

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (hereinafter “**AGREEMENT**”) is entered into by and between Petitioner the **CITY OF REDLANDS**, Respondent COURTNEY DISCENZA (“**RESPONDENT**”), and Buyer JUAN CASTILLO (“**BUYER**”) in connection with the settlement of San Bernardino Superior Court Case No. SCVSS 095981 (“**Case No. SCVSS 095981**”). The previously noted parties are sometimes referred to herein as the “**PARTIES.**”

RECITALS

A. On or about August 9, 2002, the **CITY OF REDLANDS** recorded a Notice of Pendency of Administrative Proceeding with the San Bernardino County Recorder regarding certain real property located at 1121 Post Street, Redlands, California 92374 (the “**SUBJECT PROPERTY**”) as a result of its administrative action arising out of numerous violations of the Redlands Municipal Code existing on the **SUBJECT PROPERTY**.

B. Subsequently, on or about December 18, 2002, the **CITY OF REDLANDS** filed a First Amended Petition for Appointment of a Receiver and For Other Relief Pursuant to Health and Safety Code Section 17980.7, Case No. SCVSS 095981, regarding the **SUBJECT PROPERTY** and recorded a Notice of Pendency of Action for Case No. SCVSS 095981 with the San Bernardino County Recorder.

C. The **RESPONDENT** represents that the **SUBJECT PROPERTY** is being sold to **BUYER** and escrow is currently pending. **RESPONDENT** requests that the **CITY OF REDLANDS** dismiss **Case No. SCVSS 095981** without prejudice and in its entirety as it relates to **RESPONDENT** so that **RESPONDENT** may sell the **SUBJECT PROPERTY** to **BUYER** free and clear of all liens and encumbrances.

D. The **BUYER** requests that the **CITY OF REDLANDS** release the Notice of Pendency of Administrative Proceeding and the Notice of Pendency of Action from title to the **SUBJECT PROPERTY**, so that **BUYER** can close escrow and purchase the **SUBJECT PROPERTY** from the **RESPONDENT** free and clear of all liens and encumbrances.

E. It is the intention of the **PARTIES** to resolve and settle their disputes and to discharge all claims, demands, causes of action, obligations, damages, and liabilities both parties may have against the other that arise from or are related to **Case No. SCVSS 095981**.

F. This **AGREEMENT** is a compromise of the claims and liabilities asserted by the **PARTIES** and shall not be treated as an admission of liability by any party.

AGREEMENT OF PARTIES

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the **PARTIES** agree as follows:

1. The **PARTIES** acknowledge that the recitals are true and correct and incorporate by reference those recitals into this **AGREEMENT**.
2. **BUYER** and **RESPONDENT** shall pay **CITY OF REDLANDS** the aggregate sum of \$7,500.00. Such sum shall be due and payable at the close of escrow. The payment of such sum shall be complete upon the presentation of a valid check made payable to **CITY OF REDLANDS** in the amount of \$7,500.00.
3. **BUYER** and **RESPONDENT** shall pay the Receiver, Steven M. Speier, appointed by the Court in **Case No. SCVSS 095981** the aggregate sum of \$2,102.41. Such sum shall be due and payable at the close of escrow. The payment of such sum shall be complete upon the presentation of a valid check made payable to Steven M. Speier in the amount of \$2,102.41.
4. **BUYER** and **RESPONDENT** agree to repair, or cause to be repaired, each of the items listed on the City's Notice and Order to Repair, dated August 8, 2002, ("**REPAIR ORDER**") no later than sixty (60) days from the date of this **AGREEMENT**. The **REPAIR ORDER** is attached hereto as Exhibit "A" and incorporated herein by reference.

5. **BUYER** and **RESPONDENT** further agree to comply with any and all actions, recommendations and/or decisions of the **CITY OF REDLANDS** with regard to the common areas for the **SUBJECT PROPERTY**, as defined in Final Tract Map Nos. 10141 and 10142, and the conditions of approval required by the **CITY OF REDLANDS** for such maps. **BUYER** and **RESPONDENT** are aware and understand that the actions, recommendations and/or decisions of the **CITY OF REDLANDS** with regard to the common areas are unknown and yet to be determined, but may include the creation of a Home Owner's Association ("HOA") to maintain the common areas.

