

SETTLEMENT AGREEMENT, RELEASE AND WAIVER

This Agreement is made as of this ____ day of _____, 2010.

WHEREAS, Michael J. Damiani filed a complaint against the City of East Providence, by and through James McDonald, in his capacity as Finance Director, Mayor Isadore S. Ramos, Assistant Mayor Bruce Ditraglia, Robert E. Cusack, Valerie A. Perry, Brian P. Silva, and Richard Brown (hereinafter collectively the "Defendants") in the United States District Court for the District of Rhode Island, Case Number 2008-405S, alleging violations of the Americans with Disabilities Act, the Rehabilitation Act of 1973, and the Rhode Island Fair Employment Practices Act (hereinafter the "Complaint"); and

WHEREAS, Defendants deny the allegations against them, including the allegations made by the Plaintiff in his/her Complaint; and

NOW, THEREFORE, in consideration of the foregoing premises it is agreed as follows:

1. SETTLEMENT:

Plaintiff shall receive a settlement in the amount of \$22,000 (the "settlement amount"). \$7,000 of the settlement amount is designated as damages and shall be paid in the form of a check(s) made payable to Michael J. Damiani. \$15,000 of the settlement amount is designated as an attorney fee that shall be paid in the form of a check made payable to Carolyn A. Mannis, Esquire. The settlement amount shall be paid within thirty days of receipt of Defendant's attorney of a copy of this Agreement executed by Plaintiff and a Stipulation of Dismissal executed by Plaintiff's attorney.

2. DISMISSAL OF ALL CLAIMS WITH PREJUDICE

The Plaintiff hereby agrees that the Complaint shall be dismissed with prejudice and without costs, and authorizes his attorney to execute and file forthwith a Stipulation of Dismissal with Prejudice in the form attached hereto as **Exhibit A**.

3. RELEASE AND DISCHARGE BINDING ON PARTIES, HEIRS, SUCCESSORS AND ASSIGNS:

For good and valuable consideration, including the payments set forth in Section 1, the sufficiency of which is hereby acknowledged, Michael J. Damiani, individually and on behalf of his heirs, executors, administrators and assigns, hereby fully releases and discharges Defendants and the Rhode Island Interlocal Risk Management Trust, as well as its parent companies, subsidiaries, affiliates, divisions, branches, successors, assigns and past, present or future officers, directors, trustees, employees, attorneys, agents, representatives and insurers ("Releasees"), from and with respect to any and all claims, demands, charges, liabilities, actions, contracts, debts, damages, suits, and causes of action of any kind whatsoever, in law or at equity, whether known or unknown, suspected or unsuspected, concealed or hidden, which the Plaintiff now has or may have against Defendants, or which he may have had against any of them, arising out of or relating in any way to Plaintiff's appointment as an Assistant Harbormaster, including for violations of Americans with Disabilities Act, The Rehabilitation Act of 1973, The Rhode Island Fair Employment Practices Act, The Rhode Island Civil Rights Act and any other similar claims, including any and all claims for emotional distress, personal injuries, wages, back pay, front pay, costs, attorney's fees or punitive damages, and any other claims which were or could have been asserted in the Complaint.

4. DENIAL OF ANY VIOLATION OR LIABILITY:

I understand that the Defendants expressly deny any violation of any of their policies, procedures, state or federal laws or regulations. Accordingly, while this Agreement resolves all issues between the Plaintiff and the Defendants relating to any alleged violation of the Defendants' policies or procedures or any state or federal law or regulation, this Agreement does not constitute an adjudication or finding on the merits and it is not, and shall not be construed as, an admission by Defendants of any violation of its policies, procedures, state or federal laws or regulations. Moreover, neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of or an admission by Defendants of any violation of its policies, procedures, state or federal laws or regulations. This Agreement may be introduced, however, in any proceeding to enforce the Agreement, subject to any order protecting its confidentiality.

5. PAYMENT OF TAXES:

Plaintiff acknowledges that he (and not Defendants) shall be liable for all taxes, if any, that are or may become owing on the settlement amount, payment for emotional distress and attorney's fees. Plaintiff agrees to indemnify Releasees for, and hold them harmless from, any liability to any taxing authority or governmental agency for taxes or any other liability assessed against it as a result of Plaintiff's failure to pay taxes in connection with the settlement.

6. SEVERABILITY OF PROVISIONS:

Should any part of this Agreement be held invalid by a court or competent jurisdiction, that invalidity shall not affect any other provision or application of the Agreement that can be given effect without the invalid portion, and to this end, the provisions of this Agreement are declared to be severable.

7. FULL UNDERSTANDING AND VOLUNTARY ACCEPTANCE:

The Plaintiff acknowledges that he has been represented by counsel of his choice throughout the negotiation of this Agreement, and that the terms of this Agreement have been completely read and that those terms are fully understood and voluntarily accepted by him. Plaintiff further states that he has carefully read the foregoing agreement and fully understands its terms and signs the same as his own free act and deed.

Witness my hand and seal this _____ day of _____, 2010.

Michael J. Damiani

WITNESS:

Address _____

ADDENDUM

For and consideration of the payment of the attorney's fees set forth in Paragraph 1 of the Settlement Agreement, Carolyn A. Mannis, Esquire, counsel for the Plaintiff, hereby releases and discharges any and all claims that she may have against the Defendants for attorney's fees arising from those claims of Plaintiff that were or could have been asserted in the complaint.

Witness my hand and seal this _____ day of _____, 2010.

Carolyn A. Mannis, Esquire

WITNESS:

Address _____
