

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS is entered into this _____ day of _____ 2012, by and between Michael Lacey (hereinafter "Lacey "Employee") and the City of New London (hereinafter " the City" or "Employer").

WITNESSETH

WHEREAS, Lacey shall voluntarily separate from employment with a retirement with the City effective January _____, 2012.

WHEREAS, Lacey will immediately apply for retirement through the Municipal Employee Retirement System.

WHEREAS, The City agrees to continue to pay Lacey his base wage calculated at July 1, 2012 rate until the month of commencement of his retirement benefits.

WHEREAS, upon separation the city agrees to pay Lacey his July 1, 2012 hourly rate for all accrued vacation, holiday and compensatory time.

WHEREAS, After commencement of his retirement benefits, the City agrees to pay for a period of four and one-half (4 ½)years (54 months) on a monthly basis the difference between his July 1, 2012 base wage and his pension benefits received through MERS (including spousal option). Applicable taxes shall be deducted from the wage differential.

WHEREAS, Lacey shall be granted family health insurance as provided to the Bargaining Unit, including vision and dental, at the City's expense with no cost sharing through January 31, 2017, thereafter Lacey shall receive health insurance for himself and his spouse as provided to the Bargaining Unit and/or Unit retirees until Lacey is eligible to receive Medicare benefits at which time Lacey is required to apply for Medicare benefits. Thereafter, the City will provide the Medicare supplemental insurance for Lacey and his spouse at the City's expense with no cost sharing.

WHEREAS, Employee and Employer have resolved their differences and wish to enter this Agreement to dispose fully and finally the differences between them and any claims that now exist under federal, state, municipal and/or common law between the parties, from the commencement of the Employee's employment with the Employer to the date of the execution of this Agreement.

WHEREAS, the parties desire to resolve any and all differences or disputes between the parties that presently exist regarding the Employee's employment with the Employer and separation from employment with the Employer;

NOW, THEREFORE, in consideration of the above recitals and further in consideration of the mutual promises and forbearance anticipated hereunder and in further consideration of the sums to be paid, the parties, intending to be bound legally and acting of their own free will, agree as follows:

1. Acknowledgments:

(a) Employee and Employer expressly acknowledge that the consideration provided herein is solely for the purpose of avoiding the cost, burden and uncertainties of litigation. Employee and Employer further understand and agree that this Agreement and execution hereof by the parties does not make him a prevailing party in any legal action and that it does not constitute and shall not be construed as an admission by the Employer, or any of its commissions, officials, officers, agents and successors, employees or representatives, that they are in any way liable to Employee, that they harmed or damaged the Employee in any way, that they committed any acts of discrimination whatsoever against Employee, or any other person, or that they violated any federal, state, or local law. This Agreement is the good faith settlement of disputed claims, and the Employer specifically disclaims any liability to or discrimination against Employee or any other person, on the part of itself, its commissions, officials, officers, agents and successors, employees, or representatives.

(b) Employee and Employer each represent and warrant that no person other than the signatories hereto has any interest in the matters referred to or covered by this Agreement; that each of them has the sole right and exclusive authority to execute this Agreement; and that they have not sold, assigned, transferred, conveyed, or otherwise disposed of any claim or demand relating to any matter covered by this Agreement.

(c) Employee represents and agrees that he is able to read the language and that he has carefully read, and understands all provisions and effects of this Settlement Agreement and General Release of All Claims.

(d) Employee represents and agrees that he fully understands his right to discuss all aspects of this Settlement Agreement and General Release of All Claims with a private attorney (s), and he has availed himself of this opportunity, that he has carefully read and fully understand all the provisions of this Settlement Agreement and General Release of All Claims, and that Employee is knowingly and voluntarily entering into this Settlement Agreement and General Release of All Claims.

(e) Employee represents and agrees that he has been given twenty-one (21) days to consider the Settlement Agreement and General Release of All Claims.

(f) Employee represents and agrees that he would not otherwise be entitled to the settlement proceeds.

