

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Settlement Agreement") is made by and between FRANKIE MARTINEZ and GERRY MARTINEZ, individually and as the successors in interest to MARY MARTINEZ, deceased (collectively sometimes referred to herein as "Plaintiff"), and the CITY OF SAN JOSE (hereafter "CITY"). Plaintiff and CITY are collectively referred to herein as the "Parties."

WHEREAS, Mary Martinez, the plaintiff in this action, filed a lawsuit on February 19, 2025 entitled *Mary Martinez v. City of San Jose* in the Superior Court for the State of California, County of Santa Clara, case number 25CV459323, (hereafter the "Action");

WHEREAS, Mary Martinez passed away on May 23, 2026;

WHEREAS, for purposes of this Settlement Agreement and Release, the term "Plaintiff" shall mean and refer to Frankie Martinez and Gerry Martinez individually and as successors in interest to Mary Martinez, deceased, as well as the Estate of Mary Martinez and any persons claiming by, through, or under Mary Martinez;

WHEREAS, Frankie Martinez and Gerry Martinez have executed declarations pursuant to Code of Civil Procedure section 377.32 representing that they are the successors in interest to Mary Martinez and are authorized to act on behalf of her interests with respect to the claims asserted in this action;

WHEREAS, the Parties now mutually desire to resolve the Action without further litigation and, therefore, undertake to settle the Action in its entirety by entering into this Agreement pursuant to which Plaintiff releases and extinguishes on a final basis all claims and potential claims arising out of, or in any way connected with all matters alleged, or which could have been alleged, in the pleadings comprising the Action; and

WHEREAS, Plaintiff desires to dismiss the Action with prejudice;

NOW THEREFORE, the Parties agree as follows:

1. Scope of Settlement. This Agreement shall settle, compromise, and forever discharge all claims of any and every kind, nature and character, which Plaintiff alleged, or could have alleged, in the Action arising from or based on any act or omission by CITY, CITY Departments, CITY elected officials, and all current and former CITY employees, whether acting in their official or individual capacities.

2. Consideration. In consideration for Plaintiff's agreements, promises, covenants, releases, waivers, and dismissal of the Action, stated herein CITY shall pay

the sum of Seventy-Five Thousand Dollars (\$75,000.00) in the form of a check payable to Law Office of Gustavo for the benefit of Frankie Martinez and Gerry Martinez, as successors in interest to Mary Martinez, deceased, who shall provide a W-9 prior to issuance of payment. In consideration of said payment, Plaintiff shall dismiss the Action with prejudice and withdraw, waive, and release all claims for damages, including all claims and/or rights to recover costs and attorney's fees.

3. Dismissal of Claims. Plaintiff and Plaintiff's attorneys shall dismiss the Action with prejudice within five (5) business days after receiving payment of the settlement amount.

4. Release. Frankie Martinez and Gerry Martinez, individually and as the successors in interest to Mary Martinez, and on behalf of the Estate of Mary Martinez and all persons or entities claiming by, through, or under Mary Martinez, including without limitation her heirs, beneficiaries, representatives, successors, assigns, attorneys, and agents, hereby fully, finally, and forever release and discharge CITY and all past and present employees of CITY, whether or not any such employee was named individually in the Action. This release includes, without limitation, any and all actions, causes of action, claims, demands, obligations, damages, losses, costs, expenses, liens, liabilities, attorney's fees, and rights of recovery of every kind and nature whatsoever, whether known or unknown, suspected or unsuspected, fixed or contingent, that arise out of, relate to, or are in any way connected with the facts, circumstances, incidents, injuries, damages, or occurrences alleged in the Action, or that could have been alleged in the Action, whether or not such claims were actually asserted therein.

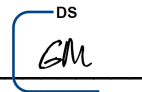
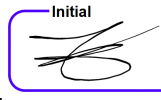
5. Representations and Warranties. Frankie Martinez and Gerry Martinez represent and warrant that they are the sole successors in interest to Mary Martinez within the meaning of Code of Civil Procedure sections 377.11 and 377.32, that no proceeding is pending in California for administration of Mary Martinez's estate, and that no personal representative has been appointed for the estate, except as expressly disclosed in writing to CITY.

