

SETTLEMENT AGREEMENT

This Settlement Agreement and Release ("Agreement") is made and entered into this 20th day of February, 2013, by and between the City of Redlands ("City"), and the Redlands Seventh-Day Adventist Church and Southeastern California Conference of Seventh-day Adventists (together, "Church"). The City and the Church are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

RECITALS

This Agreement is made and entered into by the Parties with reference to the following facts:

A. The Redlands Seventh-Day Adventist Church is located at 520 Brookside Avenue, Redlands, California (the "Facility").

B. On June 23, 2009, the Church received approval of Conditional Use Permit No. 946 ("CUP") to expand the Church's Facility.

C. On August 31, 2012, during construction of the Facility pursuant to the CUP, the Church caused two City-owned coast redwood trees (the "Cut Trees") to be cut and removed from City right-of-way.

D. On September 18, 2012, the City and the Church began negotiations to resolve the dispute caused by the Church's removal of the Cut Trees.

E. On October 16, 2012, the City and the Church entered into an agreement to settle their dispute with respect to the Church's removal of the Cut Trees, and to reach a full and complete settlement of the dispute (the "Original Agreement").

F. On February 5, 2013, the City Council of the City of Redlands directed City staff to renegotiate the Original Agreement with the Church to remove the requirement for the replanting of coast redwood trees in place of the cut trees, and instead provide for the planting of other trees selected from the City's approved street tree list.

G. On February 5, 2013, the City Council of the City of Redlands further directed that the total amount to be paid by the Church be limited to the amount of Eighty Thousand Dollars (\$80,000).

H. It is now the desire of the City and the Church to rescind and replace the Original Agreement with this new Settlement Agreement.

AGREEMENT

In consideration of the mutual promises contained herein, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The Church agrees to pay City the sum of Eighty Thousand Dollars (\$80,000) for the City's purchase, planting and maintenance of two twenty-four inch (24") box trees in City right-of-way adjacent to the Facility, and the planting of other trees throughout the City (collectively, the "Replacement Trees"). The selection and planting of the Replacement Trees shall be under the City's control and the supervision of an arborist selected by the City. The City will be solely responsible for removal of the stumps of the Cut Trees, and any sidewalk, curb repair and other costs related to City's removal of the stumps of the Cut Trees or the planting of Replacement Trees.

2. Upon satisfaction of all of the Church's obligations created by or arising out of this Agreement, the City agrees that (i) it will seek no compensation from the Church other than what is contemplated by this Agreement in connection with the Church's removal of the Cut Trees; (ii) that the Church shall have no liability if the Replacement Trees fail to thrive; and (iii) that the City will not initiate an action to revoke the CUP based on the Church's removal of the Cut Trees.

RELEASES

3. Upon satisfaction of all of the Church's obligations created by or arising out of this Agreement, the City, on behalf of itself and each of its past, present and future agents, representatives, successors and assigns, assignees, and/or each person or entity acting or purporting to act for them, or on their behalf (collectively, the "Releasors") unconditionally and irrevocably remise, release, and forever discharge the Church and each of its respective past, present and future divisions, subdivisions, companies, subsidiaries, affiliates, departments, managers, licensees, sub licensees, trustees, creditors, partners, joint venturers, principals, officers, members, directors, employees, agents (except for Roseberry Tree Service), representatives, attorneys, predecessors, successors, assigns, assignees, administrators and each person or entity acting or purporting to act for the Church (collectively, the "Releasees") of and from any and all claims, demands, damages, debts, liabilities, accounts, obligations, costs, expenses, liens, actions and causes of action of every kind and nature whatever, whether now known or unknown, suspected or unsuspected, which the City now has, owns or holds, or at any time previously, had owned or held, against any of the Releasees, based upon or related to the Church's removal of the Cut Trees or the CUP which could have been raised concerning revocation of the CUP (which are collectively referred to as the "Released Matters").

4. The City acknowledges that it is familiar with California Civil Code section 1542 which provides as follows:

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

The City waives and relinquishes any rights or benefits which it has or may have under California Civil Code section 1542.

5. This Agreement is entered into by the Parties freely and voluntarily, and with and upon the advice of counsel. The City warrants that it has been fully advised by its attorney regarding the advisability of executing this Agreement and with respect to the meaning of California Civil Code section 1542.

GENERAL PROVISIONS

6. It is the understanding of the Parties that the releases this Agreement contains shall apply and extend to only the Parties and individuals and entities designated in this Agreement. This Agreement is between the Church and the City only, and is not intended to be, nor shall it be construed as being, for the benefit of any third party or parties, except as expressly stated herein.

7. The failure of the City to demand from the Church performance of any act under this Agreement shall not be construed as a waiver of the City's right to demand, at any subsequent time, such performance.

8. The provisions of this Agreement are severable, such that if any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such a determination shall not invalidate or render unenforceable any other provision of this Agreement.

9. Each Party agrees to execute any documents and to cooperate in any reasonable manner to effectuate the terms of this Agreement.

10. The Parties have participated in drafting this Agreement, and accordingly, any ambiguity herein shall not be construed for or against any Party.

11. This Agreement may not be altered, amended, modified or otherwise changed in any respect or particular except in writing duly executed by the Parties.

12. This Agreement shall be construed, enforced and administered in accordance with the laws of the State of California, without giving effect to the conflicts of laws principles thereof.

13. By entering into this Agreement, no Party is admitting any liability, and this Agreement should not be construed as an admission of liability by any Party. The Parties understand, acknowledge and agree that the settlement reached, the making of this Agreement, and anything contained in this Agreement, constitutes a compromise of disputed claims involving legal and factual questions and issues and is not to be construed as an admission by any Party of liability under or noncompliance with any federal, state, or local law or regulation. This Agreement, and the settlement provided for herein, shall not be admissible in any lawsuit, administrative action, or any judicial or administrative proceeding if offered to show, demonstrate, evidence or support a contention of the City that the Church acted illegally, improperly, or in breach of law, contract or proper conduct.

14. No Party has made any statement or representation to the other Party regarding any fact relied upon by the other Party in entering into this Agreement, and each Party

specifically does not rely upon any statement, representation or promise of any other Party in executing this Agreement, except as expressly stated in this Agreement.

15. This Agreement memorializes and constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements and agreements, including the Original Agreement, between Parties, whether written or unwritten. The Parties acknowledge that no person or entity, nor any agent or attorney of any person or entity, has made any promises, representations, or warranties whatsoever, express or implied, which are not expressly contained in this Agreement, and the Parties further acknowledge that they have not executed this Agreement in reliance upon any collateral promise, representation, warranty, or in reliance upon any belief as to any fact or matter not expressly recited in this Agreement.

16. This Agreement is binding upon and shall inure to the benefit of the Parties, and their respective agents, employees, shareholders, affiliates, parents, subsidiaries, directors, officers, heirs, insurers, assigns, and successors-in-interest.

17. The Parties agree to bear their own costs and attorneys' fees incurred in the investigation and preparation of this Agreement.

18. In the event any action is commenced to enforce or interpret any provision of this Agreement the prevailing Party in such action, in addition to costs and any other relief, shall be entitled to recover its reasonable attorneys' fees, including fees for use of in-house counsel by a Party.

CITY OF REDLANDS

By: Pete Aguilar
Pete Aguilar, Mayor

REDLANDS SEVENTH-DAY .
ADVENTIST CHURCH

By: Zachary Thompson

SOUTHEASTERN CALIFORNIA
CONFERENCE OF SEVENTH-DAY
ADVENTISTS

By: Vah W. Starn

ATTEST:

Sam Irwin
Sam Irwin, City Clerk