executive sessions and voting (the "Litigation");

WHEREAS, Plaintiff and Defendants for sound reasons and to avoid further costs, desire to resolve fully and finally Plaintiff's claims and any and all differences and claims that might otherwise arise out of the facts and circumstances alleged in the Litigation, without making an admission of liability on the part of any Party, which liability is expressly denied; and

WHEREAS, the Board is a body politic and corporate, capable of suing and being sued, contracting and being contracted with pursuant to Ohio Revised Code §*****

NOW, THEREFORE, in and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the mutual promises contained herein, it is hereby agreed as follows:

1. **Payment and Terms.** In consideration for the promises Plaintiff has made in this Agreement:

a. Council agrees to cause payment to be made to Plaintiff in the amount of Five Dollars (\$500.00) to be attributed as and for civil forfeiture, and Four Thousand Dollars (\$4,000.00) to be attributed to attorneys' fees, all together totaling the full settlement amount of Four Thousand Five Hundred Dollars (\$4,500.00) (the "Settlement Payment"), plus the court costs of the Litigation, in full and final satisfaction of the Litigation and any and all claims asserted by Plaintiff, including but not limited to any other allegations, claims and defenses whether known or unknown that could have been asserted by Plaintiff, arising out of the facts and circumstances alleged in the Litigation or which existed at any time prior to the Parties' execution of this Agreement. The Settlement Payment shall be made payable to "**Barron Peck Bennie & Schlemmer Co., LPA**" and mailed to 3074 Madison Road Cincinnati, OH 45209 within twenty-one (21) days of the Board approving the fully executed Agreement; and

b. Pursuant to its obligations under Ohio Revised Code Section 121.22, Council agrees to hold executive sessions only for the purpose of considering matters specifically permitted under Ohio Revised Code Section 121.22(G), to only hold votes in open

meetings in accordance with Ohio Revised Code Section 121.22, and to keep full and accurate minutes of all of its meetings in accordance with Ohio Revised Code Section 121.22(C).

2. **Court Costs and Attorneys' Fees.** Except for the Settlement Payment detailed in Paragraph 1 above, the Parties are responsible for and will bear their respective attorneys' fees and court costs in connection with the Litigation.

3. **Dismissal of Litigation.** Within three (3) business days of Plaintiff's receipt of the Settlement Payment, Plaintiff shall file a *Voluntary Dismissal with Prejudice* with the court pertaining to the Litigation. At that point, the Litigation shall be deemed settled, and Plaintiff shall discontinue all claims regarding, relating to, or arising out of the facts and circumstances alleged in the Litigation or which existed at any time prior to the Parties' execution of this Agreement, and shall discontinue all public records requests and any other claims arising from the facts and circumstances alleged in the Litigation or which existed at any time prior to the Parties' execution of this Agreement.

4. **Release of Claims.** By this Agreement, Plaintiff and for his heirs, personal representatives, assigns, successors, attorneys, and agents, hereby forever releases, holds harmless, discharges and acquits **the City of Belpre** (including its elected and appointed officials in their individual and official capacities), Sedgwick Claims Management Services, Inc., and Public Entity Risk Services of Ohio (PERSO), together with their employees, volunteers, employers, principals, agents, insurers, attorneys, officers, directors, predecessors, subsidiaries, affiliates, successors, and assigns (collectively referred to herein as the "Releasees"), (hereinafter collectively referred to as "the Released Parties"), from any and all claims and demands, past, present or future, known or unknown, and all manner of action and actions, causes of action, suits, administrative proceedings, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, torts, trespasses, damages, judgments, executions, warranties, claims and demands whatsoever, in law or in equity, that Plaintiff ever had or now has or in the future may have by reason of any and all claims that were actually asserted, or that might have been asserted or could have been asserted, by him in connection with the facts and circumstances alleged in the Litigation, including, but not limited to, all claims for public records requests, claims arising under R.C. 121.22, *et. seq.* and R.C. 149.43, *et. seq.*, any and all claims for spoliation, payments (statutory or otherwise), interest, lost profits, consequential damages, attorneys' fees, and punitive damages.

It is the intention of the Parties that this Agreement shall be a full, complete and final release settling all disputes arising from or relating to the facts and circumstances alleged in the Litigation or which existed at any time prior to the Parties' execution of this Agreement, and severing all relationships, rights, liabilities, obligations and duties of Defendant with respect to Plaintiff regarding all claims, demands, actions, obligations, damages, costs, liens, causes of action and/or liabilities of any kind or nature whatsoever whether known or unknown, direct or indirect, foreseen or unforeseen, which have been raised or could have been raised in connection with all claims and allegations arising from or relating to the facts and circumstances alleged in the Litigation or which existed at any time prior to the Parties' execution of this Agreement, except as expressly excluded or reserved herein.

The Parties acknowledge that they might hereafter discover facts different from or in

addition to those they now know or believe to be true with respect to the released claims, and they expressly agree to assume the risk of possible discovery of additional or different facts, and further agree that the Agreement shall be and remain effective in all respects regardless of such additional or different discovered facts.

