

PUBLIC EMPLOYEE RELATIONS BOARD
STATE OF NEW YORK

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LOCAL 342, LONG ISLAND PUBLIC SERVICE EMPLOYEES,
UNITED MARINE DIVISION, ILA, AFL-CIO

Case No. U-35062

Charging Party,

-against-

INCORPORATED VILLAGE OF MASTIC BEACH,

Public Employer.

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SETTLEMENT AGREEMENT
AND FULL AND FINAL RELEASE OF ALL CLAIMS

This Confidential Release and Settlement Agreement ("Agreement") is entered into by Local 342, Long Island Public Service Employees, United Marine Division, ILA, AFL-CIO (the "Union"), Incorporated Village of Mastic Beach (the "Village"), (the Union and the Village, collectively referred to as "the Parties").

Whereas, the Parties wish to resolve all disputes, claims and causes of actions asserted in the matter in the Public Employment Relations Board, *Local 342, Long Island Public Service Employees, United Marine Division, ILA, AFL-CIO* bearing Case No.: U-35062 (the "Union Complaint");

Whereas, it is expressly understood that the Parties have entered into this Agreement solely for the purpose of avoiding litigation and the cost of ongoing litigation concerning all disputes, claims and causes of action asserted in the Union Complaint and that each party will bear its own costs and attorney's fees; and,

Whereas, the Parties specifically stipulate and concede that the existence and execution of this Agreement shall not be considered as and does not constitute an admission by the Village, or their affiliates, employees, divisions, and branches of any liability, or any kind of violation of any federal, state or local law, ordinance, rule or regulation, or any duty whatsoever with respect to the

Union Complaint, whether based in statute, contract, common law or otherwise, and the Village expressly denies any such liability or violation;

Now Therefore, in consideration of the undertakings contained in this Agreement and for other good and valuable consideration, it is hereby stipulated and agreed to by the Parties as follows:

Release: The Union agrees that in consideration of the benefits described in this Agreement, the Union, on their own behalf and on behalf of its members, heirs, executors, administrators, attorneys, representatives, successors and assigns, hereby voluntarily, irrevocably and unconditionally releases and forever discharges the Village, including but not limited to corporate parents, members, shareholders, divisions, subsidiaries, affiliates, branches, agencies, agents, insurers, representatives, attorneys, fiduciaries, trustees, administrators, directors, officers, supervisors, managers, and all other potential, or possible tortfeasors, and, all related entities and their agents, insurers, representatives, attorneys, fiduciaries, trustees, administrators, directors, officers, supervisors, managers, employees, elected officials and all other potential or possible tortfeasors (collectively referred to as "Releasees"), from all disputes, claims and causes of action asserted in the Union Complaint.

1. **Consideration:** In consideration of the benefits described in this Agreement and for other good and valuable consideration, the Parties agree as follows:

- a. The Parties recognize the existence of the Union, as previously acknowledged by Resolution of the Village Board of Trustees in an agreed upon Notice of Voluntary Recognition approved by resolution of the Village Board of Trustees dated February 4, 2015.
- b. The Parties further recognize that from time to time, certain budgetary actions taken by the Village may require the Parties negotiate the impact of

such actions. The Parties agree prospectively to negotiate the impact of such actions when required to do so by law.

- c. The Parties are presently negotiating a Collective Bargaining Agreement between the Village and Union. The Parties agree to discuss the topic of restoration of 2 full time positions, to wit; one Laborer and one Building Inspector; as part of such negotiations.

2. **Other Actions:** Pursuant to and as part of the Union's complete, total and irrevocable release and discharge of Releasees, pursuant to the terms of Section 1. Of this Agreement, the Union hereby represents and warrants that they have not commenced or filed any charge, complaint, grievance, demand for arbitration, lawsuits or claims concerning all disputes, claims and causes of action asserted in the Union Complaint in any venue or forum of any nature whatsoever against Releasees, except for the instant matter pending before the Public Employee Relations Board of the State of New York. The Union further agrees to execute such other documents and to take such other actions as may be reasonably necessary to discontinue with prejudice any litigation, or claim against Releasees concerning all disputes, claims and causes of action asserted in the Union Complaint before the New York State Public Employment Relations Board ("PERB").

3. **Future Claims:** Pursuant to and as a part of the Union's complete, total and irrevocable release and discharge of Releasees, pursuant to the terms of Section 1. Of this Agreement, the Union agrees, to the fullest extent permitted by law, not to sue or file a charge, complaint, grievance or demand for arbitration, concerning the allegations in the Union Complaint, in any forum or otherwise participate willingly or voluntarily in any claim, arbitration, suit, concerning the allegations in the Union Complaint.