(g) The parties agree that there exists no other contract or promise of any kind that would require the Employer to make any payment to Employee or make any allowance for Employee that is equal to or greater than the consideration afforded Employee under the terms of this Agreement.

2. Representation by Employee:

Employee represents that he has filed no claims, complaints, charges, lawsuits or grievances against Employer, its employees, agents, officials, officers or representatives with any governmental agency or any court for any matter, claim, or incident known or unknown which occurred or arose out of occurrences on or prior to the date of this Agreement.

3. Severance of Employment Relationship:

(a) Employee agrees and recognizes he was granted a retirement from employment with the City effective January_____, 2012.

(b) The City agrees to continue to pay Lacey his base wage calculated at July 1, 2012 rate until the commencement of his retirement benefits.

(c) Upon separation the city agrees to pay Lacy his July 1, 2012 hourly rate for all accrued vacation, holiday and compensatory time

(d) After commencement of his retirement benefits, the City agrees to pay for a period of four and one-half (4 ½)years (54 months) on a monthly basis the difference between his July 1, 2012 base wage and his pension benefits received through MERS (including spousal benefit). The wage differential shall be minus applicable taxes.

(e) Lacey shall be granted family health insurance as provided to the Bargaining Unit, including vision and dental, at the City's expense with no cost sharing through January 31, 2017, thereafter Lacey shall receive health insurance for himself and his spouse as provided to the Bargaining Unit and/or Unit retirees until Lacey is eligible to receive Medicare benefits at which time Lacey is required to apply for Medicare benefits. Thereafter, the City will provide the Medicare supplemental insurance for Lacey and his spouse at the City's expense with no cost sharing.

4. Attorney's Fees and Costs; Breach of Agreement:

(a) This Agreement shall not be construed to render Employee a "prevailing party" within the meaning of any statute providing for allowance of attorney's fees and costs.

(b) Each party hereto shall bear all attorney's fees and costs arising from the actions of its own counsel in connection with this Agreement, the matters and documents referred to herein, and all related matter, except that:

- (1) In the event that Employee should (a) sue or bring any administrative action against the Employer, its officials, agents and successors or any Employer personnel or officers for any reason arising from Employee's employment, except as otherwise allowed by this Agreement; (b) breach any of the terms of this Agreement, including, but not limited to, the confidentiality provision, the Employer will be relieved of all obligations under this Agreement, and: Employee shall immediately repay to the Employer or its successors, all payments paid to the Employee as consideration. In addition, Employee shall indemnify City for all costs, including court costs and reasonable attorney's fees, incurred by City in the defense of such action or in establishing or maintaining the application or validity of this Agreement or the provisions thereof.
- (2) In the event that the City should breach any of the terms of this Agreement the Employee will not be relieved of any obligation under this Agreement, except to the extent necessary to enforce its terms.
- (3) Notwithstanding anything to the contrary above, if either the Employer or the Employee believes the other has materially breached the Agreement, the party will notify the other in writing of the alleged breach and will provide the other with fourteen (14) days to correct it to the extent reasonably possible. During said fourteen (14) day period, neither party will be relieved of its obligations pursuant to this Agreement and the remedy at law for any breached or threatened breach of the Agreement need not be tendered unless the breaching party has received written notice and has been able to correct the alleged breach.

5. Assignment of Agreement and Employee's Beneficiary:

This Agreement shall not be assigned, pledged, or transferred in any way by Employee.

