

SETTLEMENT AND RELEASE AGREEMENT

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

RECITALS

A. Aspe alleges that on October 29, 1998, Aspe suffered injuries as a result of his participation in a fire training seminar at his place of employment, Plymouth Village, which was conducted by the City of Redlands and which is the subject of that certain legal action entitled Raul Aspe v. City of Redlands et al San Bernardino Superior Court Case No. SCISS 61642 (collectively, "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, damages and liabilities Aspe 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 Aspe 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 Aspe the sum of Five Hundred Dollars (\$500.00) within thirty (30) days from the date the City has executed this Agreement. The payment shall be made by check payable to Raul Aspe, and his Attorney of Record, Gary D. Baughman. Aspe and his Attorney of Record agree that the check shall not be negotiated unless and until the City notifies Aspe's Attorney of Record of the City's filing of the Dismissal referenced in paragraph 3, below.

3. Aspe, through his 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 his receipt of the payment described in paragraph 2, above. The City shall file the Dismissal and provide a conformed copy to Aspe's Attorney of Record.

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

5. Aspe, on behalf of himself and his respective 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, 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. Aspe represents and warrants that he has the legal authority to settle any and all causes of action and claims he may have against the City which relate or pertain to the Lawsuit. By executing this Agreement, Aspe 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, Aspe shall indemnify, defend and hold the City harmless from any and all damages, including any attorneys' fees and costs that result therefrom.

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

9. Aspe represents and warrants that he has 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. Aspe shall defend, indemnify and hold the 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.

10. Aspe acknowledges that he has read this Agreement; that he has had the Agreement explained to him by counsel of his choice; that he is aware of the content and legal effect of the Agreement; that he is acting on the advice of counsel of his choice; and that he 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 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.

Dated: 12/15/00

RAUL ASPE

Raul Aspe
Raul Aspe

Dated: January 16, 2001

CITY OF REDLANDS

Pat Gilbreath
Pat Gilbreath, Mayor

Attest:

Debra Payne
City Clerk