

## SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is made by and between RICHARD PEREZ JR., individually and as co-successor-in-interest to Decedent RICHARD PEREZ III, and JULIE PEREZ, individually and as co-successor-in-interest to Decedent RICHARD PEREZ III ("PLAINTIFFS") and WALLACE JENSEN ("DEFENDANT"), by and through their respective attorneys of record (collectively the "PARTIES").

### WITNESSETH

WHEREAS, PLAINTIFFS filed a lawsuit against DEFENDANT in the United States District Court, Case No. C15-00256 WHA, alleging constitutional claims arising out of the shooting death of Decedent RICHARD PEREZ III by DEFENDANT, on September 14, 2014, in the City of Richmond, California (hereafter "Civil Action.")

WHEREAS, DEFENDANT denies any and all allegations of the Civil Action;

WHEREAS, the PARTIES wish to effect a complete resolution and settlement of all claims, disputes, and controversies arising out of the Civil Action; and

WHEREAS, the PARTIES voluntarily and freely enter this Agreement for that purpose.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth below, the PARTIES hereto, intending to be legally bound, do enter into this Agreement and agree to execute this document as a full and complete release, providing the following terms and conditions are complied with:

### AGREEMENT

1. **Consideration.** In consideration of the promises contained herein, the City of Richmond (and/or its Insurance/Pooling Authority), as a complete settlement of this action on

behalf of DEFENDANT, will make payment to PLAINTIFFS, and their attorney of record, Law Offices of John L. Burris, Esq., in the total amount of \$850,000.00 (EIGHT HUNDRED AND FIFTY THOUSAND DOLLARS). In exchange, PLAINTIFFS stipulate to a dismissal of this entire action, with prejudice, as to the DEFENDANT mentioned herein, a dismissal to be filed by the PARTIES following payment to PLAINTIFFS.

2. **Attorneys' Fees And Costs.** Each of the PARTIES will bear their own attorneys' fees and/or costs.

3. **Dismissal.** PLAINTIFFS will sign a Request for Dismissal, With Prejudice, as to the entire Civil Action, which the PARTIES will file only after payment of the settlement proceeds to PLAINTIFFS.

4. **No Admission of Liability.** The PARTIES acknowledge and agree that this Agreement and compliance with this Agreement shall not constitute or be construed as an admission by of liability or fault by DEFENDANT or the City of Richmond or any of the City's past or current employees. The PARTIES further acknowledge that DEFENDANT disputes PLAINTIFFS' allegations and that this Agreement is made by the PARTIES to avoid the cost of litigation.

5. **No Pending Litigation.** PLAINTIFFS represent that, other than the Civil Action, they do not presently have on file any complaints, grievances, charges or claims against DEFENDANT, the City of Richmond, or any other past or current employee of the City of Richmond.

6. **Release By Plaintiffs.** In return and in consideration of the promises contained herein, PLAINTIFFS release, and absolutely and forever discharges DEFENDANT, the City of

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Richmond, and their predecessors, successors, assigns, employees and each past or present affiliated or parent entities and each past or present employee agent, representative, officer, and any other person or firm who, previously or hereinafter, is affiliated in any manner with any of the above, from any and all claims, demands, causes of action, obligations, liens, expenses, costs, damages, attorneys' fees and liabilities which PLAINTIFFS ever had, now has, or may hereinafter have, against any of them by reason of any act, cause, matter or event whatsoever to the date of this Agreement, whether known or unknown, arising directly or indirectly out of or in any way connected with, or based upon, or in any way related to, the subject matter of the Civil Action. PLAINTIFFS agree to defend, indemnify, and hold harmless DEFENDANT and/or the City of Richmond against any and all lien claims, including but not limited to lien claims by any health care providers, hospitals, clinics, emergency first responders, health maintenance organizations, Kaiser facilities or related facilities, chiropractors, or correctional institutions, respecting any services, payments, benefits, compensation or indemnification of any kind related in any way to injuries allegedly suffered by PLAINTIFFS arising directly or indirectly out of or in any way connected with, or based upon, or in any way related to, the subject matter of the Civil Action.