6. Release and indemnity

(a) In consideration of the promises of the Employer set forth in this Settlement Agreement and General Release of All Claims, Employee, on his own behalf or on behalf of his heirs, executors and administrators intending to be legally bound, hereby, except as expressly stated below, irrevocably and unconditionally releases the Employer, its current or former agents, officials, officers, employees, representatives, attorneys, subsidiaries, affiliates, and successors in their individual and/or official capacities (hereinafter referred to collectively as "Releasees") from any and all causes of actions, liabilities, obligations, suits, claims and demands of whatsoever kind or nature in law, equity or otherwise, relating in any way to Employee's employment or separation from employment, which Employee had, has, or may have

against Releasees, including any claims under federal, state, municipal and/or local laws, constitutions and common law, including, but not limited to, the Connecticut Fair Employment Practices Act, Connecticut General Statutes Section 46a-51 et seq., and regulations issued thereunder; the Connecticut Protection of Employees Who Disclose Their Illegal Activities Act, Public Act No. 82-289; certain provisions of the Workers' Compensation Act, namely, C.G.S. §§ 31-290a and 31-284b; the National Labor Relations Act (NLRA), 29 U.S.C. §151 et seq.; the Civil Rights Act of 1981, 42 U.S.C. §1981, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e et seq., and regulations issued thereunder, the Age Discrimination Employment Act of 1967, 29 U.S.C. §621; Title 1 of the Americans with Disabilities Act of 1990; the Rehabilitation Act of 1973, the Family and Medical Leave Act of 1993; the Civil Rights Act of 1991; the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985; the Fair Labor Standards Act, 29 U.S.C. §201 et seq. and regulations issued thereunder; the Connecticut Wage and Hour Statutes, C.G.S. Chap. 558, Title 31, and regulations issued thereunder, and any and all other claims which could arise from employment, whether in contract, express or implied, under common law or negligence, or in tort, including, but not limited to breach of a covenant of good faith and fair dealing, a contract of permanent employment, the tortious or wrongful discharge from employment, defamation and the intentional or negligent infliction of emotional or mental distress, and all claims for counsel fees and costs. This release does not apply to any current or future worker's compensation claim or health and hypertension claims by employee.

(b) Employee also knowingly and voluntarily agrees that by this Agreement, he does for himself and anyone claiming for or through his waiver, release, promise and agree not to bring or pursue any judicial, quasi-judicial, or administrative action against the Employer for any reason whatsoever arising out of his employment and separation from employment with the City up to and including the date of this Agreement. This Agreement however, does not prevent Employee from filing a charge with the Equal Employment Opportunity Commission, although Employee waives his right to recover any damages or other relief in any claim or suit brought by or through the Equal Employment Opportunity Commission or any other state or local agency on behalf of the Employee under any federal or state discrimination law, except where otherwise prohibited by law.

(c) Employee understands and agrees hereby that if this Agreement was not signed, Employee would have the right to voluntarily encourage or assist other individuals, employees or entities in bringing claims, including but not limited to complaints or suits, against the Employer. Employee further understands and agrees hereby that he waives such right and will not provide any such assistance other than the assistance in an investigation or proceeding conducted by the United States Equal Employment Opportunity Commission. The Employer and Employee further agree that Employee may provide information pursuant to any valid subpoena or other compulsory process. Employee will notify the Employer by contacting the Personnel Director within three (3) business days of receipt of any such subpoena or other compulsory process.

7. Confidentiality of Agreement:

(a) Except such disclosure that is required by law, that the Employee makes to his respective attorneys, tax planners or advisors consulted regarding the Agreement or that the Employee makes to his immediate family, unless such disclosure is made for the purposes of violating the intent of this provision, Employee agrees that he will not disclose, publicize, publish or disseminate, or cause to be disclosed, published, publicized or disseminated, in any manner, the terms, conditions or contents of this Agreement or of the discussions that led to this Agreement, to any third person. Employee may disclose information relating to the terms, conditions or contents of this Agreement to the extent required to enforce his respective rights and obligations under the Agreement.

(b) Except such disclosure that is required by law, that the City makes to its respective attorneys, tax planners or advisors consulted regarding the Agreement unless such disclosure is made for the purposes of violating the intent of this provision the City does not intend to disclose, publicize, publish or disseminate or cause to be disclosed, published, publicized or disseminated, in any manner, the terms, conditions or contents of this Agreement to any third person. The City may disclose information relating to the terms, conditions or contents of this Agreement to the extent required to enforce its respective rights and obligations under the Agreement.

