

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement"), dated to be effective December 2023 ("Effective Date"), is by and between Midstate Amusement Games, LLC, a Wisconsin limited liability company ("Midstate") and the City of Sheboygan, Wisconsin, a body corporate and politic, duly organized as a municipal corporation under Wisconsin law ("City").

RECITALS

A. Midstate and the City are parties to three civil actions pending before the Sheboygan County Circuit Court ("Court") captioned *Midstate Amusement Games, LLC v. City of Sheboygan*, which were consolidated as Case No. 2021-CV-000325 (collectively, the "Action").

B. In commencing the Action, Midstate alleged it was aggrieved by the City's levy and collection of an unlawful tax assessed against Midstate's personal property and sought recovery pursuant to Wis. Stat. § 74.35(3)(d). Specifically, Midstate alleged its personal property was exempt from taxation pursuant to Wis. Stat. § 70.111(27).

C. The personal property is identified on the City's records by Account No. 59281860858P for the 2020, 2021 and 2022 tax years and by Account No. 59281860857P for the 2021 tax year (collectively, the "Property").

In consideration of the above recitals and the mutual obligations contained herein, the sufficiency of which is hereby acknowledged, the Parties agree to the following:

AGREEMENT

1. Refund of Taxes. The City shall issue a refund payable to Midstate Amusement Games, LLC in the amount of \$38,591.69 ("Refund"), which represents 100% of the taxes collected from Midstate by the City in connection with the Property as detailed below. No part of the Refund shall constitute interest. The Refund shall become due and payable within 30 days of the Effective Date of this Agreement and shall be mailed, postage prepaid, to Midstate Amusement Games, LLC, Attention: Mr. Joe Jacobson, 1161 Industrial Parkway, Fond du Lac, Wisconsin 54937.

Account	2020	2021	2022	Total
59281860858P	12,093.86	15,726.25	10,400.71	38,220.82
59281860857P		370.87		370.87
Total	12,093.86	16,097.12	10,400.71	38,591.69

2. Release of Future Claims. In consideration of the Refund set forth in Section 1 hereof, Midstate shall waive and forgo any claims it may have under Wis. Stat. § 74.35(3)(d) in connection with the Property for the 2023 tax year ("Release").

3. Stipulation and Order for Dismissal. No later than ten (10) days after receipt of the Refund, the parties, by their respective attorneys, shall enter a Stipulation for Dismissal of the Action ("Stipulation"), on the merits, with prejudice and without costs or fees to either party, in substantially the form attached hereto as Exhibit A, and file the Stipulation and a Proposed Order, in substantially the form attached hereto as Exhibit B, with the Court.

4. Use of the Agreement. A copy of the Agreement shall not be filed with the Court in connection with the Action, or any other action or proceeding, except for the purpose of enforcing the terms of the Agreement.

5. No Admission of Liability. The Agreement represents a settlement of disputed claims. The Agreement and Refund shall not be construed as admissions by the City for any of the claims asserted in the Action, and the Release shall not be construed as an admission by Midstate that any of the claims it may otherwise have been entitled to assert for the 2023 tax year lacked merit.

6. Miscellaneous.

(a) Governing Law and Jurisdiction. This Agreement shall be governed by and construed and enforced in accordance with the internal laws of the State of Wisconsin without giving effect to any choice of law or conflict provision or rule (whether of the State of Wisconsin or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Wisconsin. Any legal suit, action or proceeding arising out of or based upon/relating to this Agreement or the transactions contemplated hereby shall be instituted in the federal courts of the United States of America or the courts of the State of Wisconsin in each case located in the City of Sheboygan and County of Sheboygan, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

(b) Amendment and Modification. This Agreement may be amended or modified only by a written agreement between the Parties.

(c) Assignment. This Agreement and the rights and duties set forth herein may not be assigned. This Agreement shall be binding on and inure to the benefit of each party and such party's respective heirs, legal representatives, successors and assigns.

(d) Equitable Remedies. In the event of any breach of this Agreement, no adequate remedy at law may exist and each party shall be entitled to enforce its rights hereunder by an action for specific performance and injunctive or other equitable relief, as well as any other action available to it under law or equity.

(e) Entire Agreement. This Agreement represents the complete understanding of the parties with regard to its subject matter, and replaces, supersedes and merges any and all

earlier understandings or agreements concerning that matter, whether express or implied, written or oral.

(f) Severability. If any portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, that portion shall be severed from the Agreement and the remaining portions of the Agreement shall continue in force and shall be interpreted in the absence of the severed portion in a manner designed to best achieve the Parties' original goals in entering into this Agreement.

(g) Interpretation of Agreement. This Agreement is the product of negotiations between the Parties during which each Party has been represented by counsel. If a dispute arises concerning the interpretation of this Agreement, then neither Party shall be deemed the drafter of this Agreement for purposes of its interpretation.

(h) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and both of which together shall constitute one document. This Agreement may be signed by facsimile or electronically in portable document format ("pdf"), and facsimile or pdf signatures shall be binding.

[Remainder left intentionally blank; signatures follow]

Signature Page to Settlement Agreement

IN WITNESS WHEREOF, the parties hereto have executed this Settlement Agreement on the date first written above.

MIDSTATE AMUSEMENT GAMES, LLC

By: _____
Douglas A. Pessefall
Pessefall Law, LLC
Attorney for Midstate Amusement
Games, LLC

CITY OF SHEBOYGAN

By: _____
Charles C. Adams
City Attorney
Attorney for City of Sheboygan