7. **Defense.** This Agreement may be pled as a full and complete defense to any subsequent action or other proceeding involving any person or party, which arises out of, relates to, or has anything to do with, the rights and claims waived, released and discharged by this Agreement.

8. **No Assignment By The PARTIES.** The PARTIES, and each of them, hereto represents and warrants that they have full power to make the releases and agreements contained

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herein. The PARTIES represent and warrant that they have not assigned, encumbered, or in any manner transferred all or any portion of the claims covered by the releases and agreements contained herein. The PARTIES, and each of them, hereto acknowledge and agree that this warranty and representation is an essential and material term of this Agreement without which the consideration would not have been delivered.

9. **No Assignment By PLAINTIFF.** PLAINTIFFS represent and warrant that they have not heretofore assigned or transferred or purported to assign or transfer, to any person or entity, a claim, debt, liability demand, obligation, cost, attorneys' fees, expense, action or cause of action herein released. PLAINTIFFS further agree to indemnify, hold harmless, and defend DEFENDANT and/or the City of Richmond from any and all claims, debts, liens, liabilities, or demands, obligations, attorneys' fees, costs, expenses, action or cause of action which are in any way based on, arising out of, or in connection with any such transfer or assignment, including all actual attorneys' fees and costs in connection therewith.

10. **Breach Of This Agreement.** The PARTIES agree that, in the event of any breach of this Agreement, the party aggrieved shall be entitled to recover from the breaching party, in addition to any other relief provided by law, such costs and expenses as may be incurred by said aggrieved party, including court costs, attorneys' fees and other costs and expenses, taxable and otherwise, reasonably necessary in preparing the defense of, defending against or seeking and obtaining an abatement or an injunction against such action or such proceedings, or in establishing or maintaining the applicability or the validity of this Agreement or any provision thereof and in prosecuting any counterclaim or cross-complaint therein.

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11. **Binding Effect.** This Agreement shall be binding upon and for the benefit of the PARTIES hereto and their respective heirs, successors, predecessors, devisees, administrators, executors, affiliates, representatives, assigns, and their respective agents and employees, partners, members and representatives, wherever the context requires or admits, both jointly and individually.

12. **Advice Of Counsel.** PLAINTIFFS are represented by counsel and DEFENDANT is represented by counsel. PLAINTIFFS acknowledge that PLAINTIFFS had the opportunity to be involved in the preparation and finalization of this Agreement, that they have read the Agreement or had it read to them, that they are fully aware of its contents and of its legal effect, and that each party enters into this Agreement freely, without coercion, based on the PARTIES' own judgment and not in reliance upon any representations or promises made by the other party. The PARTIES, and each of them, expressly waives any and all claims, charges, complaints, actions and causes of action against any other party arising out of or in any way associated with the negotiation, preparation, or execution of this Agreement.

13. **Complete And Final Agreement.** The PARTIES agreed that this Agreement constitutes the entire agreement between the PARTIES and it is expressly understood and agreed that the Agreement has been freely and voluntarily entered into by the PARTIES hereto with the advice of counsel, who have explained the legal effect of this Agreement. The PARTIES further acknowledge that no warranties or representations or inducements not contained in this Agreement have been made on any subject in connection with this Agreement, and that they have not been induced to execute this Agreement by reason of nondisclosure or suppression of

any fact. This Agreement may not be altered, modified or otherwise changed in any respect except by writing, duly executed by all of the PARTIES or their authorized representatives.

14. **Assumption Of Risk.** The PARTIES, and each of them, hereby expressly assume the risk of any mistake of fact or law, or both, or that the true facts or laws might be other or different from facts and laws now known or believed to exist. Each party to this Agreement acknowledges that it has made such investigation of the facts pertaining to this Agreement as each deems necessary, and in entering into this Agreement, each party assumes the risk of mistake with respect to such facts.

