

SETTLEMENT AGREEMENT AND RELEASE

This SETTLEMENT AGREEMENT AND RELEASE (“Settlement Agreement”) is made and entered into as of the 15th day of July, 2024, among and between the City of Shakopee (“City”) and RJM Construction, LLC (“RJM”) (collectively, “the Parties”).

RECITALS

- A. The City and RJM have a dispute (“Dispute”) regarding payment for services RJM performed for the City relating to the Sandventure Park Redevelopment project (“Project”).
- B. The City and RJM mediated the Dispute on June 5, 2024. After the mediation session was concluded, the mediator recommended a settlement proposal to the Parties. The City and RJM desire to enter into this agreement accepting the settlement proposal recommended by the mediator.
- C. The City and RJM are mutually desirous of resolving the Dispute and any other outstanding claims between the Parties relating to the Project pursuant to the terms of this Settlement Agreement.

NOW, THEREFORE, in consideration of the mutual promises and undertakings contained in this Settlement Agreement, the City and RJM agree as follows:

AGREEMENT

1. Mediated Settlement. The Parties acknowledge and agree that they have been advised by their counsel, and the mediator, that this is a binding agreement relating to settlement of claims as reached through the process of mediation. The Parties further acknowledge that, pursuant to the requirements of the Minnesota Civil Mediation Act, they have been advised that:

- a. the mediator, Paul Rocheford, has no duty to protect either of their interests or to provide them with any information about their legal rights;
- b. signing a mediated settlement agreement may adversely affect their legal rights;
- c. the Parties may, and in fact have, consulted with an attorney before signing this Agreement in order that they may be certain of their rights;
- d. this is a mediated settlement reached pursuant to the provisions and requirements of the Minnesota Civil Mediation Act and case law interpreting the same;
- e. the Parties understand and acknowledge that it is a binding and conclusive resolution pursuant to the terms of this Agreement; and
- f. the Parties have reached final agreement with the assistance of the mediator.

2. Payment. On or before July 31, 2024, the City will pay RJM \$270,000.00 for all services performed by RJM for the City relating to or arising out of the Project. This payment is in addition to all previous payments made by the City to RJM.

3. Release of Claims. The Parties, for and on behalf of themselves, their officers, directors, shareholders, insurers, agents, representatives, attorneys and their successors, subrogees and assigns, release, acquit, and forever discharge each other, and their respective officers, directors, shareholders, managers, partners, employees, agents, representatives, and attorneys, and their respective successors, subrogees and assigns from any and all causes of action, claims, damages, debts, demands, expenses, judgments, liabilities, or losses, whether known or unknown, liquidated or unliquidated, fixed, contingent, direct or indirect, legal or equitable, and whether sounding in tort, contract, equity, or otherwise, in any way arising out of or relating to services performed by RJM relating in any manner to the Project.

4. Non-disparagement. The City and RJM agree to use reasonable and good faith efforts to ensure that they will not engage in any vilification of the other party. The City and its representatives and RJM and its representatives shall refrain from making any false, negative, or disparaging statements, express or implied, whether orally or in writing, to any person whatsoever, about each other or about each other's directors, officers, elected officials, or employees. Provided, however, that nothing in this Agreement shall prohibit either party from disclosing information that is required to be disclosed in compliance with applicable laws or regulations or by order of a court or other regulatory body of competent jurisdiction.

5. Further Assurances. If any additional instruments are necessary or desirable to accomplish the purpose of this Settlement Agreement, such additional instruments will be promptly executed and delivered upon request.

6. Attorneys' Fees, Costs and Expenses. The Parties waive any claim against each other for attorneys' fees, costs, and expenses to the extent not otherwise provided for in this Settlement Agreement. It is the intent of the Parties that each Party shall bear their own attorneys' fees, costs, and expenses.

7. Representations and Warranties of the Parties. Each party to this Settlement Agreement warrants and represents to each of the other party as follows:

- a. The parties to this Settlement Agreement have received independent legal advice from attorneys of their own choosing with respect to the advisability of executing this Settlement Agreement, and prior to the execution of this Settlement Agreement by each party, such party's attorneys reviewed this Settlement Agreement at length and made all desired changes.
- b. Except as expressly stated in this Settlement Agreement, no party to this Settlement Agreement has made any statement or representation to any other party to this Settlement Agreement regarding any fact relied upon by such other party in entering into this Settlement Agreement, and each party specifically does not rely upon any statement, representation, or promise of the other party in executing this Settlement Agreement, except as expressly stated in this Settlement Agreement. There are no other agreements or understanding between the parties, except as stated in this Settlement Agreement.

- c. Each party to this Settlement Agreement, together with its attorneys, has made such investigation of the facts pertaining to this Settlement Agreement, and of all other matters pertaining thereto, as it deems necessary.
- d. The terms of this Settlement Agreement are contractual, not a mere recital, and this Settlement Agreement is the result of negotiations between the parties to this Settlement Agreement, each of which has participated in the drafting of this Settlement Agreement through their respective attorneys.
- e. This Settlement Agreement has been carefully read by, and its contents are known and understood by, and it is signed freely by each person executing this Settlement Agreement.
- f. Each party to this Settlement Agreement has the power and authority to enter into and perform this Settlement Agreement, and the execution and performance of this Settlement Agreement has been duly authorized by all requisite corporate or other appropriate organizational action.
- g. Each party to this Settlement Agreement agrees that such party will not take any action that would interfere with the performance of this Settlement Agreement by the other parties or that would adversely affect any of the rights provided for in this Settlement Agreement.

8. Integration. This Settlement Agreement represents a single, integrated, written contract expressing the entire agreement of the parties hereto with respect to the subject matter hereof. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any party to this Settlement Agreement, except as expressly set forth in this Settlement Agreement. All prior discussions and negotiations have been and are merged into, and are superseded by, this Settlement Agreement. This Settlement Agreement may not be supplemented, changed, or modified orally and may be modified only by written agreement executed by each of the parties. The Recitals of the parties, as set forth above, constitute an integral part of this Settlement Agreement.

9. No Admission of Liability. The Parties agree and acknowledge that this settlement is a compromise of disputed claims and that each Party expressly denies any and all liability in response to the claims asserted by the other or any violation of any law, contractual obligation or other agreement existing between the Parties.

10. Severability. If any part of this Agreement shall be determined to be void and unenforceable, the remainder of this Agreement shall remain in full force and effect.

11. Governing Law; Venue. This Settlement Agreement shall be construed in accordance with, and governed by, the internal laws of the State of Minnesota, without regard to any choice of law rules.

12. Construction. The terms of this Settlement Agreement shall be construed in an evenhanded manner as between the parties. If it is determined that there is a lack of clarity or ambiguity as regards to any of the language of this Settlement Agreement, the issue of the meaning of such language shall be resolved in a manner consistent with the relevant terms of the Settlement Agreement and without regard to authorship.

13. Execution in Counterparts and Electronic Signatures. This Settlement Agreement may be executed and delivered in two or more counterparts, including electronic counterparts, each of which, when so delivered, shall be an original; but such counterparts shall together constitute but one and the same instrument and agreement. This Settlement Agreement shall be deemed to be executed upon the last day any such counterpart is executed.

The parties have caused this Settlement Agreement to be executed by their duly authorized representatives as of the date set forth above.

City of Shakopee

RJM Construction, LLC

By _____
Its Mayor

By _____
Its _____

By _____
Its City Administrator