

SETTLEMENT AGREEMENT, GENERAL RELEASE OF EXISTING CLAIMS  
AND INDEMNIFICATION

This settlement agreement, general release of existing claims and indemnification is executed by and between ELLIS CONSTRUCTION COMPANY ("Ellis") and the CITY OF REDLANDS ("City") with reference to the following facts:

1. Following formal solicitation of bids for the construction of the City's Fire Station No. 3, the City awarded a contract for the construction of the Fire Station to Ellis on July 31, 1985, and the contract itself was executed by the City on August 23, 1985.

2. Ellis contends the following:

a. The contract awarded by City upon which the Ellis bid was made did not contain a requirement for payment of prevailing wages.

b. Before the bid, Ellis asked City personnel whether prevailing wages were required on the job and was told to follow the contract provisions.

c. After bid was accepted and contract awarded by City, both City and Ellis became aware that prevailing wage provisions should have been part of the contract and that prevailing wages were required on the job (Fire Station No. 3).

d. After construction of the fire station had already commenced, Ellis advised the City that at the time he submitted his bid to the City he had been unaware of the

provisions of California Labor Code #1774 which requires the payment of prevailing wages to all workmen employed on the job and that he prepared his bid based upon the contract with the assumption that less than the prevailing wage rate could be paid to the workmen employed on the job.

3. City contends the following: City had no obligation to provide Ellis with Labor Code #1774 and that its failure to provide Ellis with notice of the Labor Code provisions in the contract did not absolve him from the legal responsibility to insure payment of prevailing wages required to be paid to workmen and the wages Ellis had agreed to pay his subcontractors and their workmen.

4. Neither City nor Ellis admits legal responsibility for failure to pay prevailing wages on this job. It is understood and agreed that this settlement is the compromise of a doubtful and disputed claim, and that the payment made is not to be construed as an admission of liability on the part of the parties hereby released and that said parties deny liability therefore and intend merely to avoid litigation.

5. In settlement of the disagreement between Ellis and the City, it was agreed that Ellis would provide the City with certified payroll records for himself and for all subcontractors on the job, and that the City would increase the final contract payment to Ellis in an amount equal to the difference between the prevailing wages and associated employer costs which are legally required to be paid, and the

wages and associated employer costs which Ellis and his subcontractors had actually paid or had anticipated paying for all certified payroll records provided. It was further agreed that Ellis would undertake responsibility for disbursement of the sums necessary to provide each workman on the job with his or her prevailing wages, as required by law, and would release the City and indemnify it from any further claim or liability for additional payment relating to work performed pursuant to the contract between Ellis and the City for construction of Fire Station No. 3.

6. Pursuant to their settlement agreement, the City has reviewed the certified payroll records and other documentation provided by Ellis and has agreed to increase the final contract payment to Ellis by the amount of \$83,795.85. Ellis has agreed to accept this sum as final contract payment in consideration of all claims, known and unknown, for work performed pursuant to the contract to construct Fire Station No. 3 and in exchange for the release and indemnification hereinafter set forth.

In consideration of the sum of \$83,795.85, Ellis and his heirs, executors, administrators and assigns hereby fully releases and discharges the City and relinquishes all rights, claims, and actions that Ellis and its successors now have or may have after the execution of this Release against City arising out of the contract to construct Fire Station No. 3 in exchange for the Release and Indemnification hereinafter set forth.

NOW, THEREFORE, in consideration of the City's payment to Ellis of the sum of \$83,795.85 as final payment for work performed to construct Fire Station No. 3, Ellis hereby releases and discharges the City from all claims for further payment for such work and agrees to hold the City harmless, indemnify and defend it from and against all claims of further liability to Ellis, any subcontractor, workman, or employee, and any person, entity or agency whatever, for work performed pursuant to the contract to construct Fire Station No. 3 or for failure to provide for payment of prevailing wages to workmen as required by law, including any claims known or unknown which hereafter may be asserted. Ellis acknowledges and agrees that the City shall be relieved of any further obligation to provide for payment of prevailing wages for said work, and that Ellis shall be responsible for disbursement of funds required to achieve compliance with the California Labor Code.

Dated: March 5, 1987

ELLIS CONSTRUCTION COMPANY

By John V. Ellis  
John Ellis

CITY OF REDLANDS

Dated: March 5, 1987

By John E. Holmes  
John Holmes, City Manager