

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is made this 9th day of August, 2004, by and between Richard White and the Town of Lexington, through its Board of Selectmen, (“Lexington”)(together, the “Parties”). The Parties desire to resolve all outstanding issues between them on the terms and conditions set forth therein.

1. **Termination of Employment.** Mr. White agrees that he will resign his employment with Lexington on Monday, August 9, 2004, effective immediately. Mr. White will deliver a signed letter tendering his resignation on Monday, August 9, 2004. His resignation will be presented at the scheduled Board of Selectmen hearing that night, at which time, the Board of Selectmen will vote to accept his resignation and this Agreement. It is agreed that Mr. White will read an approved statement at the meeting on August 9, 2004:

2. **Severance Benefits.** In consideration for Mr. White’s resignation, his promises in this Agreement, and his release of claims, described in Paragraph 6 below, Lexington agrees that:

- a) The town will pay Mr. White six months salary, less the minimum required withholding deductions, upon the execution of this Agreement.
- b) The town will pay for Mr. White’s COBRA premiums for family benefits until Mr. White commences new employment, up to a maximum of twelve months.
- c) The town will compensate Mr. White for 20 unused vacation and 5 sick days accrued to date during 2004.
- d) The town will pay Mr. White a lump sum payment of \$2500.

Lexington further agrees that if Mr. White remains wholly unemployed after the initial six-month period, Lexington will pay Mr. White one month’s salary at the end of each such month after the initial six-month period, up to six months. To the extent that Mr. White is employed but not employed full-time after the initial six-month period, Lexington will pay Mr. White one month’s salary at the end of each such month, up to six months, minus any amount that he receives in compensation for such employment. The monthly payments will terminate completely upon full-time employment. Counsel for Richard White will notify counsel for Lexington in writing as to whether Richard White was employed during the previous month and if so, the employer and any amount earned from employment.

3. **All Other Benefits and Compensation.** The Parties agree that except as specifically provided in this Agreement or required by law, all benefits and compensation shall terminate as of Monday, August 9, 2004, and Mr. White is not entitled to any additional compensation or benefits from Lexington, except that to the extent allowable under the applicable plans and the law, Mr. White continue his life insurance, provided that Lexington is not required to make any payments toward such insurance, and Mr. White may remain in Lexington’s pension plan.

Mr. White will return his town-owned vehicle on or before Tuesday, August 10, 2004, at noon.

4. **Right to Confer.** Mr. White has carefully read and fully understands all of the provisions of this Agreement and has consulted with an attorney concerning this Agreement.

5. **Non-Disparagement and Public Discourse.** The Parties agree not to make any knowingly false statements to third parties about each other. For purposes of this provision, statements include, among the usual definition, e-mails, postings on public bulletins, electronic or otherwise, and comments to the press.

Lexington further agrees that Lexington, including each and every one of its current Selectmen, will not make any disparaging statements concerning Mr. White in response to inquiries from prospective employers or employment agencies concerning Mr. White's employment with Lexington. All requests for references will be referred to Jeanne Krieger, William Kennedy, or any former Selectman. If any other Selectman is asked his or her opinion, he or she will state only that Jeanne Krieger and William Kennedy have been designated as the references for Mr. White and direct the inquirer to Jeanne Krieger or William Kennedy.

Nothing in this provision prevents the Parties from engaging in public discourse about matters of concern to the citizens and Town Meeting of Lexington regarding the reasons for this Agreement or actions taken by Mr. White during his tenure as Town Manager for Lexington.

6. **Releases.**

(a) In consideration of the promises by Lexington set forth in this Agreement, and subject to the exceptions set forth below, Mr. White, on his own behalf and on behalf of his heirs, executors, administrators, representatives, and assigns (collectively referred to in this subparagraph as "the Releasing Party"), hereby waives, releases, and forever discharges Lexington and its Selectmen (individually and collectively), Town Meeting members (individually and collectively), respective affiliated entities, departments, commissions, committees, groups, present or former officials, officers, agents, employees, assigns, trustees, administrators, executors, agents, and attorneys (collectively referred to in this subparagraph as "the Released Parties") from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints, and demands whatsoever in law or in equity against the Released Parties that the Releasing Party may now have or hereafter can, shall, or may have for, upon, or by reason of any matter, cause, or things whatsoever, including but not limited to any claims arising out of, based upon, or connected with his employment with Lexington, his compensation, or his working conditions in that employment, and any other action or grievance against the Released Parties, from the beginning of the world to the date of Lexington's execution of this Release that is now known to the Parties, and including but not limited to, claims under the National Labor Relations Act, 29 U.S.C. § 151 *et seq.*, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, the Equal Pay Act of 1963, 29 U.S.C. § 206(d), the Civil Rights Act of 1991, the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, the Civil Rights Act of 1866, 42 U.S.C. § 1981 *et seq.*, the Immigration Reform and Control Act, as amended, the Workers Adjustment and Retraining and Notification Act, as amended, the Occupational Safety and Health Act, as amended, the Massachusetts Law Against Discrimination, G.L. c. 151B, the Massachusetts Civil Rights Act, G.L. c. 12, § 11, the Massachusetts Equal Rights Act, G.L. c. 93,