4. **Purpose:** The purpose of this Agreement is to avoid litigation and the cost of ongoing litigation concerning all disputes, claims and causes of action asserted in the Union Complaint. The Union acknowledges that by executing this Agreement, they are irrevocably terminating all disputes, claims and causes of action asserted in the Union Complaint against Releasees. The Union acknowledges, except as otherwise provided herein, that the Village has no other further obligation to them for the payment of alleged damages, legal fees, income taxes, severance payments, disbursements, or any other expenses arising out of and/or related to the Union Complaint. The Union expressly acknowledges that the consideration described in Paragraph "2" is to be in full satisfaction of any and all disputes, claims and causes of action asserted in the Union Complaint against Releasees.

5. **Capacity:** The Union acknowledges that they have the authority and capacity to enter into this Agreement and fully understand the legal effects of executing this document, and hereby waives any right to challenge the enforceability of this Agreement on the grounds that they lacked the authority and/or capacity to enter into this Agreement at the time of its execution.

6. **Assignment:** The Union represents and warrants that they have not assigned or subrogated any claim against Releasees.

7. **Entirety of the Agreement:** This Agreement constitutes the entire agreement between and among the Parties hereto and supersedes any and all other agreements, understandings, and negotiations or discussions, either oral or in writing, expressed or implied, between and among the Parties hereto concerning all disputes, claims and causes of action asserted in the Union Complaint.

8. **Resolution of Disputes.** Any controversy, or claims relating to this Agreement, as well as any other claim, dispute or issue, shall be resolved in a proceeding held before the Supreme Court of the State of New York, in and for the County of Suffolk, by a judge sitting without a jury

to ensure rapid adjudication of any such claims and proper application of existing law. The prevailing party shall be entitled to reasonable legal fees in any enforcement proceeding.

9. **Governing Law:** This Agreement is made and entered into in the State of New York and shall in all respects be interpreted, enforced, and governed under the laws of said state without giving effect to conflicting laws or provisions thereof.

10. **Waiver:** Failure to insist on compliance with any term, covenant or condition contained in this Agreement shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power contained in this Agreement at any one time or more times be deemed a waiver or relinquishment of any right or power at any time or all times.

11. **Severability:** If any provision of this Agreement is held to be unenforceable, such provision shall be considered to be distinct and severable from the other provisions of this Agreement, and such unenforceability shall not affect the validity and enforceability of the remaining provisions. If any provision of this Agreement is held to be unenforceable as written but may be made enforceable by limitation, then such provision shall be enforceable to the maximum extent permitted by applicable law. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not construed in favor or against either party based on the party that drafted the applicable provision.

12. **Modification:** This Agreement may not be amended, altered, modified, or otherwise changed except by a written agreement signed by each of the Parties.

13. **Notice:** Any notice under this Agreement shall be sent by facsimile and first class mail. If to the Village, such notice shall be sent to their attorneys as follows: Glass & Glass, Esqs., Attention: Gerard Glass, Esq., 72 East Main Street, Suite 3, Babylon, New York 11702. If to the Union, such notice shall be sent to Barnes, Iaccarino & Shepherd LLP, Attention: Lauren M.

Kugielska, Esq., 258 Saw Mill River Road, Elmsford, New York 10523. A party may change its address or facsimile number for notices by providing notice to such effect in accordance with this paragraph.

14. **Execution in Counterparts:** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument, and emailed or faxed signatures shall be considered the equivalent of an original signature.

LOCAL 342, LONG ISLAND PUBLIC SERVICE EMPLOYEES,
UNITED MARINE DIVISION, ILA, AFL-CIO


By: _____

VILLAGE OF MASTIC BEACH

By: Maura Sperry, Mayor

STATE OF NEW YORK)

SS:

COUNTY OF SUFFOLK)

Forzia M. Buscetta
Notary Public State of NY
Qualified in Suffolk County
No: 01BE6189438
Commission Expires June 23, 20~~16~~²⁰

On the 9th day of ~~September~~ in the year 2016, before me the undersigned, *William M. Hennessey* personally appeared *501 William Floyd Plaza* known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, executed the instrument.

Forzia M. Buscetta
Notary Public

STATE OF NEW YORK)

SS:

COUNTY OF SUFFOLK)

On the th day of _____ in the year 2016, before me the undersigned, personally appeared _____, known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, executed the instrument.

Notary Public