

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This is a binding Settlement Agreement and Mutual Release made and entered into as of the Settlement Effective Date by and between the City of Ramsey, Minnesota and McDonald's USA, LLC.

### DEFINITIONS

1. "Agreement" means this Settlement Agreement and Mutual Release and all exhibits hereto.

2. "Claims" means any and all past, present, or future claims, counterclaims, cross-claims, disputes, demands, actions and causes of action, petitions, suits, debts, liabilities, defenses, obligations, damages (whether general, special, consequential, punitive, exemplary, statutory, or other), penalties, costs, losses, expenses, and attorneys' fees (whether incurred prior to or after the date of the Agreement), whether known or unknown, liquidated or unliquidated, fixed or contingent, direct or indirect, suspected or unsuspected, premised on direct recovery, contribution, or indemnity, whether based on contract, tort, statute, or other legal or equitable theory of recovery, whether written or oral, among or between the Parties, that arise out of or relate to the Property or McDonald's Deed.

3. "City" means the City of Ramsey, Minnesota, a political subdivision, and its current, former and future City Council members, employees, representatives, affiliates, predecessors and successors, agents, assigns, attorneys, insurers, and anyone else who could be alleged liable on their behalves, individually and collectively.

4. "City Deed" means the Quit Claim Deed to be executed by McDonald's pursuant to this Agreement in the form attached hereto as Exhibit 2.

5. "HRA" means The Housing and Redevelopment Authority of the City of Ramsey.

6. "HRA Deed" means the Quit Claim Deed, dated as of August \_\_\_\_, 2017, and executed by the City, as successor-in-interest to the HRA, in favor of the City, to be recorded immediately prior to the City Deed.

7. "McDonald's Deed" means the Quit Claim Deed, dated as of February 26, 2014 and executed by the HRA, a copy of which is attached hereto as Exhibit 1.

8. "Party" means the parties to this Agreement, City and McDonald's, individually, and "Parties" means City and McDonald's, collectively.

9. "Property" means the real property that is legally described on Exhibit A to each of the McDonald's Deed and City Deed.

10. "Settlement Effective Date" means the date on which this Agreement is fully executed by all Parties.

11. "McDonald's" means McDonald's USA, LLC and its current, former and future affiliates, parent companies, predecessors, successors, subsidiaries, partners, related partnerships, and each of their respective members, shareholders, owners, corporate officers and directors, principals, employees, representatives, affiliates, predecessors and successors, parent and subsidiary companies, agents, assigns, attorneys, experts, insurers, and anyone else who could be alleged liable on their behalves, individually and collectively.

### **RECITALS**

WHEREAS, on or about February 24, 2014, the HRA executed the McDonald's Deed with respect to the Property, which was recorded in the office of the Anoka County Registrar of Titles on March 3, 2014 as Document No. 522138.002;

WHEREAS, City is the successor-in-interest to the HRA with respect to the right of re-entry contained in the McDonald's Deed, as evidenced by the HRA Deed;

WHEREAS, the two conditions subsequent set forth in Exhibit B of the McDonald's Deed were not timely satisfied;

WHEREAS, the City has a right of re-entry for the Property and, upon exercise of such re-entry, title to the Property reverts to the City;

WHEREAS, the City has notified McDonald's of its exercise of the right of re-entry for the Property;

WHEREAS, the Parties recognize that McDonald's incurred substantial development costs in connection with the Property and that a partial reimbursement is appropriate;

WHEREAS, the Parties desire to avoid the time, burden and expense of potential litigation regarding the McDonald's Deed and/or the Property;

WHEREAS, the Parties have negotiated at arm's length and have entered into this Agreement in good faith; and

WHEREAS, the Parties desire to enter into this Agreement as a final settlement to document their final resolution of any and all disputes and Claims between the Parties.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the covenants, mutual releases and other terms set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties hereby agree as follows:

1. Incorporation of Definitions and Recitals. The foregoing definitions and recitals are incorporated into this Agreement by reference.