8. Communications to Third Parties:

(a) Employee agrees not to communicate or disseminate in any form or manner whatsoever to any individual, company, governmental body or agency, or any other entity, any false, negative or derogatory information about the Employer, its officials, agents, employees or representatives.

(b) Employer agrees not to communicate or disseminate in any form or manner whatsoever to any individual, company, governmental body or agency, or any other entity, any false, negative or derogatory information about the Employer, its officials, agents, employees or representatives.

(c) Employer will provide a letter of recommendation with language agreed upon by both parties.

9. Integration and Modification:

This Agreement constitutes the entire agreement by and between the parties hereto with respect to the subject matter hereof and may be modified or amended only in writing signed by both parties. This Agreement specifically supercedes all conversational discussions, representations and/or agreements by and between the parties with respect to Employee's employment with the Employer and retirement from employment with the Employer.

10. Construction and Severability:

(a) This Agreement is entered into and shall be construed, interpreted and performed in accordance with the laws of the State of Connecticut.

(b) If any of the provisions, terms or clauses of this Agreement are declared illegal, unenforceable or ineffective in a legal forum or by operation of law, those provisions, terms and clauses shall be deemed severable, such that all other provisions, terms and clauses of this agreement shall remain valid and binding upon both parties.

11. Counterparts:

This agreement will be executed simultaneously in any number of counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same instrument.

12. Consideration:

Employee affirms that the only consideration of his signing this Agreement is the terms stated above.

13. Binding Effect:

This agreement shall be binding upon, and shall inure to the benefit of Employee and his heirs, administrators or representatives, successors and assigns. It also shall be binding upon, inure to the benefit of the City, its members, directors, officers, current or former agents, representatives and employees, and its successors and assigns.

14. Reviews by Counsel:

Employee acknowledges that he has been advised to consult an attorney regarding this Agreement, that he has in fact consulted an attorney with regard to it, and that he has satisfied himself that its provisions are acceptable to him.

15. Employee's Right of Revocation and Acceptance:

Employee's signature below indicates his knowledge and agreement that he has read this Agreement, that he understands its terms, that he enters into it freely and voluntarily, and that he has been given the opportunity to consult with and has consulted with an attorney. Employee further acknowledges and agrees that he has a period of twenty-one (21) day period from the date of his receipt of this Agreement to review consider and execute this Agreement. Employee also acknowledges and agrees that if at any time during this twenty-one (21) day period he elects to execute this Agreement, he shall nevertheless have a period of seven (7) days following such execution to revoke his acceptance. Any such revocation of acceptance shall be effective by having written notice of the revocation postmarked during the seven (7) day period and sending

it to the Personnel Department of the City of New London. This Agreement shall not become effective or enforceable until such seven (7) day revocation period has expired.

IN WITNESS WHEREOF, the aforementioned parties, intending to be legally bound hereby, have executed this Agreement.

The City of New London

Michael Lacey
Employee

The Honorable Darryl Justin Finizio
Its: Mayor

STATE: OF CONNECTICUT)
)
COUNTY OF NEW LONDON) ss. New London, CT

On this _____ day of _____, 2012, before me personally appeared Michael Lacey, known to me to be the person whose name is subscribed to the within instrument who acknowledged that he executed the same for the purposes therein contained as his free act and deed.

Notary Public/Commissioner of the Superior Court
My Commission Expires on:

STATE: OF CONNECTICUT)
)
COUNTY OF NEW LONDON) ss. New London, CT

On this _____ day of _____, 2012, before me personally appeared The Honorable Darryl Justin Finizio duly authorized Mayor of the City of New London, known to me to be the person whose name is subscribed to the within instrument who acknowledged that he executed the same for the purposes therein contained as his free act and deed.

Notary Public/Commissioner of the Superior Court
My Commission Expires on: