

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is made by and among Celia Palmer (“Plaintiff”) and the City of Colorado Springs. Plaintiff and the City of Colorado Springs shall be referred to collectively as the “Parties”, except where otherwise specified.

RECITALS

A. On June 2, 2020, Plaintiff was protesting in Colorado Springs, Colorado. City of Colorado Springs police officers arrested Plaintiff (the “Incident”).

B. On July 14, 2021, Plaintiff filed a Complaint in the United States District Court for the District of Colorado against the police officers and the City of Colorado Springs, at civil action number 1:21-cv-01903-RM-KMT (the “Lawsuit”). The Lawsuit arose out of the Incident.

C. The Parties deem it to be in their best interest to reach a complete resolution of any and all claims (the “Claims”) that Plaintiff may have against the City of Colorado Springs and any of its current or former entities, elected officials, officers, employers, successors, assigns, attorneys, employees, agents and servants occurring up to the date of this Agreement on the terms set forth herein.

AGREEMENT AND RELEASE

Release, Covenant Not to Sue, Hold Harmless, Indemnification and Dismissal of Lawsuit

1. Plaintiff agrees irrevocably and unconditionally to release and forever discharge the City of Colorado Springs, the Colorado Springs Police Department, and any of their current or former entities, elected officials, officers, employers, successors, assigns, attorneys, employees, agents and servants (collectively and hereinafter, the “City”) from any and all claims pursuant to any federal or state statute, constitution, common law, contract or otherwise, or in equity, known and unknown, foreseen and unforeseen which may now or hereafter arise related to the Claims.

2. Plaintiff represents and warrants that, other than that which is set forth in the Recitals to this Agreement, she has not filed or caused to be filed or asserted the Claims with any court or agency and agree that she will not file against the City the Claims in or with any court or agency. Plaintiff hereby declares and represents that, with the exception set out herein, no other person, firm, or corporation has received any assignment, subrogation, lien, including but not limited to attorney lien, or other right of substitution to the Claims, or that to the extent such assignment, subrogation, lien, or other right of substitution exists, the same has been waived, resolved, or otherwise disclosed. In the event the City is subjected to further demands related to the Claims by any person, firm, or corporation under any actual or purported lien or right of substitution, including any lien for medical expenses, attorney fees or costs, Plaintiff will hold the City harmless from any such claims or demands and indemnify and defend the City from any judgment obtained by reason of such purported lien or right of substitution.

3. Plaintiff understands and agrees that she is solely responsible for all tax obligations, including all reporting and payment obligations, that may arise as a consequence of this Agreement and the monetary consideration provided pursuant to it. Plaintiff agrees that the City has provided

no representation or advice as to how this consideration is to be characterized or allocated or as to the tax treatment or its tax reporting or payment obligations for the monetary consideration set out herein.

4. Plaintiff further warrants that she fully realizes that she may have sustained unknown and unforeseen losses; fees; costs; or expenses and the consequences thereof which may be at this time, heretofore, and hereafter unknown, unrecognized, unawarded, and not contemplated by Plaintiff, which resulted or may or will result from the above-mentioned Claims and all matters incident or related thereto, and that no promise or inducement has been offered except as herein set forth and that all agreements and understandings between the Parties are expressed herein and that this Agreement was executed without reliance upon any statement or representation by the City, and Plaintiff is legally competent to execute this Agreement. Plaintiff accepts full responsibility and assumes the risk of any mistake of fact or law as to any damages, losses, or injuries, whether disclosed or undisclosed, known or unknown, and all matters incident and related thereto applicable to the Claims and any potential claims Plaintiff has or may have against the City.

5. As part of the consideration for this Agreement, Plaintiff has authorized and instructed her attorneys to execute and file a stipulated motion to dismiss the Lawsuit with prejudice. Upon receipt of the Payment set forth below, Plaintiff will dismiss the Lawsuit with prejudice within fifteen (15) days. Plaintiff understands and agrees that this Agreement prevents any appeal of any of the dismissals, stipulated or otherwise, against any of the Parties or for any of the Claims made in the Lawsuit.

Consideration

6. The City of Colorado Springs agrees to pay Plaintiff the total amount of ONE HUNDRED AND SEVENTY-FIVE THOUSAND DOLLARS (\$175,000.00) by tendering a check in that amount to Plaintiff's attorneys, payable to the KILLMER, LANE & NEWMAN, LLP COLTAF account (the "Payment").

7. By March 1, 2022, the City of Colorado Springs will include the following language in Colorado Springs Police Department Policies:

- Dispersal warnings are mandatory, **prior** to utilizing less lethal tools or force to disperse a crowd.
- Prior to using force, an officer shall identify himself or herself as a peace officer. The officer shall give a clear verbal warning of their intent to use force. If the warning is related to deadly force, the officer will specifically warn of the impending use of firearms or other deadly physical force, if possible. A warning must be given with sufficient time for the warning to be observed. The officer is not required to give this warning when doing so would unduly place officers at risk of injury and/or would create a risk of death or injury to other persons. When a warning cannot be given in a situation where force is used, the officer will document the reasons why in the case report.

8. It is agreed that consideration for this Agreement as set forth herein, shall be full and final payment for all Claims released herein and all claims that might have been asserted in any state or federal judicial or administrative forum up to the date of execution of this Agreement, including any claims for attorney fees and costs.

Voluntariness, Denial of Liability, Entire Agreement

9. Plaintiff has carefully read the above and foregoing Agreement and knows the contents thereof and have signed the same as their free and voluntary act and after having the opportunity to have the same explained by counsel. Plaintiff expressly states that she has been advised of her right to consult additional professionals of their choice, including lawyers and accountants, regarding any and all known and unknown, foreseen and unforeseen, damages, losses, injuries, costs, losses of services, expenses, liabilities, claims, and the consequences thereof, of whatever kind and nature, which Plaintiff may have or will incur, whether suspected or unsuspected. Plaintiff further expressly understands and agrees that the signing of this Agreement shall be forever binding and no rescission, modification, or release of Plaintiff from the terms of this Agreement will be made for any mistake.

10. It is expressly understood and agreed that the acceptance of the above-mentioned consideration is in full accord and satisfaction of disputed claims and is not to be construed in any way as an admission of liability on the part of the City, but, to the contrary, the City specifically asserts that no wrongdoing, misconduct, or liability on account of the Incident or any matters related or incidental thereto, or otherwise, occurred or was established in a court of law, and it is further understood and agreed that all agreements and understandings between the Parties are embodied and expressed herein and that the terms of this Agreement are contractual and not mere recitals.


11. This Agreement is not intended to be an admission of any fact or issue alleged by any party relating to the Claims and, with the exception of a claim related to breach or enforcement of this Agreement, this Agreement is not intended to be evidence in any other matter.

12. This Agreement, once executed, including the Recitals and all attachments to this Agreement, contain the entire understanding of the parties hereto with respect to its subject matter and supersedes all prior oral and written understandings and agreements between the parties.

13. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument representing this Agreement of the Parties to this Agreement.

*** Remainder of page intentionally left blank. ***


The City of Colorado Springs



John W. Suthers
Mayor

Date signed: 11/13/2022

Approved as to form:



Anne H. Turner, Esq.
Assistant City Attorney – Litigation/Employment