6. Upon the execution of this **AGREEMENT**, the **CITY OF REDLANDS** agrees to execute and file a Request for Dismissal, dismissing **Case No. SCVSS 095981** in its entirety and without prejudice **RESPONDENT**. **CITY OF REDLANDS** reserves the right to re-file this action against **RESPONDENT** in the event the terms and conditions of this **AGREEMENT** are breached.

7. **REMOVAL OF THE NOTICES:** Upon the execution of this **AGREEMENT**, the **CITY OF REDLANDS** agrees to record a Release of the Notice of Pendency of Administrative Proceeding and a Release of the Notice of Pendency of Action with regard to the **SUBJECT PROPERTY**.

8. The **PARTIES** shall bear their own attorneys' fees and costs incurred in connection with **Case No. SCVSS 095981** and drafting and execution of this **AGREEMENT**.

9. **RESPONDENT** on behalf of itself, its agents, representatives, attorneys, employees, servants, affiliates, stockholders, predecessors, successors and assigns, both past and present, and any person or entity acting by, through, under or in concert with each of them, do hereby release, and forever discharge the **CITY OF REDLANDS** and each of its, agents, representatives, partners, attorneys, employees, elected and non-elected officials, successors and assigns, both past and present, and any person or entity acting by, through, under or in concert with each of them, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or equity, suits, debts, liens, contracts, agreements, promises, liabilities, claims, demands, obligations, rights, breaches of contract, breaches of duty of any relationship, acts, omissions, misfeasance, malfeasance, sums of money, compensation, accounts, contracts, controversies, promises, losses, damages, costs, attorneys' fees, expenses of any type, kind, nature, description, or character whatsoever, whether known or unknown, claimed or suspected, existing or contingent, and irrespective of how, why or by reason of what facts, or which the **RESPONDENT** now has, ever had, ever claimed to have had, or that hereafter could, might or may be claimed against **CITY OF REDLANDS** arising out of Case No. SCVSS 095981.

10. **LIQUIDATED DAMAGES:** The **PARTIES** agree that in the event of a breach by **BUYER** and **RESPONDENT**, damages incurred by the **CITY OF REDLANDS**, as a result of such breach, would be difficult to calculate. Therefore, the **PARTIES** hereby agree that **BUYER** and **RESPONDENT** shall be jointly and severally liable to the **CITY OF REDLANDS** in the amount of \$10,000.00, in the event **BUYER** and/or **RESPONDENT** breach this **AGREEMENT**. This provision is in addition to the **CITY OF REDLANDS'** ability to specifically enforce this

AGREEMENT.

11. **WAIVER OF APPEAL:** The **PARTIES** acknowledge that, by agreeing to the terms and conditions of this **AGREEMENT**, any and all rights they may have to challenge or appeal any proceeding or order of the **CITY OF REDLANDS** with regard to the items listed in the **REPAIR ORDER** or with regard to the common areas of the development which the **SUBJECT PROPERTY** is located, is forever waived. This waiver expressly includes any right by **BUYER** or **RESPONDENT** to appeal or contest the formation of a HOA.

12. The **PARTIES** expressly waive the rights afforded 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.

The **PARTIES** represent and warrant that they have received the advice of their attorney with respect to the advisability of making the release provided for herein, and the meaning of California Civil Code section 1542.

13. **DISCOVERY OF ADDITIONAL FACTS:** The **PARTIES** to this **AGREEMENT**,

and each of them acknowledge that they may hereinafter discover facts different from, or in addition to, those which they now know to be true with respect to the subject matter of this **AGREEMENT**, and agree that this **AGREEMENT** shall be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof.

14. **REPRESENTATION AND WARRANTIES:** The **PARTIES** to this **AGREEMENT**, and each of them, warrant and represent to each other that they have not transferred, assigned or hypothecated, or purported to transfer, assign or hypothecate, any of the claims being released hereunder.