2. Denial of Liability. This Agreement is entered into only for purposes of settlement and compromise of disputed Claims in order to avoid the uncertainties, risks and expenses

attendant upon litigation between the Parties. Neither this Agreement, nor anything contained herein, nor any act or thing done in connection herewith, is intended to be, or shall be construed or deemed to be, an admission by any of the Parties of any liability, fault or wrongdoing.

3. Reimbursement Payment. In consideration of the development costs incurred by McDonald's with respect to the Property, within ten (10) days of the Settlement Effective Date, City shall pay McDonald's the total sum of Ten Thousand and no/100s Dollars (\$10,000.00) (the "Reimbursement Payment"). The Reimbursement Payment shall be made via check made payable to "McDonald's USA, LLC" and sent to the following address: **[INSERT]**.

[ATTN: Monica J. Mosby, Esq.](#)  
[Commercial Litigation Practice Group](#)  
[McDonald's Corporation](#)  
[2915 Jorie Blvd \(Dept. 065\)](#)  
[Oak Brook, Illinois 60523](#)

4. Execution of City Deed. Within five (5) days of its receipt of the Reimbursement Payment, McDonald's shall execute and deliver to the City the City Deed.

5. Release by McDonald's. Upon the Settlement Effective Date, McDonald's unconditionally and irrevocably, fully, finally, and forever waives, releases, acquits and forever discharges City from any and all Claims; provided, however, that nothing herein shall waive, release, acquit or discharge any claim that McDonald's may have for enforcement or breach of this Agreement or for any acts committed after the execution of this Agreement. McDonald's understands that by signing this Agreement, it is waiving any and all Claims against City released by this Agreement to the greatest extent allowable under law.

6. Release by City. Upon the Settlement Effective Date, City unconditionally and irrevocably, fully, finally, and forever waives, releases, acquits and forever discharges McDonald's from any and all Claims; provided, however, that nothing herein shall waive, release, acquit or discharge any claim that City may have for enforcement or breach of this Agreement or for any acts committed after the execution of this Agreement. City understands that by signing this Agreement, it is waiving any and all Claims against McDonald's released by this Agreement to the greatest extent allowable under law.

7. Covenants Not to Sue. Without limiting the generality of the foregoing releases, the Parties hereby covenant and agree that, upon and after the Settlement Effective Date, no Party shall institute, bring, commence or continue any action in any court, arbitration, or other forum against any other Party for any of the claims released pursuant to this Agreement; provided, however, that nothing herein shall waive, release, acquit or discharge any claim for enforcement or breach of this Agreement or for any acts committed after the execution of this Agreement.

8. Acknowledgement of Adequate Consideration. The Parties hereby acknowledge and agree that the foregoing mutual releases and covenants not to sue, as well as all other terms of this Agreement, are supported by adequate consideration, and the Parties hereby waive any allegation, claim and/or defense to the contrary.

9. Costs and Expenses. The Parties shall bear their own costs and expenses, including without limitation attorneys' fees, incurred in connection with their disputes, this Agreement and the transactions contemplated by it. However, to the extent any transfer or deed tax or fees are assessed on any of the Parties in connection with the execution or recording of the City Deed, the City shall pay those taxes or fees.

10. Merger and Integration. The Parties agree and acknowledge that this Agreement, together with any exhibits hereto, constitutes the entire agreement of the Parties with respect to the subject matter contained herein. There are no other agreements, representations, warranties, or other understandings between the Parties with regard to the subject matter hereof which are not set forth in this Agreement. This Agreement is made and entered into without any reliance by the Parties on any statement, promise, inducement, or consideration not recited in this Agreement.

