

## SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (hereinafter, “**Agreement**”) is made between and among **Steven Dixon** of New Hampshire (hereinafter “**Claimant**”), and **the City of Manchester** (hereinafter “**Respondent**”). The Claimant and Respondent are collectively referred to herein as the “**Parties.**”

**WHEREAS**, the Claimant has alleged liability on the part of the Respondent stemming from his July 1, 2017 arrest and subsequent prosecution (“**Threatened Litigation**”); and

**WHEREAS**, the Parties desire to resolve all past and present legal claims between and among them arising out of the Threatened Litigation subject to the terms and conditions set forth herein.

**NOW THEREFORE**, the Parties agree to the following terms and conditions as consideration for resolution of their respective claims:

**THEREFORE**, the Parties agree as follows:

1. Consideration: In consideration of the release set forth below, the Respondent on behalf of itself and the Releasees (defined below) agrees to pay to the individual(s) named below (“Payee(s)”) the sums outlined in below:

A. Payments due at the time of settlement to the Claimant and attorney:

Respondent agrees to make payment in the amount of Thirty-Six Thousand and 00/100 Dollars (\$36,000.00) subject to the limitations in Section 1(B) and 1(C), below. The Claimant agrees to pay from said sum attorney fees, costs and expenses incurred by or on his behalf in connection with the Claims (as defined below) or the settlement set forth herein, including payments to subrogees. The payment will be made via check made payable to “Gill & Sculimbrene, as Attorneys for Steven Dixon”

and mailed to the Gill & Sculimbrene, 142 Main Street, Suite 6, Nashua, NH 03060.

B. Medicare: Claimant shall complete, execute and return to Respondent the Medicare “Safe Harbor” form confirming or denying enrollment in Medicare Part A or Medicare Part B, and if confirmed in the affirmative, Claimant will verify with the CMS Medicare Secondary Payer Recovery Contractor (MSPRC) whether conditional payment right of subrogation exists as of the date of this Release in favor of Medicare as a result of the Claims.

i. Existence of Medicare Right of Subrogation. If upon Claimant making inquiry of CMS as contemplated in Paragraph 1(B) hereof, it is revealed that one or more Medicare conditional payment rights of subrogation exist as a result of the Claims, Respondent will first pay CMS and await the running of any appeal periods to contest such “final” determination (or decision on such appeal if taken), and then will pay the balance, if any, to Claimant within 20 days of the running of said appeal period (or decision on such appeal if taken). Claimant understands that he has the right to seek a waiver, compromise or otherwise reduce the amount of conditional payments sought by CMS based upon the cost of procurement and/or hardship;

ii. No Medicare Right of Subrogation. If either (1) Claimant denies enrollment in Medicare Part A and B on the Safe Harbor Form, or (2) upon Claimant making an inquiry of CMS as contemplated in paragraph 1(B) hereof, it is revealed that: (a) the Claimant is not a Medicare beneficiary; or (b) there are no outstanding Medicare conditional payment rights of subrogation as a result of the Claims, Respondent shall make the payment as described in

Section 1(A), above.

C. The parties' obligations under this Agreement are contingent upon all necessary appropriations, budgets, and approvals, including approval by the Mayor and Board of Alderman.

D. Separate W-9s will be completed by Gill & Sculimbrene, PLLC, and Steven Dixon and will be submitted to Respondent for payment of the above.

E. **NOTE: The timing of all payments runs from dates associated with information received from Claimant through counsel, or CMS, as referenced above, or approval by City, whichever is later, and not from the date of this Release.**

2. General Release of All Claims: In exchange for valuable consideration received, Claimant—including his heirs, successors, and assigns—hereby fully remises, releases, and discharges Respondent, and all of its current or former agents, representatives, employers, employees, servants, volunteers, independent contractors, officials, directors, attorneys, insurers, indemnitors, successors, and assigns, in their individual, business, and official capacities, as well as any other person and/or entity to the extent that such other person and/or entity could be deemed liable, by, through or under them (collectively referred to as “**Releasees**”), from any and all claims whatsoever, in law or in equity, which he now has, or ever had, against Releasees, from the beginning of time to the date of this Agreement, for any matter, cause, or thing, including but not limited to any and all claims that were, or could have been, asserted in the Threatened Litigation (collectively referred to as “**Claims**”).