15. **NO RELIANCE ON OTHERS:** The **PARTIES** to this **AGREEMENT**, and each of them, acknowledge that in entering into this **AGREEMENT** they have not relied upon any statement of any other party or any **PARTIES'** attorneys, and should any party be mistaken in the **PARTIES'** belief with regard to some issue of fact or law regarding the matters herein, this **AGREEMENT** shall nonetheless remain in full force and effect and be binding as to each and all of the parties.

16. **CONSTRUCTION OF AGREEMENT:** The language in all parts of this **AGREEMENT** shall be in all cases construed as a whole according to its fair meaning and not strictly for or against any party hereto.

17. **SUCCESSORS:** This **AGREEMENT** shall be binding upon and inure to the benefit

of each party and **PARTIES'** respective successors, heirs and assigns. The **CITY OF REDLANDS** reserves the right to record this **AGREEMENT** with the County Recorder's office once **BUYER** closes escrow on the **SUBJECT PROPERTY**.

18. **COUNTERPARTS:** This Release may be executed in one or more counterparts, (including via original or electronic facsimile or telecopier transmission, which shall be conclusively deemed an original signature or signatures) each of which shall be deemed an original but all of which shall constitute one and the same instrument.

19. **ACTION FOR ENFORCEMENT OF AGREEMENT:** If any party hereto brings an action or other proceeding to interpret or enforce any of the terms of this **AGREEMENT**, or arising out of a breach of this **AGREEMENT**, then the prevailing party shall be entitled to recover costs and expenses, including reasonable attorneys' fees, in such amounts as may be determined by the Court, having jurisdiction thereof, in addition to any other relief awarded.

20. **ENTIRE AGREEMENT:** This **AGREEMENT** constitutes the entire agreement and understanding among the **PARTIES** concerning the subject matter of the **AGREEMENT**, and supercedes all prior and contemporaneous agreements, statements, understandings, terms, conditions, negotiations, representations and warranties, whether oral or written, made by any of the parties or their attorneys concerning the matters covered by this **AGREEMENT**.

21. **ADVICE OF COUNSEL:** Each of the **PARTIES** to this **AGREEMENT** has had

the opportunity to obtain the advice of legal counsel of their choice with respect to this **AGREEMENT**.

22. **GOVERNING LAW:** This **AGREEMENT** shall be governed by and construed in accordance with the laws of the State of California.

23. **AUTHORITY TO SIGN:** All individuals signing below on behalf of any entity hereby warrant and represent that they have full authority to execute this **AGREEMENT** on behalf of the entities for which they have signed.

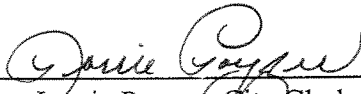
IN WITNESS WHEREFORE, the PARTIES hereto have executed or caused this AGREEMENT to be executed by their duly authorized representatives.

CITY OF REDLANDS

DATED: August 28, 2003.

By: 
Karl N. Haws, Mayor

ATTEST:

By: 
Lorrie Poyzer, City Clerk

DATED: _____, 2003.

RESPONDENT Courtney Discenza

By: _____
Courtney Discenza

DATED: _____, 2003.

BUYER Juan Castillo

By: _____
Juan Castillo

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IN WITNESS WHEREFORE, the PARTIES hereto have executed or caused this
AGREEMENT to be executed by their duly authorized representatives.

CITY OF REDLANDS

DATED: _____, 2003.

By: _____
Karl N. Hawn, Mayor

ATTEST:

By: _____
Lorrie Poyze, City Clerk

DATED: _____, 2003.

RESPONDENT Courtney Discenza

By: _____
Courtney DiscenzaDATED: June 25, 2003.

BUYER Juan Castillo

By: Juan Castillo
Juan Castillo

IN WITNESS WHEREFORE, the PARTIES hereto have executed or caused this AGREEMENT to be executed by their duly authorized representatives.

CITY OF REDLANDS

DATED: _____, 2003.

By: _____
Karl N. Haws, Mayor

ATTEST:

By: _____
Lorrie Poyzer, City Clerk

DATED: 6/22, 2003.

RESPONDENT Courtney Discenza

By: Courtney Discenza
Courtney Discenza

DATED: _____, 2003.

BUYER Juan Castillo

By: _____
Juan Castillo