

**SETTLEMENT AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA  
AND  
THE TOWN OF GREENWICH, CONNECTICUT**

**DJ # 204-14-233**

The parties to this agreement (“Agreement”) are the United States of America and the Town of Greenwich, Connecticut (“Greenwich”). The parties hereby agree as follows:

**I. BACKGROUND AND JURISDICTION**

1. Greenwich is the public entity responsible for the Byram Marina (“Marina”). 28 C.F.R. § 35.104.
2. The United States Attorney’s Office for the District of Connecticut, a component of the United States Department of Justice (“United States”), opened an investigation regarding the accessibility of the Marinas facilities, pursuant to the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§12131-12134, as amended. The United States initiated the investigation upon receipt of a complaint from an individual with a disability who alleged that none of the Marinas were accessible to individuals with mobility disabilities.
3. The United States is authorized to investigate alleged violations of Title II of the ADA, conduct compliance reviews of public entities, where appropriate, attempt informal resolution, and if informal resolution is not achieved and a violation found, issue a Letter of Findings to the public entity. 28 C.F.R. § 35.172. If the United States fails to secure voluntary compliance, the Attorney General is authorized under 42 U.S.C. § 12133 to bring a civil action enforcing Title II of the ADA.
4. Title II of the ADA bars discrimination against persons with disabilities by public entities, 42 U.S.C. § 12132, and establishes that “no qualified individual with a disability shall, because a public entity’s facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by a public entity.” 28 C.F.R. § 35.149
5. The United States reviewed information and records provided by Greenwich regarding the Marinas, which indicated that the Marinas have no designated accessible boat slips and no accessible routes to boat slips. 28 C.F.R. § 35.150(b)(2)(i). Pursuant to the information and records provided by Greenwich, each of the Marinas was initially designed and constructed prior to January 26, 1992,

and each of the Marinas has been altered since that date as defined in 28 C.F.R. § 35.151(b). Pursuant to the ADA, all remedies to inaccessible features and elements of the marina facilities will conform with the 2010 ADA Standards for Accessible Design, 28 C.F.R. § 35.104, (“2010 Standards”).

## **II. REMEDIAL ACTIONS TO BE TAKEN BY GREENWICH TO ENSURE PROGRAM ACCESS TO THE MARINAS**

6. Within one month of the execution of this Agreement, Greenwich shall, following any required municipal procedures, engage the services of a registered design firm to create a plan of remediation for the Byram Marina. Such remediation plan shall include measures that Greenwich will take to ensure that the Byram Marina has the required number of accessible boat slips, that the accessible boat slips are dispersed across each type of boat slip, and that there are accessible routes to these boat slips or other reasonable accommodation as required by the 2010 Standards. There shall be 5 accessible boat slips in the Byram Marina.
7. Within four months of the execution of this Agreement, Greenwich shall submit the remediation plan described in paragraph 6 to the United States for approval. The United States shall approve or deny the plans within 30 days of submission. If the United States denies the plans, Greenwich shall have 30 days to submit corrected plans to the United States for approval.
8. Within four months of the execution of this Agreement, Greenwich shall submit to the United States for approval a policy regarding allocation of accessible boat slips in its Marinas to individuals with disabilities requesting accessible boat slips. The United States shall approve or deny the policy within 30 days of submission. If the United States denies the policy, Greenwich shall have 30 days to submit a corrected policy to the United States for approval.
9. Within thirty-six months of the approval by the United States of the remediation plan for the Byram Marina, as described in paragraph 7, Greenwich shall complete remediation of the Byram Marina in line with the plan approved by the United States.

## **III. ALTERATIONS**

10. Any future alterations, as defined in 28 C.F.R. § 35.151, made to the Greenwich Marinas shall comply in all respects with the ADA, its implementing regulations, and the 2010 Standards, as such statute, regulations, and Standards are in effect as of the date that alterations begin.

