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TO: Mayor Lansing and the Members of the Northfield, Minnesota City Council

C: Maren Swanson, Esq., City Attorney

FROM: Clifford M. Greene, Special Counsel to the City of Northfield

DATE: December 17, 2007

RE: *Presentation of the Everett Investigation Report*
Our File No: 2043-0339

The Report of the investigation by Mr. William Everett of various municipal issues and allegations is hereby presented to the City Council in public session, at its regularly scheduled meeting on December 17, 2007. This sixty-one (61) page Report is being made available to the City Council and public simultaneously.

In addition to this Report, Mr. Everett has prepared a three (3) page supplementary report ("Addendum A") addressing allegations that must be treated as "private data" under Minnesota law. [Under the Minnesota Government Data Practices Act, data about municipal *employees* that has not resulted in the final disposition of a disciplinary action are classified as "private data" and cannot be made available to the public unless the subject of that data waives the "private data" classification.] To comply with this law, Addendum A will be distributed exclusively to the subjects of those allegations and to those employees and officials (including the Mayor and all members of the City Council) whose job assignments or responsibilities reasonably require access to that data, with the accompanying direction not to release any of the content of Addendum A to the public.

No elected official or municipal employee has received advance access to any portion of this Report or to Addendum A, whether in draft or final form. During the pendency of this project, I have insisted that all inquiries about the status of this investigation be directed to my attention so as to insulate Mr. Everett from interactions that might be perceived as favoring individuals with special access or insight. The objective has been to isolate Mr. Everett from the political arena, and to protect him from distractions while working on this investigation.

Mr. Everett's Report reflects many hours of painstaking review of documents, as well as interviews with various public officials, municipal employees, and citizens. Not only has he developed information responsive to the City Council's inquiries, Mr. Everett has organized that

information in a manner that will facilitate City Council (and public) discussion about the adequacy of municipal policies, procedures and ethics. Any person who believes that the contents of the Report are inaccurate is entitled to challenge the accuracy of any portion of this Report pursuant to Section 13.04 of the Minnesota Data Practices Act.

A few comments about the scope of Mr. Everett's investigation are in order.

The Goodhue County Attorney is currently investigating various allegations brought to his attention in order to determine whether there is probable cause to believe that criminal violations have taken place. The County Attorney is conducting his investigation independently, using the investigative resources of that office. The County Attorney has specifically requested that Mr. Everett avoid conducting a concurrent civil investigation of these same issues, so as to avoid undermining the integrity and efficacy of the criminal investigation. Accordingly, Mr. Everett's Report does not examine issues within the scope of the County Attorney's investigation. The Goodhue County Attorney's investigation has not concluded. However, no one should presume that the pendency of that investigation suggests a particular outcome. All questions about that investigation must be directed to the County Attorney.

After the City of Northfield authorized investigation of various issues by Mr. Everett, Mayor Lansing and others sued the City, alleging violations of the Minnesota Government Data Practices Act and the Open Meeting Law. [The Mayor has since withdrawn as a plaintiff from that lawsuit.] This civil lawsuit provides its own judicially-supervised procedures and timetable for the development and ultimate determination of facts relevant to these alleged violations. In addition, an administrative investigation—on an expedited basis—of the very same issues that are subject to a civil lawsuit presents a variety of complications, not the least of which is the effort by any of the disputing parties to attempt to use the investigation as a substitute for litigation-authorized fact-finding procedures and to enhance their litigation postures. Therefore, it was decided that the Everett investigation should not address the allegations that are presently the subject of the pending civil lawsuit.

Mr. Everett notes in his Report that his investigation of one issue concerning municipal contracting has not yet concluded. We determined that the presentation of the Report should proceed as scheduled, and that Mr. Everett will supplement this Report when he has finished the investigation of this one outstanding allegation.

Mr. Everett will make Exhibits and Interview transcripts associated with this Report available to the City Council and to the public once the process of redacting portions of those materials deemed non-public under the Minnesota Data Practices Act has been completed. (The City Council is authorized to receive both redacted and unredacted sets of materials. As indicated in Mr. Everett's report, this process will be completed shortly.)

To preserve the integrity of the investigative process, neither I nor Mr. Everett will provide any comments on the substance of matters investigated to individual City officials or members of the public. The investigative report is thorough, comprehensive, and should speak for itself. As noted in

Mr. Everett's report, the City Council acting as a whole, or through a duly authorized representative, may contact Mr. Everett if additional or clarifying information is believed necessary.

Clifford M. Greene
Special Counsel to the City of Northfield