

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Settlement Agreement") is made and entered between and among: Santino Garcia, a minor child, and his guardians: Leandro and Eleanor Carrillo; Salome Garcia, a minor child, and her guardians: Harold and Angel Trimble and Gabriel Garcia; Gabe Garcia, and all statutory beneficiaries who have or could have brought claims under A.R.S. §12-611 et. seq. (the wrongful death statute), hereafter referred to as the "Claimants", and the City of Flagstaff, its officers, employees, agents, Council Members, Mayor, or anyone who could be held vicariously liable for any and all acts arising out of the Notice of Claim and Complaint submitted and filed by the Claimants, hereafter referred to as the "City". The Claimants and the City are collectively referred to herein as "the Parties."

RECITALS

A. On or about August 19, 2006, the Claimants allege to have been injured as a result of actions taken by the City. The Claimants submitted a Notice of Claim and then filed a complaint in Maricopa County Superior Court, entitled Garcia, et al. v. City of Flagstaff, et al. which bears the cause number CV2008-007311("the Complaint").

B. Despite the fact that liability has not been admitted regarding the claims asserted in the Complaint, the Parties desire to finally and fully resolve all past, present, and potential disputes, claims, and issues as between the Parties only relating to or arising out of the Complaint and the facts and circumstances that gave rise to the Complaint. As a result, this Settlement Agreement has been negotiated and entered into in an effort to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation. This Settlement Agreement is intended to resolve any dispute which may exist between the Parties. The Parties desire to enter into this Settlement Agreement in order to provide for certain payments in full settlement and discharge of all claims which are, or might have been, the subject matter of the Complaint, upon the terms and conditions set forth below.

C. This Settlement Agreement is NOT intended to resolve any disputes between the Claimants and the State of Arizona, their Agencies, their employees, agents, or officers. No consideration is paid by the City to resolve any claims on behalf of the State of Arizona and any claims brought by the Claimants against the State of Arizona contained in their Complaint survive this Agreement, but in no event shall the City, as defined above be financially responsible for any judgment, settlements, or indemnification obligations other than what is contained in this Agreement.¹

¹ To the extent the State of Arizona is vicariously liable for the acts of Flagstaff police officer Shawn Gilleand, this release is not intended to provide consideration for or release Officer Gilleand for his acts while operating as an agent of the State of Arizona or Department of Public Safety, but only for any and all acts made on behalf of the City of Flagstaff for which the City is or could be vicariously liable nor is it intended to release the State for its

AGREEMENT

The parties agree as follows:

1.0 Release and Discharge.

1.1 In consideration of the payments set forth in Section 2, the Claimants hereby completely release and forever discharge the City of and from any and all past, present or future claims, demands, obligations, actions, causes of action, wrongful death claims, survival claims, rights, damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on tort, contract or other theory of recovery, and whether for compensatory or punitive damages, which Claimants now have, or which may hereafter accrue or otherwise be acquired on account of, or in any way growing out of the death of Kyle R. Garcia that occurred on August 19, 2006 including, without limitation, any and all known or unknown claims which now exist or may hereafter arise in favor of Claimants in connection with the alleged injuries to Claimants arising from the death of Kyle R. Garcia. This Settlement Agreement shall be fully binding and a complete settlement.

1.2 From any and all past, present or future claims, demands, obligations, actions, causes of action, rights, damages, costs, losses of services, expenses and compensation of any nature whatsoever, whether based on a tort, contract or other theory of recovery, which the Claimants now have, or which may hereafter accrue or otherwise be acquired, on account of, or may in any way grow out of, or which are the subject of the Complaint (and all related pleadings).

1.3 This release and discharge shall also apply to the City and their past, present and future spouses, officers, directors, stockholders, attorneys, agents, insurers, excess insurers, servants, representatives, employees, subsidiaries, affiliates, partners, predecessors and successors in interest, and assigns and all other persons, firms or corporations with whom any of the former have been, are now, or may hereafter be affiliated.

1.4 The Claimants warrant that out of the proceeds paid pursuant to Section 2 of this Settlement Agreement, they will satisfy any and all legally valid but unpaid and unsatisfied hospital or medical bills and/or liens and will indemnify and hold harmless the City and their agents and representatives, spouses and dependents from any and all claims, demands, actions and causes of action, and all liability which might arise from any legally valid but unpaid or unsatisfied hospital or medical bill and/or lien or lien of any other kind which might apply to the proceeds paid herein.

vicarious liability for the actions of Officer Gilleland individually or while acting as part of GITEM (Gang Immigration Intelligence Team Enforcement Mission) Task Force.

