

SETTLEMENT AGREEMENT, RELEASE, AND COVENANT NOT TO SUE

This SETTLEMENT AGREEMENT, RELEASE, AND COVENANT NOT TO SUE (“Release”) is entered into by Jeffrey Gray (“Mr. Gray”) of St. Johns County, Florida. In consideration of the Settlement Benefits and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Releasing Parties agree as follows:

I. Definitions

For purposes of this Release, the following Definitions will apply:

- A. Effective Date. The “Effective Date” of this Release is the day this Release is signed.
- B. Released Parties. The “Released Parties” are Lt. Robert Hemminger, the City of Port Wentworth, Georgia (the “City”), Georgia Interlocal Risk Management Agency, Gallagher Bassett Services, Inc., the City’s present and former Mayors, the City’s present and former Council members, and, with regard to all of the foregoing, their current and former employees, agents, attorneys, predecessors, successors, heirs, executors, administrators, representatives, and assigns.
- C. Releasing Parties. The “Releasing Parties” are Mr. Gray and his heirs, executors, attorneys, administrators, representatives, agents, successors, assigns and all who might assert a derivative claim through Mr. Gray.

II. Terms

A. Settlement Benefits. In consideration for Mr. Gray’s execution of this Release and the release of claims as set forth below, the City will pay or cause to occur the following (the “Settlement Benefits”):

(1) Three separate checks, each in the amount of One Thousand Seven Hundred Ninety-One Dollars and no cents (\$1,791.00), made payable as follows, and delivered for distribution to Plaintiff’s counsel Adam Steinbaugh, Esq., Foundation for Individual Rights and Expression, 510 Walnut Street, Suite 1250, Philadelphia, PA 19106:

- (a) The National Coalition for Homeless Veterans;
- (b) Jeffrey Gray; and
- (c) Foundation for Individual Rights and Expression;

(2) The City will issue the written apology to Mr. Gray attached as Exhibit A;

(3) The City will publish a notification (attached as Exhibit B) to the public and to all City police officers and city hall employees that the area in front of Port Wentworth City Hall is a traditional public forum that may be used by members of the public for expressive activity,

including demonstrations, protests, petitioning, and holding signs;

(4) The City will rescind, in a writing attached as Exhibit C, the trespass notice issued to Mr. Gray; and

(5) The City will provide two hours of First Amendment training, conducted by a reputable non-profit legal organization, to each of its law enforcement officers once every twelve months for five years. The first two-hour training video course is titled “Responding to First Amendment Auditors,” course number ITCW23198, produced by the Georgia Public Safety Training Center and Clayton County Police Legal Advisor, Tom Kirkbride, and has been or will be completed in 2023 by each of the City’s law enforcement officers.

B. Not Otherwise Entitled. The parties agree that the Releasing Parties are entitled to no other payments or other consideration from the City or any other Released Party with regard to the Released Claims (as hereinafter defined) other than as may be contained in this Release.

C. Acknowledgments. Mr. Gray acknowledges that he has read and he understands this Release, and that he has had the opportunity to consult with his attorneys before signing this Release.

D. Release. In exchange for the Settlement Benefits described in Paragraph II.A. above, the Releasing Parties fully and finally release and discharge the Released Parties from any and all claims of any nature, known and unknown, which the Releasing Parties have or may have arising out of an incident on July 19, 2021, including those claims which were raised or which could have been raised in the lawsuit *Jeffrey Gray v. Robert Hemminger*, United States District Court for the Southern District of Georgia, Savannah Division, Civil Action Case No. 4:23-cv-00197-WTM-CLR (the “Released Claims”).

The Released Claims include, but are not limited to, claims, charges, actions, causes of action, demands, rights, damages, debts, contracts, claims for costs or attorney’s fees, expenses, compensation, and derivative claims. Without limiting the generality of the foregoing, the Releasing Parties specifically release and discharge the Released Parties from Released Claims pertaining to any federal, state, or local statutes, ordinances or common laws, including but not limited to claims asserted per 42 U.S.C. § 1983, the First and Fourteenth Amendments to the U.S. Constitution, 42 U.S.C. § 1988, and any claims under the U.S. and/or Georgia Constitution or laws including violation of Due Process or Equal Protection. The Releasing Parties deny there exists any maintainable derivative claim against the Released Parties and represent and warrant that they will not support any assertion of any derivative claim.

E. Stipulation of Dismissal. Within five (5) business days of Plaintiff’s counsel receiving all documents described in Sections II.A(2)–(4) and the checks described in Section II.A(1), above, Plaintiff shall file an agreed-upon Stipulation of Dismissal with Prejudice in the action described in Section II.D.