5. **No Admission of Wrongdoing.** It is agreed and understood by the Parties that the execution of this Agreement by any Party does not constitute an admission of any fault or liability whatsoever by any of the Parties hereto with respect to any of the claims that were made or could have been made in connection with the Litigation.

Except for the limited purpose of enforcing the Parties' contractual rights and obligations under this Agreement, this Agreement, and any negotiations or proceedings relating to it, shall not be described as, construed as, used, offered or received against any Party as an admission, or as evidence of an admission: (a) of the merits or lack thereof of the claims or defenses asserted by either Party; (b) of any liability, negligence, fault, breach of duty, wrongful act, misrepresentation or omission, violation of any law or statute of any jurisdiction, or wrongdoing of or by either Party; or (c) that either Party or any other person or entity has in fact suffered any damage, or that either Party is liable to the other or to any person or entity for any reason. This Agreement merely constitutes a compromise and settlement of disputed claims.

Pursuant to Ohio Rule of Evidence 408 and any similar provisions under the laws of any state, neither this Agreement nor any related documents filed or created in connection with this Agreement will be admissible in evidence in any proceeding, except as necessary to approve, interpret or enforce this Agreement.

6. **Interpretation.** The Parties agree that they have fully negotiated the terms of this Agreement and that its terms, provisions, and conditions shall not be interpreted or construed against either Party.

7. **Governing Law; Jurisdiction.** This Agreement may only be enforced in the Summit County Court of Common Pleas in Ohio. In addition, this Agreement shall only be construed according to the laws of the State of Ohio.

8. **Effect of Agreement.** This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit or other proceeding that is instituted, prosecuted or attempted in breach of this Agreement. In the event of any litigation, including any appeals, in connection with the breach, enforcement, or interpretation of this Agreement, including, without limitation, any action seeking declaratory relief, equitable relief, injunctive relief, or any other action at law for damages, the prevailing party shall recover all reasonable attorney fees and costs incurred in connection therewith.

9. **Waiver.** The failure or delay of any Party in exercising their rights under this Agreement in any instance shall not constitute a waiver or estoppel as to such rights in that, or any other, instance. Any Party shall not be deemed to have waived any rights under this Agreement except by a writing signed by that Party.

10. **Validity.** If any provision or portion of a provision of this Agreement is declared null and void or unenforceable by a court or tribunal having jurisdiction, the validity of the remaining parts, terms, or provisions of the Agreement shall not be affected thereby and such illegal or invalid part, term, or provision shall be deemed not to be part of the Agreement.

11. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding between the Parties and supersedes any prior oral or written agreements or understandings between them regarding its subject matter. The Parties acknowledge that they have not relied on any promises, or agreements of any kind made to the other in connection with their respective decisions to make this Agreement, except for those set forth in this Agreement.

THE PARTIES ACKNOWLEDGE THAT THEY HAVE READ THIS AGREEMENT AND FULLY UNDERSTAND ITS PROVISIONS. THEY FURTHER ACKNOWLEDGE THAT THEY HAVE HAD THE OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL OF THEIR CHOOSING AND DECLARE AND ACKNOWLEDGE THAT NO PROMISES OR AGREEMENTS NOT HEREBY EXPRESSED OR CONTAINED HEREIN HAVE BEEN MADE TO THEM, AND THAT THIS AGREEMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES. THE PARTIES FURTHER UNDERSTAND THAT ONCE THEY SIGN BELOW, THIS DOCUMENT WILL BECOME A LEGALLY ENFORCEABLE AGREEMENT UNDER WHICH THEY WILL BE GIVING UP RIGHTS AND CLAIMS THEY MAY HAVE, ON THE TERMS STATED IN THIS AGREEMENT. THE PARTIES AFFIRM THAT THEY ARE SIGNING THIS AGREEMENT OF THEIR OWN FREE AND VOLUNTARY WILL.

This Agreement may be executed by electronic mail, facsimile or in counterparts, each of which shall constitute an original, but all of which taken together shall constitute only one Agreement.

IN WITNESS WHEREOF, the aforesaid Parties have caused this full and final Settlement Agreement and Release to be executed as of the day and year first above written.

Open Government Advocates

By: Brian Mames
Plaintiff as President of Open Government Advocates

March 24, 2025

Date

City of Belpre
City Council

By: James B. McArthur

4/14/25
Date

twebster@suddenlinkmail.com

From: Susan Abdella <mayor@cityofbelpre.com>
Sent: Tuesday, April 8, 2025 4:02 PM
To: twebster@suddenlinkmail.com
Cc: Tina Nolan
Subject: Settlement Info

Tom

Do you have a total for the settlement. I may need to include it in the supplemental appropriations.

Items for supplemental

Lee Street
Settlement
Storm drain

S

Susan Abdella MBA,BSN
Mayor City of Belpre
715 Park Dr
Belpre Ohio 45714
740-423-7592