

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is entered into by and between Arlene Aranda ("Aranda"), and City of Redlands ("City") who are sometimes referred to herein as the "Parties."

RECITALS

A. On or about February 10, 2003, Arlene Aranda was walking southbound on the east sidewalk on Fourth Street between Clark and Olive Avenues in Redlands at or about 8:00 a.m. when she tripped and fell on an uneven portion of the sidewalk and sustained injuries. Aranda's accident of February 10, 2003, is the subject of that certain legal action entitled Arlene Aranda vs. City of Redlands, San Bernardino Superior Court Case No. SCVSS 104205 ("the Lawsuit").

B. It is the intention of the Parties to resolve and settle their dispute and to discharge all claims, demands, causes of action, obligations, liens, damages and liabilities Aranda may have against the City that arise from, or are related to, the incident which is the subject of the Lawsuit.

C. This Agreement is a compromise of the claims asserted by Aranda and shall not be treated as an admission of liability by any Party.

AGREEMENT

1. The Parties acknowledge that the Recitals are true and correct and incorporate the Recitals into this Agreement.

2. The City shall pay to Aranda the sum of Twenty Two Thousand Three Hundred Thirty Three Dollars (\$22,333.17) within thirty (30) days from the date the City has executed this Agreement. The payment shall be made by check payable to Arlene Aranda, and her Attorney of Record, Mitchell A. Shapiro, Inc. Aranda and her Attorney of Record agree that the check shall not be negotiated unless and until the City notifies Aranda's Attorney of Record of the City's filing of the Dismissal referenced in paragraph 3, below.

3. Aranda, through her Attorney of Record, shall execute a Dismissal With Prejudice pursuant to Code of Civil Procedure section 581 of all lawsuits on file arising out of the incident giving rise to the Lawsuit, and provide the Dismissal to the City within five (5) days of receipt of the payment described in paragraph 2, above. The City shall file the Dismissal and provide a conformed copy to all Attorneys of Record.

4. The Parties shall bear their own attorneys' fees and costs incurred in connection with the Lawsuit.

5. Aranda, on behalf of herself and her attorneys, representatives, assigns, heirs and successors-in-interest hereby releases and forever discharges the City, and its elected officials, officers, employees, representatives, assigns and successors-in-interest from any and all claims, causes of action, actions, damages, losses, demands, accounts, rights, liens, debts, liabilities, obligations, disputes, controversies, payments, costs and attorneys' fees of every kind and character, known or unknown, existing or contingent, latent or patent, regarding any matter arising from, or related to, the incident which was the subject of the Lawsuit.

6. Aranda represents and warrants that she has the legal authority to settle any and all causes of action and claims she may have against the City which relate to the Lawsuit. By executing this Agreement, Aranda hereby releases and waives all claims or causes of action which in any way relate to the Lawsuit. To the extent any person or entity should file, subsequent to the execution of this Agreement, any claim or cause of action against the City arising out of, or which is related to, the incident which is the subject of the Lawsuit, Aranda shall indemnify, defend and hold the City harmless from any and all damages, including any attorneys' fees and costs that result therefrom.

7. Aranda expressly waives the rights afforded her under Civil Code section 1542 which provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

8. Aranda represents and warrants that she has received the advice of her Attorney of Record with respect to the advisability of making the release provided for herein and the meaning of Civil Code section 1542. Aranda is aware that she may hereafter discover claims or facts in addition to or different from those she now knows or believes to be true with respect to the matters related herein. Nevertheless, it is the intention of Aranda to fully, finally and forever settle and release all such matters, and all claims related to those matters.

9. Aranda represents and warrants that she has not assigned or transferred, or purported to assign or transfer, and shall not hereafter assign or transfer, any obligations, liabilities, demands, claims, costs, expenses, liens, debts, controversies, damages, actions or causes of action released pursuant to this Agreement. Aranda shall defend, indemnify and hold the City harmless against any obligation, liability, demand, claim, cost, expense (including, but not limited to attorneys' fees incurred), lien, debt, controversy, damage, action or cause of action based on, arising out of or in connection with any such transfer or assignment or purported transfer or assignment.

10. Aranda acknowledges that she has read this Agreement; that she has had the Agreement explained to her by counsel of her choice; that she is aware of the content and legal effect of the Agreement; that she is acting on the advice of counsel of her choice; and that she is not relying

on any representations made by any other party or any of the employees, agents, representatives or attorneys of any other party.

11. The Parties agree to execute and deliver any other instrument or document convenient or necessary to carry out the terms of this Agreement.

12. This Agreement constitutes the entire agreement between the Parties as to the matters contained herein. No modification of this Agreement shall be valid unless made in writing and signed by the Parties. The Parties shall not be bound by any representation, warranty, promise or statement unless it is specifically set forth in this Agreement. *

13. This Agreement shall bind and inure to the benefit of the heirs, executors, administrators, successors and assigns of the Parties.

14. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any of the Parties.

15. Each party executing this Agreement represents and warrants to the other signatories that it has the authority to execute this Agreement on behalf of the person or entity for whom it is signing this Agreement.

16. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

17. In the event any action is commenced to enforce or interpret the terms or conditions of this Agreement the prevailing Party shall, in addition to costs and any other relief, be entitled to recover its reasonable attorneys' fees.

(Signature Page)
SETTLEMENT AND RELEASE AGREEMENT
Arlene Aranda v. City of Redlands

PLAINTIFF

Dated: 5/17/2004


Arlene Aranda

WITNESS AND APPROVED
AS TO FORM AND CONTENT
MITCHELL A. SHAPIRO, INC.

Dated: 5/17/04

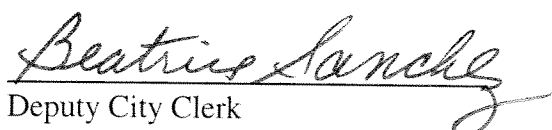
by: 
D. Michael Bush, Esq.

CITY OF REDLANDS

Dated: May 18, 2004


Susan Peppler, Mayor

Attest:


Deputy City Clerk