F. Covenant Not to Sue. The Releasing Parties covenant and agree that they will forever refrain and forebear from directly or indirectly, on their own behalf, derivatively, or on behalf of a class, commencing, instituting, pursuing, or prosecuting any lawsuit, action, appeal, or other proceeding against any or all of the Released Parties, based on, arising out of, related to or connected with any of the Released Claims. If Releasing Parties breach this covenant not to sue, the Releasing Parties agree to pay all of the costs and attorney's fees actually incurred by Released Parties in defending against such claims, demands or causes of action, together with such and further damages as may result, directly or indirectly. This Release shall constitute a complete and absolute defense to any such legal action brought in violation of this paragraph.

G. Non-Admission of Liability. This Release is made in settlement of contested and disputed claims and does not constitute an admission of liability on the part of the Released Parties as to any matter whatsoever. The Released Parties specifically deny any wrongful conduct of any kind toward any of the Releasing Parties.

H. Taxation. In the event any of the Released Parties are required to pay taxes or Social Security, or fines or assessments, because of any of the Releasing Parties' non-payment of taxes on any amounts paid under this Release, the Releasing Parties agree to indemnify, defend and hold harmless the Released Parties for any such amounts.

I. Entire Agreement. This Release contains the entire agreement of the parties as to the matters contained herein and this Release may not be changed without the written consent of the Released Parties and Releasing Parties. No oral evidence shall be admissible to alter or vary the terms and provisions hereof.

J. Assignment. The Releasing Parties hereby represent and warrant that they have not heretofore assigned, transferred, or hypothecated or purported to assign, transfer or hypothecate to any person or entity any claim or matter herein released, disclaimed, discharged, or terminated. In the event of such assignment, transfer, or hypothecation of any claims or other matter herein released, discharged, terminated, or disclaimed, the Releasing Parties agree to indemnify and to hold harmless the Released Parties from and against any liability or loss, and for any cost, expense or judgment or settlement arising out of a revocation by, or arising in connection with any such assignment, transfer or hypothecation. The provisions of this Release shall inure to the benefit of and be binding on any successor in interest of the Released Parties.

K. Waiver. The waiver by any Party of a breach of any provision of this Release shall not operate or be construed as a waiver of any subsequent or simultaneous breach.

L. Governing Law. This Release shall be governed by the Laws of the State of Georgia and shall be construed in accordance therewith insofar as federal law does not control.

M. Enforcement. Any dispute related to the meaning or enforcement of this Release and Covenant Not to Sue shall be brought in the U.S. District Court for the Southern District of Georgia. If the U.S. District Court for the Southern District of Georgia declines to exercise jurisdiction over any such dispute, the parties agree that the dispute will be brought in the Chatham

County Superior Court. If any action at law or in equity is necessary by Plaintiff or by a Defendant to enforce the Settlement Agreement, the party bringing such action shall, if the action is successful, be entitled to reasonable attorney's fees and costs necessary to bring such action. If such action is not successful, neither party will be entitled to attorneys' fees.

N. Severability. In the event any provision of this Release should be held to be unenforceable, each and all of the other provisions of this Release shall remain in full force and effect.

O. Headings and subheadings. Any headings or subheadings used herein are for reference purposes only and do not affect the substantive provisions of the Settlement Agreement.

P. Counterparts. This Release may be executed in counterparts and in multiple originals. A copy of this Release shall have the same legal import as an original.


IN WITNESS WHEREOF, Mr. Gray sets his hand and seal this ___ day of November, 2023.

Sworn to and subscribed before me
this ___ day of November, 2023.

NOTARY PUBLIC
My commission expires: _____

JEFFREY GRAY

CONSENTED TO BY THE CITY OF
PORT WENTWORTH, GEORGIA



By: Thomas Barbee
Title: Mayor Pro Tem

EXHIBIT A:

Text of Apology from the City of Port Wentworth

Comes now the City of Port Wentworth, Georgia (the "City"), and per the terms of a settlement with Mr. Jeffrey Gray, issues this apology with regard to the incident on July 19, 2021.

This 20th day of November, 2023.


BY: 
Its: Mayor Pro Tem

EXHIBIT B:

Notification that Outdoor Area of Port Wentworth City Hall is a Traditional Public Forum

NOTIFICATION

(To be published to the public, City Law Enforcement officers and City Hall employees).

TO: The Public, City Law Enforcement officers and City Hall employees

FROM: The City of Port Wentworth, Georgia

Please be notified that the area in front of Port Wentworth City Hall is a traditional public forum that may be used by members of the public for expressive activity, including demonstrations, protests, petitioning, and holding signs.

EXHIBIT C:

Rescission of Trespass Notice

INTENT TO RESCIND

The City of Port Wentworth, as part of a settlement, hereby rescinds any and all existing trespass notices concerning Jeffrey Gray of St. Johns County, Florida, including the trespass notice issued on July 19, 2021 in the City of Port Wentworth.

This 20th day of November, 2023.

BY: 

Title: Mayor Pro Tem