

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. **TA 15-0512-15**

Date of Adoption **MAY 12, 2015**

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

Legislative Research Officer

PRESENTED BY COUNCIL MEMBER **INMAN**

SECONDED BY **BURGESS**

A RESOLUTION AUTHORIZING THE SETTLEMENT AGREEMENT BETWEEN THE TOWNSHIP OF IRVINGTON AND TRACEY S. COSBY

WHEREAS, the Township of Irvington deems it to be in the best interest of both parties: The Township of Irvington and Tracey S. Cosby to dispose of these various matters through a settlement agreement;

WHEREAS, the Township has made an agreement to Tracey S. Cosby to pay her for back-pay in the amount of \$50,00.00 covering the years 2009 through 2013 and;

WHEREAS, any and all outstanding issues between the Township of Irvington and Tracey S. Cosby with respect to monies due from back pay will be resolved through an executed settlement agreement signed by both parties;

NOW THEREFORE, in consideration of the promises and the mutual covenants herein, The Township of Irvington and Tracey S. Cosby will agree as follows:

- The Township of Irvington agrees to pay Tracey S. Cosby a settlement award of \$50,000 representing monies due from back pay 2009-2013;
- Tracey S. Cosby agrees to waive any and all back pay related issues or claims against the Township of Irvington not limited to all compensation and attorney fees;
- Tracey S. Cosby is hereby voluntarily agreeing to the terms of the said Settlement agreement.

RECORD OF COUNCIL VOTE

X = Indicates Vote N.V. = No Vote A.B. = Absent

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BURGESS, 1ST VICE PRESIDENT	X				JONES, 2ND VICEPRESIDENT	X			
COX	X				LYONS	X			
HUDLEY	X				FREDERIC, PRESIDENT	X			
INMAN	X								

PRESIDENT OF COUNCIL *CLX* MUNICIPAL CLERK *Harold E. Wilson* DATE **May 12, 2015**

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK *Harold E. Wilson* DATE **MAY 12 2015**

BA ☐ BLDG ☐ CFO ☒ COURT ☒ DHS ☐ DHW ☐ DPW ☐ ENG ☐ FIRE ☐ INIC ☐ JUDGE ☐ LIBR ☐ LICEN ☐ LEGAL ☐ MAYOR ☐ OCDP~DIR ☐ OCDP~AD ☐ P&R ☐ PAYROLL ☐ POL~DIR ☐ POL~CF ☐ PURCH ☐ SEC~PB/BA ☐ TAX ☒ TAX~AS ☐ TAX~COL ☐ TRAFFIC ☐ UEZ ☐ ZONING~OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): _____

SETTLEMENT AGREEMENT

This AGREEMENT, made and executed this _____ day _____ of 2015, by and between the Township of Irvington (hereinafter referred to as "Irvington") and Tracey S. Cosby

WITNESSETH

WHEREAS Irvington and Cosby deem it to be in their best interests to set forth in a formal written agreement the disposition of various matters pending between them; and

WHEREAS the terms of the Agreement to settle these matters was reached during telephone conference with the Business Administrator and Tracey S. Cosby on May 11, 2015; and

WHEREAS the Township currently has made an agreement with Tracey S. Cosby to pay her back pay in the amount of \$50,000.00 which represents back pay covering the years of 2009-2013.

WHEREAS the Township and Tracey S. Cosby desire to resolve all outstanding issues with respect to any and all back pay monies owed to Tracy S. Cosby; and

WHEREAS Irvington, as described in this Settlement Agreement, is defined as the Township, its Governing Body, including all of its divisions, departments, etc.; and

WHEREAS both Irvington and Tracey S. Cosby have been afforded the opportunity to consult with counsel and be represented in connection with the preparation and signing of this Agreement;

NOW THEREOF, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, Irvington and Tracey S. Cosby agree as follows:

1. TERMS

The parties agree as follows:

a. The Township agrees to pay Tracey S. Cosby a settlement award of \$50,000.00 which represents back pay monies owed from 2009 to 2013.

b. Tracey S. Cosby agrees to waive any and all back pay related issues or claims against the Township including but not limited to all compensation and attorney's fees.

2. COMPLETE RELEASE AND COVENANT NOT TO SUE

In further consideration of the settlement herein, Tracey S. Cosby, her heirs, assigns and agents voluntarily enter into this Agreement, and certify that Tracey Cosby has not been threatened or coerced into signing this Agreement, on the terms which follow:

a. Tracey S. Cosby hereby releases, waives and discharges the Township, its affiliated departments, and its officers, trustees, agents, employees, successors and assigns (hereinafter collectively referred to as the "Releases") from each and every claim, demand, cause of action, obligation, damage, complaint, expense, compensation or action or writ of any kind, nature, character or description that Tracey S. Cosby had, now has, or may in the future have against the Releases on account of or arising out of any issues as it relates to back pay. This Complete Release includes, but is not limited to, any claim, demand, cause of action, obligation, damage, complaint, expense, compensation, or action or writ of any kind, nature, character or description arising out of or under Federal, State or municipal statute or ordinance and any other law (whether such be common law, decisional law or statutory law), rule, regulation, executive order or guideline, and any and all claims for attorneys' fees and costs arising from the above acts including, but not limited to:

i. Any claim, cause of action, demand or complaint arising out of or under the New Jersey Law Against Discrimination (NJLAD) which, among other things, prohibits discrimination in employment on the basis of an individual's race, creed, color, religion, sex, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, handicap, atypical hereditary cellular or blood trait or liability for service in the Armed Forces of the United States.