15. **Complete and Final Agreement.** This Agreement contains all of the agreement, conditions, promises and covenants between the PARTIES and supersedes all prior or contemporaneous agreements, representations or understandings with respect to the subject matter of the present agreement.

16. **Governing Law.** The terms, conditions and covenants of this Agreement shall be interpreted under the laws of the State of California.

17. **Waiver Of California Civil Code Section 1542.** The PARTIES in this Agreement intend this Agreement to be a full and general release as to the subject matter described above, and they hereby mutually waive all claims or benefits that they now have, or in the future may have under the provisions of section 1542 of the California Civil Code, which reads as follows:

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 or her must have materially affected his or her settlement with the debtor.

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The PARTIES to this Agreement, having been apprised of the statutory language of Civil Code Section 1542 by their attorneys, and each fully understanding the same, nevertheless elect to waive the benefits of any and all rights any of them may have pursuant to the provisions of Civil Code Section 1542. The PARTIES to this Agreement understand that if the facts with respect to which this Agreement is executed are found hereinafter to be different from the facts now believed by any of them to be true, that this Agreement shall be effective notwithstanding such material difference.

18. **Neutral Interpretation.** PLAINTIFFS and DEFENDANT, and their counsel, have cooperated in the preparation of this Agreement, and this Agreement therefore shall not be construed against any party.

19. **Warranty Of Authority.** Each of the undersigned individuals represents and warrants to each of the other PARTIES and such other PARTIES' attorneys that (a) he/she or it has full right, power and authority to bind the party on behalf of which he/she or it is executing this Agreement in a representative capacity, to all of the terms of this Agreement, and that (b) no consent of any other person is required by any party to this Agreement as a condition to such party being bound by this Agreement (or that such consent has been obtained).

20. **Counterparts.** This Agreement may be signed in counterparts and shall be binding and effective immediately upon the execution by all PARTIES of one or more counterparts.

21. **Enforceability.** The provisions of this Agreement are contractual in nature and not merely recitals, and shall be considered independent and severable, and if any such provision or any part thereof shall at any time be held invalid, in whole or in part, under any federal, state,

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county, municipal or other law, ruling or regulation, then such provision or part thereof shall remain in force and effect to the extent permitted by law, the remaining provisions of this Agreement shall also remain in full force and effect, and enforceable. By signature by counsel on this agreement, counsel for the DEFENDANT has the right and ability to bind the DEFENDANT and/or the City of Richmond per this agreement.

I HAVE READ THE ENTIRE CONTENTS OF THIS AGREEMENT BEFORE SIGNING IT AND HAVE BEEN PROVIDED WITH A COPY FOR MY RECORDS.

DATED: 1/28, 2016


  
PLAINTIFF RICHARD PEREZ JR.

DATED: 1/28, 2016

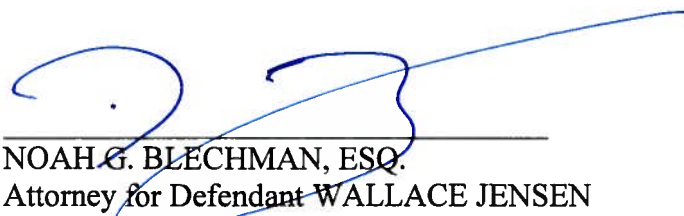
  
PLAINTIFF JULIE PEREZ

APPROVED AS TO FORM:

DATED: 1/28, 2016

  
JOHN L. BURRIS, ESQ./DEWITT LACY, ESQ.  
Attorneys for Plaintiffs RICHARD PEREZ JR and  
JULIE PEREZ

DATED: February 1, 2016

  
NOAH G. BLECHMAN, ESQ.  
Attorney for Defendant WALLACE JENSEN

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