

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is entered into by and between Eric Trujillo and Joan Trujillo ("Claimants") and the City of Redlands ("City") in connection with the settlement of that certain claim for property damage filed by Claimants with the City on April 20, 2004, and to resolve and release City from future claims as they relate to water runoff from Cedar Avenue to Claimants' property located at 1108 Cedar Avenue, City of Redlands together, Redlands and the Claimants are sometimes referred to herein as the "Parties."

RECITALS

A. It is alleged by Claimants that on or about April 1, 2004, a rainstorm occurred which resulted in water from Cedar Avenue flowing onto Claimants' property located at 1108 Cedar Avenue, Redlands (the "Property"), causing property damage. As a result, Claimants filed a claim for damages to their property. It is contended that water damage will continue to occur if certain improvements are not made to the Property.

B. It is the intention of the Parties to resolve and settle their dispute and to discharge all claims, demands, causes of action, obligations, damages and liabilities the Parties may have against the other, for now and in the future, that arise from, or are related to the incident which is the subject of the current claim and potential future claims related to the same source, water run-off from Cedar Avenue to the Property.

C. This Agreement is a compromise of the claim asserted by the Claimants and a release of City from future related claims, and shall not be treated as an admission of liability by any Party.

AGREEMENT

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

2. City shall pay to Claimants the sum of Thirty Two Thousand Seven Hundred Ninety-one and 51/100 dollars (\$32,791.51) to settle all claims and to compensate Claimants for certain improvements to Claimants' Property. Claimants agree

that they shall make the required improvements, as set forth herein, to the Property. Such sum shall be due and payable upon the verification of compliance with the improvements to be made to the Property and by no later than thirty (30) days after verification of said compliance. The payment of such sum shall be completed upon presentation of a valid check in the amount of \$ 32,791.51 to Claimants and/or Claimants' attorney and verification by the City that the required improvements have been completed. The improvements that shall be constructed by Claimants are described in the attached Exhibit "A." Claimants further agree that because City is paying for said improvements to Claimants' Property, Claimants hereby forever discharge, release and waive their right to make a claim against the City hereinafter for water damage for water runoff that may flow onto Claimants' Property from Cedar Avenue. Claimants shall notify City's Public Works Department when improvements are completed so City can inspect and verify compliance with this Agreement.

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

4. Claimants, on behalf of themselves, their respective agents, attorneys, employees, representatives, assigns and successors-in-interest hereby release and forever discharge City and its elected officials, officers, employees, assigns and successors-in-interest from any and all claims, causes of action, damages, losses, liabilities 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 is the subject of the Claim and any future claims as specified in this Agreement.

5. Claimants represent and warrant that they have the legal authority to settle any and all causes of action and claims they may have against City with regard to any and all claims and/or causes of action which relate to the Claim. By executing this Agreement, Claimants hereby release and waive all claims or causes of action which in any way relate to the Claim and this Agreement. To the extent any person or entity should file, subsequent to the execution of this Agreement, any claims and/or causes of action against City arising out of or which are related to the facts and issues released herein, Claimants shall indemnify, defend and hold City harmless from any and all damages, including any attorneys' fees and costs, that result therefrom.

6. Claimants expressly waive the rights afforded them 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.

7. Claimants represent and warrant that they have received the advice of legal counsel with respect to the advisability of making the release provided for herein, and the meaning of California Civil Code section 1542. Claimants are aware that they may hereafter discover claims or facts in addition to or different from those they now know or believe to be true with respect to the matters related herein. Nevertheless, it is the intention of Claimants to fully, finally, and forever settle and release all such matters, and all claims related to those matters which are the subject of this Agreement.

8. Claimants represent and warrant that they have not assigned or transferred or purported to assign or transfer, and shall not hereafter assign or transfer, any obligations, liabilities, demand, claims, costs, expenses, debts, controversies, damages, actions and causes of action released pursuant to this Agreement. Claimants shall indemnify, defend and hold City harmless against any obligation, liability, demand, claim, cost, expense (including, but not limited to attorneys' fees incurred), 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.

9. The Parties, and each of them, acknowledge that they have read this Agreement; that they have had the Agreement explained to them by counsel of their choice; that they are aware of the content and legal effect of the Agreement; that they are acting on the advice of counsel of their choice; and that they are not relying on any representations made by any other party or any of the employees, agents, representatives, or attorneys of any other party, or any of them.

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

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

12. Failure of any party to insist upon strict observance of, or compliance with all of the terms of this Agreement in one or more instances, shall not be deemed to be a waiver of a party's right to insist upon such observance or compliance with the other terms of this Agreement.

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

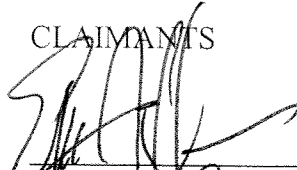
14. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any of the Parties.

15. This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of California.

16. Should an action be brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in prosecuting the action.

Dated: 9.9.04

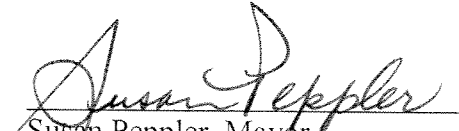
CLAIMANTS


Eric Trujillo


Joan Trujillo

Dated: 9/21/2004

CITY OF REDLANDS


Susan Pepler, Mayor

ATTEST:


Lorrie Poyzer, City Clerk

Exhibit A

Corrective Improvements to be installed by Claimants at 1108 Cedar Avenue

The following is a list of improvements that shall be constructed by Claimants to solve the potential for flooding at 1108 Cedar Avenue. The main effort is to create a positive drainage flow along the driveway through the property allowing drainage to flow along the driveway and into the open storm drain immediately north of the garage.

1. Create a drainage swale along the easterly side of the garage from the driveway to the existing storm drain channel. This would include opening a portion of the stub wall between the garage and the east property line to allow for drainage flows.
2. Extend the existing curb along the westerly side of the driveway across the walkway opening from the driveway to the patio area or construct a ramp with a height at least equal to the height of the curb, at the choice of the Claimants.
3. Allow for drainage flows from the neighboring property at 1106 Cedar Avenue to enter the property and flow in a concrete swale along the easterly property line past the garage and into the existing storm drain system north of the garage.