1.5 Claimants declare and represent that there are no liens or encumbrances on the settlement proceeds referenced hereinabove or that, to the extent there are or may be such liens or encumbrances, hereby covenants and agrees to satisfy such liens or encumbrances from these proceeds and hereby directs the attorney for the undersigned to do so.

1.6 Claimants further agree to defend, reimburse, hold harmless and indemnify the City from any liability arising from: (1) any subrogation claim to which Claimant's recovery may be subject; (2) liens for any compensation paid under any statute or regulation, state or federal; (3) medical payments due or claims to be due; (4) any attorney lien asserted by any prior legal representative; (5) any contract pertaining to the proceeds from the settlement referred to in this Settlement Agreement; and/or (6) all claims, liens, subrogation claims, obligations, actions, causes of action, damages, attorney's fees, costs and expenses of every kind that may ever be sought by anyone for any reason in any way related to the enforcement of any such claims, liens, actions, damages, fees, costs or expenses.

1.7 Specifically, Claimants agree that the City is not responsible for payment of: (1) any medical or mental health treatment required by Claimants as a result of or arising from the Incident which occurred on or about August 19, 2006; (2) any hospital liens, whether known or unknown, that have been filed or may be filed for past or future medical expenses; (3) any claims for recovery for medical and health services and care that have been asserted or may be asserted in the future by the United States of America pursuant to the Medical Care Recovery Act, 42 U.S.C. § 2651 or pursuant to any other federal statute, rule, or regulation; (4) any subrogation lien; or (5) any bills, claims, and liens in any manner, whether known or unknown, arising in favor of any health care provider who has provided medical or health care of any kind to Claimants, either in the past or in the future.

1.8 Claimants further declare and represent that they have not filed any claims with Medicare or Medicaid as a result of the Incident that occurred on or about August 19, 2006, and is not a recipient of Medicare or Medicaid, and that if they do so in the future they are solely responsible for payment and reimbursement of said liens. Consequently, pursuant to 42 U.S.C. § 1395(b)(7) & (8), this settlement does not have to be reported to Medicare or Medicaid.

2.0 Payments.

Hundred Thousand Dollars (\$100,000) to the Claimants with the check made payable to Treon Aguirre Newman & Norris PA, as Attorneys and in trust for their clients.

3.0 Attorney's Fees.

Each party hereto shall bear their own all attorney's fees and costs arising from the actions of its own counsel in connection with the Complaint, this Settlement Agreement and the matters and documents referred to herein, the filing of a Dismissal of the Complaint, and all related matters.

4.0 Court Approval.

Claimants agree as a condition of the Settlement Agreement to obtain timely Court approval of the Settlement and distribution of the proceeds as set forth herein. No distribution of settlement funds will be made until Court approval is obtained. If Court approval is not obtained, the Settlement is null and void, as approval is a necessary condition precedent the Settlement. Claimants shall deliver to counsel for the City a copy of the executed Court approval of the Settlement.

5.0 Delivery of Dismissal with Prejudice.

Concurrently with the execution of this Settlement Agreement, counsel for the Claimants shall deliver to counsel for the City an executed Stipulation for Dismissal with Prejudice of the Complaint. The Claimants authorize counsel for the City to file said Stipulation with the Court and enter it as a matter of record.

6.0 Representations and Warranties.

6.1 This Settlement Agreement is the result of negotiations between Parties who have obtained legal advice concerning the meaning and effect of this Settlement Agreement, and they had sufficient time to consider the meaning and effect of this Settlement Agreement.

6.2 The enforceability of this Settlement Agreement is not affected by the provisions of any other agreement to which such party is a party and will not conflict with any provision of any law or regulation to which such party is subject.

6.3 Any person executing this Settlement Agreement warrants that they have the full authority to enter into the terms and conditions of, and to execute this Settlement Agreement on behalf of the party for whom they are signing, irrespective of the competency of such party.

7.0 Warranty of Capacity to Execute Agreement.

The Claimants represent and warrant that no other person or entity has, or has had, any interest in the claims, demands, obligations or causes of action referred to in this

Settlement Agreement, except as otherwise set forth herein; that the Claimants have the sole right and exclusive authority to execute this Settlement Agreement and receive the sums specified in it; and that the Claimants have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims, demands, obligations or causes of action referred to in this Settlement Agreement.

The Claimants agree that as signors to this Agreement, they warrant that they are the statutory Plaintiffs and fiduciary for all proceeds arising out of the death of Kyle Garcia and agree, in that capacity, and as part of their fiduciary obligation, that they will indemnify and hold harmless the City for any claims by any persons made to the settlement proceeds paid by the City under this agreement. Claimants represents that they are unaware of anyone else having made a claim or filed a lawsuit regarding the death of Kyle Garcia.