#### **IV. IMPLEMENTATION AND ENFORCEMENT OF AGREEMENT**

11. In consideration of the terms of this Agreement, the United States agrees to refrain from filing a civil suit based on the allegations raised in DJ# 204-14-233, except as provided in paragraph 14.
12. The United States does not assert that this Agreement or the remedial measures contemplated herein will bring Greenwich into compliance with all aspects of the ADA, and nothing in this Agreement is intended to constitute an interpretation of the legal requirements of the ADA by the United States. Rather, the parties enter into this Agreement for the purpose of compromising disputed claims. This Agreement is a compromise and it shall not be used or introduced into evidence in any other case or proceeding other than between the parties to this Agreement.
13. The United States may review compliance with this Agreement at any time, including site visits and compliance reviews of the Greenwich Marinas. If the United States believes that Greenwich has violated this Agreement or any requirement thereof, it agrees to notify Assistant Town Attorney, Abby Wadler, Esq., in writing of the specific violation(s) alleged. Greenwich shall have 30 days from its receipt of the notice to cure and/or respond in writing to the United States the alleged violation(s). If the United States is unable to reach a satisfactory resolution of the issue or issues raised within 30 days of the date it provides notice to Greenwich, it may institute a civil action in federal district court to enforce the terms of this Agreement or Title II and may, in such action, seek any relief available under law.
14. The United States does not assert that this Agreement or the modifications contemplated herein will necessarily bring the Greenwich Marinas into compliance with all aspects of the ADA, and nothing in this Agreement is intended to constitute an interpretation of the legal requirements of the ADA by the United States. Rather, the parties enter into this Agreement for the purpose of compromising disputed claims and avoiding the risk and expenses of litigation. This Agreement is a compromise and it shall not be used or introduced into evidence in any other case or proceeding other than between the parties to this Agreement.
15. If the timelines contemplated by this Agreement should become a hardship for Greenwich, including hardships due to permitting issues, the parties may mutually agree to extend the timeline for a particular item on a case-by-case basis.
16. Greenwich shall provide certifications to the United States every twelve months until full compliance with this Agreement is achieved, in the form of a narrative report and photos showing that the items within this Agreement that Greenwich has agreed to correct have been so corrected. Greenwich shall include as an exhibit copies of any complaint, whether formal or informal, received during the reporting period alleging

that Greenwich did not comply with the ADA or that individuals with disabilities were subject to discrimination on the basis of disability by Greenwich. The parties expressly agree that providing such certifications is essential to the enforcement of this Agreement, and that a failure to provide the certifications required by this paragraph constitutes a breach of this Agreement.

17. All notices, demands, reports or other communication to be provided to the United States pursuant to this Agreement shall be in writing and delivered by U.S. mail or electronic mail to the following:

Cindy Gartland  
Senior Paralegal & Civil Rights Intake Specialist  
U.S. Attorney's Office  
157 Church Street, 25<sup>th</sup> Floor  
New Haven, CT 06510  
email: cindy.gartland@usdoj.gov

18. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person.
19. Failure by the United States to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this Agreement.
20. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, shall be enforceable. This Agreement is limited to the facts set forth herein and it does not purport to remedy any other potential violations of the ADA, including violations of the alterations or new construction provisions of the ADA, or any other Federal law. This Agreement does not affect the continuing responsibility of Greenwich to comply with the ADA.
21. If any provision of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement shall nonetheless remain in full force and effect, provided however, that if the severance of any such provision materially alters the rights or obligations of the parties, the United States and Greenwich shall engage in good faith negotiations in order to adopt such mutually agreeable amendments to this Agreement as may be necessary to restore the parties as closely as possible to the initially agreed-upon relative rights and obligations.
22. A signor of this document in a representative capacity for an entity represents that he or she is authorized to bind such entity to this Agreement.

23. In the event Greenwich seeks to transfer or assign all or part of its interest in the Marinas, as a condition of sale or lease, Greenwich shall obtain the written accession of the successor or assign to any obligations remaining under this Agreement for the remaining term of the Agreement.
24. The execution date of this Agreement is the date of the last signature below. This Agreement shall remain in effect for three years from the date of execution.

[SIGNATURE PAGE FOLLOWS]