Without limiting the generality of the foregoing, this release includes all matters arising out of or in connection with the Threatened Litigation, from the beginning of time to the date of

this Agreement, including but not limited to any rights or claims alleging violation of the United States Constitution, 42 U.S.C. § 1983, and any and all claims that may be asserted under any State or Federal statute or common law arising out of the Threatened Litigation. This shall be a full and final release of all claims known and unknown, foreseen and unforeseen, which have accrued to Claimant against Releasees arising out of the Threatened Litigation, up to and including the date of the Agreement, regardless of the adequacy of the compensation or the extent or character of his injuries and/or damages, known or unknown. Claimant expressly acknowledges and assumes all risk, chance, or hazard that any injuries and/or damages may become permanent, progressive, greater, or more extensive than is known, anticipated, or expected.

3. Non-Admission: This Agreement is a compromise of disputed claims. Respondent denies any and all liability, wrongdoing, and culpability regarding the claims in the Threatened Litigation, and further denies that this Agreement should be construed as an admission of any liability, wrongdoing or culpability. Respondent submits that the purpose of this Agreement is to buy peace.

4. Voluntariness of Release: Claimant acknowledges that, in exchange for this release, he has received money and other things of value. Claimant was given a reasonable period of time within which to consider the Agreement and has accepted its terms. Claimant acknowledges and agrees that this Agreement and consideration tendered herewith represents a compromise of disputed claims and that such consideration is paid and accepted in full settlement of all claims. Claimant acknowledges that the Respondent does not admit liability.

5. Right to Know: Claimant acknowledges and agrees that this Release may be kept on file at the municipal clerk's office and made available for public inspection, as required by

N.H. RSA 507:17 and N.H. RSA 91-A:4 (VI).

6. Waiver/Purpose/Representations: As the result of the Parties entering into this Agreement, Claimant acknowledges, agrees, and represents that: (a) Claimant is not entitled to request or be awarded and waives any claim of attorneys' fees, interest or costs under any Federal, State, or administrative law or regulation except as indicated herein; (b) the purpose of this Agreement is to "buy peace" from further dispute and controversy between and among Claimant and Respondents; (c) the consideration herein may or may not fully compensate Claimant for alleged losses; (d) Claimant has executed this Agreement with full knowledge of its legal significance; and (e) Claimant has done so to end all claims in the Threatened Litigation.

7. Responsibility With Respect to Related Taxes, if any: Claimant acknowledges and agrees that should the consideration set forth above, or any part thereof, be subject to any taxes, penalties, or interest, Claimant and/or his counsel shall be solely responsible for all such taxes, penalties, or interest. Claimant further agrees that he will not assert, file, or make any claims against Releasees for any such taxes, penalties, or interest he may be compelled to pay in connection with any disputes with the Internal Revenue Service or other taxing authority arising out of the claims in the Threatened Litigation.

8. Responsibility and Indemnification with Respect to Related Bills and Liens, if any: Claimant acknowledges and agrees to be responsible for any and all related outstanding bills, liens, statements, rights of subrogation, or reimbursement for services rendered or payments made by any third party, if any, including but not limited to legal, insurance providers, hospitals, medical and health care providers, Medicaid, Medicare, unemployment compensation, worker's compensation, or any other services or payments made or received, as a result of the Claims. In the event that any such third party asserts any claim against any of the Releasees for

outstanding bills, liens, statements, rights of subrogation, or reimbursement for services rendered or payments made to Claimant by such third party, as a result of the Claims, then Claimant agrees to indemnify, defend, and hold harmless the Releasees for any such claims.

9. Modification: This Agreement may not be amended or supplemented, and no waiver of, or consent to, or departures from provisions hereof shall be effective unless set forth in a writing signed by all parties.

10. Complete Agreement: It is further agreed and expressly understood that there are no other understandings or agreements, verbal or otherwise, in relation to any matter pertaining to this Agreement which are not expressly set forth herein. Claimant acknowledges and agrees that no promise or inducement which was not expressed herein has been made to him, and that in executing this Agreement, he does not rely upon statements or representations by Respondents concerning liability or the nature and extent of any damages recoverable under Claimant's claims.

11. Consultation with Counsel: This Agreement has been freely, knowingly, and voluntarily executed by Claimant after consultation with legal counsel.

12. Governing Law: This Agreement shall be enforced in accordance with the laws of the State of New Hampshire. In the event of litigation regarding this Agreement, Claimant expressly submits to the jurisdiction of New Hampshire.

13. Severability. The Parties agree that if any provision of this Agreement is deemed invalid or unenforceable, any such provision shall be divisible, and shall not affect in any way the remainder of this Agreement, which shall remain in full force and effect.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned

has set their hands and signatures below.

Date: 10/2/19

Steven C. Dixon  
**Steven Dixon**

Date: 10/2/19

AS 16491  
**Anthony Sculimbrene, Esq.**  
**Gill & Sculimbrene, PLLC**  
**142 Main Street, Suite 6**  
**Nashua, NH 03060**