the Massachusetts Privacy Statute, G.L. c. 214 §1B, the Massachusetts Sexual Harassment Statute, G.L. c.214 §1C, G.L. c. 93A, G.L. c. 152 or any other federal, state, or local wage-hour, pension or labor laws, rules and/or regulations. The foregoing release also includes claims that Mr. White might otherwise have had based on promises, contracts, torts, laws regarding unfair or bad faith conduct and wrongful discharge, and state and federal statutory protections against discrimination in employment specifically including, among all the others, any rights or claims that she may have under the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621)(the “Act”). The waiver and release also applies to any claims he may have under applicable state law governing discrimination in employment and applies to any claims that may now exist to the extent that they are known to him.

The Parties specifically acknowledge and agree that, notwithstanding the foregoing, Mr. White does not release, and specifically reserves, all rights accrued under any and all employee welfare benefit plans, including long term disability insurance, health insurance, and all retirement plans. Mr. White further reserves all rights and claims against any individual or entity included as a Released Party who first brings an action or claim against him. The Parties acknowledge and agree that this Release does not apply to any claim that may arise after the date of Mr. White’s execution of this Agreement, but does apply to all claims arising prior to or as of the date of this Agreement that are known to the Parties. Lastly, nothing in this Agreement precludes Mr. White from pursuing any claims necessary to enforce this Agreement.

(b) In consideration of the promises by Mr. White set forth in this Agreement, and subject to the exceptions set forth below, Lexington, on his own behalf and on behalf of its Selectmen (individually and collectively), Town Meeting members (individually and collectively), respective affiliated entities, departments, commissions, committees, groups, present or former officials, officers, agents, employees, assigns, trustees, administrators, executors, agents, and attorneys (collectively referred to in this subparagraph as “the Releasing Party”) hereby remises, releases, and forever discharges Mr. White, his heirs, executors, administrators, assigns, trustees, and attorneys (collectively referred to in this subparagraph as “the Released Parties”) from all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, bonuses, controversies, agreements, promises, claims, charges, complaints, and demands whatsoever in law or in equity against the Released Parties that the Releasing Party may now have or hereafter can, shall, or may have for, upon, or by reason of any matter, cause, or things whatsoever, including but not limited to any claims arising out of, based upon, or connected with Mr. White’s employment with Lexington from the beginning of the world to the date of Mr. White’s execution of this Release that is now known to the Parties, and including but not limited to, claims that Lexington might otherwise have had based on promises, contracts, torts, laws regarding unfair or bad faith conduct and wrongful discharge, and state and federal statutory laws.

The Parties specifically acknowledge and agree that, notwithstanding the foregoing, Lexington reserves all rights and claims against any individual or entity included as a Released Party who first brings an action or claim against him. The Parties acknowledge and agree that this Release does not apply to any claim that may arise or be based on facts learned by Releasing Parties after the date of Mr. White’s execution of this Agreement, but does apply to all claims arising prior to or as of the date of this Agreement that are known to the Parties. Lastly, nothing

in this Agreement precludes Lexington from pursuing any claims necessary to enforce this Agreement..

7. **Voluntary Agreement.** The Parties acknowledge and agree that each has retained counsel of its or his choice in connection with the negotiation and execution of this Agreement, that each has read the Agreement and understands its terms, and that each executes it knowingly, voluntarily, and without coercion, after having had the opportunity to consult with counsel.

8. **Modification And Integration.** This Agreement is the entire agreement between Lexington and Mr. White, and it supercedes any prior oral or written agreements between Lexington and Mr. White, other than applicable insurance policies and plans that remain in effect. This Agreement may only be modified in writing signed by each party. This Agreement is in final settlement of any and all causes of action, rights, or claims that the Parties have or have ever had, of which they are now aware, against each other arising from or relating to Mr. White's employment with Lexington.

9. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. **Choice Of Law and Venue.** This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any actions arising out of or related to this Agreement shall be brought in Massachusetts.

IN WITNESS WHEREOF, Lexington and Mr. White have set their hands.

WITNESS: _____
Dated: _____ Richard J. White

WITNESS: _____
Dated: _____ Dawn McKenna, Selectman

WITNESS: _____
Dated: _____ Richard Pagett, Selectman

WITNESS: _____
Dated: _____ Peter Kelley, Selectman

WITNESS: _____
Dated: _____ William Kennedy, Selectman

WITNESS: _____
Dated: _____ Jeanne Krieger, Selectman