

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (“**Agreement**”) is entered into this ___ day of October, 2015, between Aden Ali (“**Plaintiff**”), City of Tempe (hereafter “**Tempe**”), and Tempe Officer Hector Encinas, herein referred to jointly as the “**Parties.**” This Agreement shall be the full, binding, and the complete settlement and release agreement between the Parties, save only and excepting its executory provisions.

AGREEMENT

For valuable consideration, the receipt of which is hereby acknowledged, and in consideration of the mutual covenants and conditions contained herein, Tempe and Plaintiff hereby stipulate and agree as follows:

1. Dismissal of Civil Right’s Actions; Payment; Release, Discharge

a. Tempe agrees to pay to Plaintiff, the sum of TWO HUNDRED THIRTY SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$237,500.00) (the “**Settlement Sum**”) as consideration for Plaintiff’s complete release, discharge, and waiver of all causes of action that are alleged to arise from or are related to Plaintiffs’ allegations in their Complaint which occurred on or about February 12, 2012 (“**the Event**”), as more fully set out in the Maricopa Superior Court Cause Number CV2013-091264 (“**the Litigation.**”)

b. As consideration for Tempe’s payment of the Settlement Sum, Plaintiff agrees to fully and completely discharge all past, present, and future claims or causes of action against the City of Tempe and any other city employee or agent that are alleged to have arisen from or are related to the Event. While this settlement is between only the Parties, Plaintiffs’ release applies to Tempe and its officers, employees and agents in both their official and individual capacity.

2. General Release.

Plaintiff acknowledges and agrees that the release set forth herein is a general release. Plaintiff expressly waives and assumes the risk of any and all claims for damages that exist as of this date but of which Plaintiff does not know or does not suspect to exist, whether through

ignorance, oversight, error, negligence, or otherwise, and which, if known, would materially affect Plaintiff's decision to enter into this Agreement.

3. No Admission of Liability.

It is understood and expressly agreed that neither the payment of the settlement payment nor anything contained within this Agreement shall be construed as an admission of any liability whatsoever on the part of the Defendant which has always and is now expressly denying liability. The Parties agree that the settlement payment is made in compromise and settlement of a disputed claim and of the lawsuit.

4. Attorneys' Fees.

Each of the Parties shall bear all of the costs and attorneys' fees arising from the actions of its own counsel in connection with the Litigation, this Agreement and all the matters and documents referred to herein.

5. Indemnification.

Plaintiff agrees to indemnify Tempe and hold it harmless with respect to any liens and/or claims, medical, governmental, or otherwise, existing or potential, which have resulted, or may result, from the Event. Plaintiff agrees to fully satisfy any and all unpaid and unsatisfied hospital or medical bills and/or claims liens, including but not limited to, ERISA liens, Medicare or Medicaid liens, and liens pursuant to A.R.S. § 33-931 et seq., if any. Plaintiff specifically states that no medical bills related to this incident or lawsuit has been paid by Medicare or Medicaid. This subsection of the Agreement constitutes a material representation by Plaintiff, and Plaintiff agrees to indemnify and hold harmless Tempe as to any such lien and/or claim now existing, and all future ones, without limitations.

6. Dismissal with Prejudice.

The Parties shall, as soon as practicable after the execution of this agreement, sign a stipulation to dismiss all claims against the City of Tempe and Hector Encinas with prejudice in this lawsuit, Maricopa Superior Court Cause Number CV2013-091264, with each party to bear their own costs and attorneys' fees.

7. **Interpretation.**

This Agreement is not to be construed or interpreted for or against any of the Parties on the grounds of sole or primary authorship or draftsmanship.

8. **Policy**

This Agreement does not imply, and shall not be construed to be, official Tempe policy with respect to the resolution of the issues in dispute herein. This Agreement shall not be admissible in any other proceeding, except proceedings brought to enforce the terms of this Agreement.

9. **Personal Injuries/Sickness**

All Parties hereto agree that all payments herein are made for personal injuries or sickness pursuant to Section 104(a)(2) of the *Internal Revenue Code* of 1986, as amended.

10. **Entire Agreement and Successors in Interest.**

This Agreement contains the entire agreement between the Parties with respect to the matters set forth herein, and it shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors, and assigns of each. All prior or contemporaneous agreements, representations, and understandings of the Parties, whether oral or written, are hereby superseded and incorporated herein. This Agreement may be modified only by a written amendment signed by the Parties or their agents.

11. **Representation and Comprehension of Document.**

In entering into this Agreement, Plaintiff represents that he has relied upon the legal advice of his attorney, who is an attorney of his own choosing, that his attorney had an opportunity to participate in the drafting of this Agreement, and that the terms of this Agreement have been explained to him by his attorney, and that he fully understands and voluntarily accepts those terms. Further, each of the Parties acknowledge that it is executing this Agreement relying solely upon its own knowledge, belief, and judgment, and with the advice of counsel, and not relying upon any representations made by the other Party, or others on behalf of the other Party.

12. Governing Law and Subsequent Court Action.

This Agreement shall be construed and interpreted in accordance with the laws of the State of Arizona. In the event one of the Parties finds it necessary to bring an action against another the other to enforce any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be paid all reasonable costs and attorneys' fees by the non-prevailing party, and in the event any judgment is secured by the prevailing party, all such costs and attorneys' fees shall be included therein.

13. Severability.

If any provision of this Agreement is, to any extent, found to be invalid or unenforceable, the remainder of this Agreement will not be affected by the invalidity or unenforceability. In such event, the Parties agree to reform this Agreement to conform as nearly as possible to the original intent of the Parties.

14. Warranty of Capacity to Execute Agreement.

Plaintiff represents and warrants that no other persons or entities have, or had, any interest in the claims, demands, obligations, or causes of action referred to in this Agreement except as otherwise set forth herein; that he has the sole right and exclusive authority to execute this Agreement and receive the Settlement Sum specified in it; and that he has not sold, assigned, transferred, conveyed, or otherwise disposed of any of the claims, demands, obligations, or causes of action referred to in this Agreement.

15. Authority to Execute.

Each of the Parties expressly represents and warrants that the person signing below on their behalf is authorized to execute this Agreement.

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16. Effectiveness.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

PLAINTIFF:

[Signature]
Aden Ali

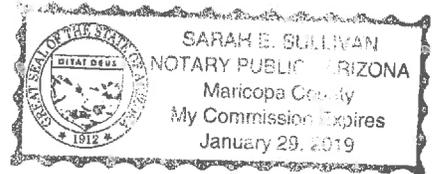
Date: 10-30-2015

STATE OF ARIZONA)
 : ss.
County of Maricopa)

SUBSCRIBED AND SWORN to before me this 30 day of October, 2015.

[Signature]
Notary Public

My commission expires: 1/29/19



Approved as to form:

PLAINTIFFS' ATTORNEY:

By: [Signature]

Date: 10-30-15

TEMPE:

By: _____
CITY OF TEMPE

Date: _____

Its: _____

ENCINAS:

HECTOR ENCINAS

Date: _____