11. Advice of Counsel Obtained. Each Party acknowledges and represents that it has had the opportunity to consult with legal, financial, and other professional advisors as it deems appropriate in connection with the consideration and execution of this Agreement. Each Party is legally responsible for any and all of its own tax liabilities arising out of this Agreement. Each Party further represents and declares that in executing this Agreement, it has relied solely upon its own judgment, belief and knowledge, and the advice and recommendation of its own professional advisors, concerning the nature, extent and duration of its rights, obligations and claims; that it has reviewed its records, evaluated its position and conducted due diligence with regard to all rights, claims, or causes of action whatsoever with respect to the other Party; and that it has not been influenced to any extent whatsoever in executing this Agreement by any representations or statements made by any other Party or its representatives, except as expressly contained or referred to in this Agreement.

12. Severability. If any of the provisions, terms, clauses, or waivers or releases of claims or rights contained in this Agreement are declared illegal, unenforceable, or ineffective, the remaining provisions, terms, clauses, waivers, releases, and rights shall be severable and enforceable. However, the Parties agree to negotiate in good faith substitute provisions, terms, clauses, or waivers or releases that would have, to the maximum extent possible, identical effect and that would be enforceable.

13. Writing Required. This Agreement may not be altered or amended except in writing signed by all of the Parties.

14. No Waiver. No waiver by any Party of any condition, or the breach of any term, provision, warranty, representation, agreement or covenant contained in this Agreement, whether by conduct or otherwise, in any one or more instances shall be deemed or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of the breach of any other term, provision, warranty, representation, agreement or covenant herein contained.

15. Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature by any of the Parties to any other Party and the receiving Party may rely

on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

16. Applicable Law, Jurisdiction, and Venue. This Agreement shall be construed under the substantive laws of the State of Minnesota, without regard to its choice of law rules. Each of the Parties submits to the jurisdiction of any state or federal court located in Anoka County, Minnesota for any claim to enforce, determine rights with respect to, or to interpret this Agreement.

17. Authority to Execute Agreement. Each Party represents that it has the authority to enter into this Agreement and has not assigned, encumbered or in any other manner transferred any portion of the Claims released by this Agreement. Each Party represents that this Agreement is legal, valid, binding and enforceable against it in accordance with its terms and that the person or persons executing this Agreement have the necessary and appropriate authority to do so and to legally bind such Party.

18. Additional Documents. Each of the Parties agrees to execute and deliver any further documents which may be required to effectuate and/or carry out the terms of this Agreement.

19. Binding Effect. The Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective legal representatives, insurers, heirs, successors and assigns. Each Party has had the opportunity to fully negotiate and modify the terms of this Agreement. Therefore, the terms of this Agreement shall be construed and interpreted without any presumption, inference, or rule requiring construction or interpretation of any provision of this Agreement against the interest of the party causing this Agreement or any portion of it to be drafted.

20. Settlement Effective Date. The effective date of this Agreement shall be the date on which it is fully executed by all Parties.

IN WITNESS WHEREOF, the Parties, by and through their duly authorized representatives, have hereunder set their hands and entered into this Agreement effective as of the Settlement Effective Date.

Dated: \_\_\_\_\_, 2017

~~MCDONALDS~~MCDONALD'S USA, LLC

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

Dated: \_\_\_\_\_, 2017

**CITY OF RAMSEY, MINNESOTA**

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

# **EXHIBIT 1 TO SETTLEMENT AGREEMENT**

## **McDonald's Deed**

# **EXHIBIT 2 TO SETTLEMENT AGREEMENT**

## **City Deed**

Document comparison by Workshare 9 on Wednesday, August 16, 2017 4:39:17 PM

Input:	
Document 1 ID	netdocuments://4821-5852-8077/1
Description	PCDOCS-#8434579-v2-RAMSEY_MCDONALDS_-_Settlement_Agreement
Document 2 ID	netdocuments://4821-5852-8077/2
Description	PCDOCS-#8434579-v2-RAMSEY_MCDONALDS_-_Settlement_Agreement
Rendering set	GPM Standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
<a href="#">Moved to</a>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	8
Deletions	2
Moved from	0
Moved to	0
Style change	0
Format changed	0

Total changes	10
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