8.0 Scope of Releases.

Without limiting the generality of the foregoing, the full release of all claims provided above applies to all claims that are in any way related to the Complaint.

9.0 No Admission.

Nothing in this Settlement Agreement shall constitute an admission by any of the Parties of any liability or wrongdoing whatsoever, but this Settlement Agreement represents a compromise and settlement of disputed claims and an effort to avoid further litigation expenses. This Settlement Agreement and the fact of settlement of the Complaint, including all negotiations, discussions, and proceedings connected with it, leading up to the settlement, as well as any action taken to carry out the terms of the settlement, shall not constitute any admission of liability or give rise to any presumption or inference of any violation of any statute or law or of any fault, wrongdoing, or liability whatsoever. Without limiting the foregoing, the Parties further agree that this Settlement Agreement does not manifest an acceptance of any other party's factual or legal positions taken or asserted in the Complaint or otherwise.

10.0 Severability.

If a court of competent jurisdiction declares any of the Settlement Agreement's provisions unenforceable, the remaining provisions shall be enforced as though the Agreement does not contain the unenforceable provisions; provided, however, that the obligation to pay the Settlement Amount to the Claimants is conditioned on the full enforcement of the release and discharge set forth in Section 1.0, and the dismissal of the Complaint with prejudice.

11.0 Governing Law and Construction.

This Settlement Agreement shall be construed and interpreted in accordance with the laws of the State of Arizona. This Settlement Agreement is the result of negotiations between the Parties, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in, or not contained in, previous drafts of this Settlement Agreement shall have no bearing upon the proper interpretation of this Settlement Agreement. This Settlement Agreement shall be construed and interpreted to effectuate the intent of the Parties, which is to provide, through this Settlement Agreement, for a complete resolution of the Complaint.

12.0 Additional Documents.

All parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Settlement Agreement.

13.0 Entire Agreement and Successors in Interest.

This Settlement Agreement contains the entire agreement between the Claimants, the and the City with regard to the matters set forth in it and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. This Settlement Agreement, as well as the documents contemplated hereunder to effectuate this Settlement Agreement, is a fully integrated document, containing the entire understanding among the Parties, and supersedes and integrates any prior understandings or written or oral agreements or negotiations among the Parties respecting the subject matter hereof.

14.0 Indulgences Not Waivers.

Except as otherwise provided herein, neither any failure nor any delay on the part of any party to exercise any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or of any other right, remedy, power or privilege.

15.0 Modifications and Amendments.

This Settlement Agreement shall not be amended or modified except as may be in writing and signed by all parties to this Settlement Agreement.

16.0 Headings.

The headings used in this Settlement Agreement are used for convenience of reference only and do not constitute substantive matter to be considered in construing the terms of this Settlement Agreement.

17.0 Recitals.

The Recitals set forth herein are incorporated as a part of this Settlement Agreement, and the Parties represent and warrant the truth of all that is contained in the Recitals, as it applies to the party so representing. The Parties agree that the covenants set forth herein are contractual and not mere recitals.

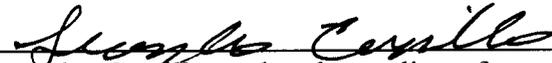
18.0 Counterparts and Facsimile.

This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall together constitute one and the same instrument. Signatures of the Parties may be submitted via facsimile.

19.0 Effectiveness.

This Settlement Agreement shall become effective immediately following execution by each of the parties.

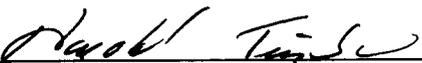
Dated: 1-7-13


Leandro Carrillo, as legal guardian of
SANTINO GARCIA, a minor and son of Kyle
R. Garcia

Dated: 1-7-13


Eleanor Carrillo, as legal guardian of
SANTINO GARCIA, a minor and son of Kyle
R. Garcia

Dated: 1-7-13


HAROLD TRIMBLE as legal guardian of
SALOME GARCIA, a minor and daughter of
Kyle R. Garcia

Dated: 1/7/13

Angela Trimble
ANGELA TRIMBLE as legal guardian of
SALOME GARCIA, a minor and daughter of
Kyle R. Garcia

Dated: 1/7/13

Gabriel Garcia
GABRIEL GARCIA as father of Kyle R.
Garcia

Richard T. T...

Richard T. T...

1-7-13

Approved as to Form
and Content