ii. Any claim, cause of action, demand or complaint arising out of or under Title VII of the Civil Rights Act of 1964 (Title VII) or the Civil Rights Act of 1991, as amended, which, among other things, prohibit discrimination in employment on account of a person's race, color, religion, sex or national origin.

iii. Any claim, cause of action, demand or complaint arising out of or under the Federal Age Discrimination in Employment Act of 1967, as amended (ADEA), which, among other things, prohibits discrimination in employment on account of a person's age.

iv. Any claim, cause of action, demand or complaint arising out of or under the Federal Americans with Disabilities Act (ADA) which, among other things, prohibits discrimination in employment on account of a person's disability or handicap.

v. Any claim, cause of action, demand or complaint arising out of or under the Federal Family and Medical Leave Act (FMLA) which, among other things, entitles an employee to take reasonable leave for medical reasons for the birth or adoption of a child, and for the care of a child, spouse or parent who has a serious health condition, and any claim, cause of action, demand or complaint arising under the New Jersey Family Leave Act.

vi. Any claim, cause of action, demand or complaint arising out of or under the Federal Rehabilitation Act of 1973, as amended, which, among other things, prohibits discrimination in employment by Federal contractors against individuals with disabilities.

vii. Any claim, cause of action, demand or complaint arising out of or under the Federal Employee Retirement Income Security Act of 1974, as amended (ERISA), which, among other things, regulates pension and welfare plans and prohibits interference with individual rights protected under that statute.

viii. Any claim, cause of action, demand or complaint arising out of or under the Federal Older Workers Benefit Protection Act (OWBPA) which, among other things, amends provisions of ADEA and prohibits discrimination in employment and employment benefits on account of a person's age.

ix. Any claim, cause of action, demand or complaint arising out of or under the Conscientious Employee Protection Act (CEPA) which, among other things, prohibits retaliatory action by an employer against an employee who objects to practices that he/she reasonably believes are incompatible with a clear mandate of law or public policy concerning the public health, safety or welfare.

The aforesaid list shall not be deemed exhaustive but by way of example and the recitation of a release of all claims as set forth in Section 2 shall not be diminished thereby.

b. Tracey S. Cosby has not and shall not hereafter seek money damages against the Township or the Releases in any matter lodged with any Federal, State or local court or agency which has been settled herein. Nothing herein shall be construed as limiting any individual's right to file a charge of discrimination should she feel that he was a victim of unlawful discrimination.

c. If Tracey S. Cosby violates this Complete Release by filing any claim, charge or complaint as prohibited above, Tracey S. Cosby agrees to pay all costs and expenses of defending against the suit incurred by the Township and/or the Releases, including reasonable attorney's fees.

2. **MODIFICATION.** This Settlement Agreement may be modified or amended only be a written instrument duly signed by each of the parties or their respective successors or assigns.
3. **NON ADMISSION** This Agreement is executed and all consideration is given in final settlement of disputed claims, and shall not be construed as an admission of any allegation or of liability by the Township, by whom any such obligation is expressly denied.
4. **ENTIRE AGREEMENT.** This Settlement Agreement supersedes all prior agreements and understandings between parties; it contains the full understanding of the parties with respect to this subject matter; and there are no representations, warranties, agreements or undertakings other than those expressly contained in this Settlement Agreement.
5. **NO DISPARAGING STATEMENTS** Tracey S. Cosby agrees that she will not make any disparaging statements against the Township, its representatives, or any of its employees.
6. **CONTROLLING LAW.** This Settlement Agreement shall be construed in accordance with and governed by the laws of the State of New Jersey.
7. **CONFIDENTIALITY.** This Settlement Agreement is deemed by the parties to be confidential. Accordingly, the terms shall not be disclosed to any third party, except union representatives and as may be required by law or Court Order.

8. **SEVERABILITY**. Should any of the provisions of this Settlement Agreement be declared or determined by a Court to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Settlement Agreement.

7. Tracey S. Cosby acknowledges that she has been represented by counsel throughout these proceedings and that counsel has answered all questions she may have had, and that she entered into this Agreement freely and voluntary without coercion or duress and with full understanding of the terms and conditions therein.

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

DATED

TRACEY S. COSBY

DATED

RAMON RIVERA, ESQ. TOWNSHIP ATTORNEY

DATED

ELDRIDGE HAWKINS, ESQ.
ATTORNEY FOR TRACEY COSBY