6. Indemnity. Frankie Martinez and Gerry Martinez, individually and as successors in interest to Mary Martinez, deceased, represent and warrant that they are authorized to execute this Agreement and release the claims asserted in the Action. Frankie Martinez and Gerry Martinez further represent and warrant that they are the only persons authorized to settle and release the claims arising from or relating to the Action. Frankie Martinez and Gerry Martinez agree to defend, indemnify, and hold harmless CITY and all released parties from and against any and all claims, demands, actions, causes of action, liabilities, damages, judgments, costs, expenses, liens, and

attorney's fees arising out of or relating to: (a) any challenge to Frankie Martinez's or Gerry Martinez's authority to execute this Agreement; (b) any claim that another person or entity is entitled to pursue, recover upon, or share in the claims released by this Agreement; (c) any claim by any heir, beneficiary, successor, representative, creditor, personal representative, administrator, executor, or other person claiming by, through, or under Mary Martinez; and (d) any dispute regarding entitlement to, ownership of, or distribution of the settlement proceeds paid pursuant to this Agreement. The obligations set forth in this paragraph shall survive execution of this Agreement and payment of the settlement proceeds.

7. Release of Unknown Claims. Plaintiff understands this Agreement is a full and final settlement of all disputes and matters arising out of any subject matter identified in this Agreement, including but not limited to all claims and causes of action asserted, or which could have been asserted in the Action, and all present and future unknown and unanticipated injuries, losses or damages arising out of the Action (the "Released Matters"). Plaintiff acknowledges and understands Section 1542 of the Civil Code of the State of California provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Initials  

Plaintiff represents that she has read, reviewed with counsel, and understood Civil Code Section 1542, and that she hereby waives all present and future rights and benefits under Section 1542 to the extent it would permit claims relating to, arising out of, or any way connected to the subject of the Action based on facts found to be different from the facts believed to be true at the time this Settlement Agreement was executed.

8. Liability Not Admitted. The Parties acknowledge and agree that CITY's payment represents a compromise and release of disputed claims and that neither the payment, nor anything stated in this Agreement, constitutes or represents an admission of wrongful conduct, or liability, or responsibility of any kind, or a concession by any person, that any allegation asserted in the claims alleged in the Action is valid.

9. Parties to Bear Own Attorney's Fees and Costs. The Parties shall bear their own costs, including attorneys' fees, and any other fees incurred in connection with the

Action, this Settlement Agreement, and the matters settled pursuant to this Settlement Agreement.

10. Consultation with Counsel. The Parties and each of them acknowledge they have carefully read and understand the terms of this Settlement Agreement and have consulted with legal counsel of their choice prior to execution and delivery of this Agreement. The Parties have voluntarily accepted the terms stated herein for the express purpose of making a full and final compromise and settlement of the Action.

11. Representations. Each person executing this Settlement Agreement hereby warrants that they have full authority to do so. Plaintiff further represents and warrants that she is the sole and rightful owner of the claims asserted in the Action; that she has not assigned any claim or claims, or the right to receive payments that are the subject of this Agreement; and that no Liens on the settlement proceeds have been asserted or exist.

12. Responsibility for Liens. Plaintiff agrees to hold CITY harmless with regard to third-party claims or liens arising from Plaintiff's medical treatment, or from insurance subrogation claims, of any kind.

13. Severability. If any provision in this Agreement is found to be unenforceable, it shall not affect the enforceability of the remaining provisions and the court shall enforce the remaining provisions to the extent permitted by law.

14. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and shall be deemed duly executed upon the signing of the counterparts by the Parties hereto.

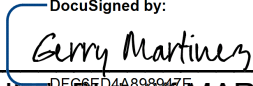
15. Binding Force and Effect. This Agreement shall be governed by California law. It shall bind and inure to the benefit of all Parties and their respective heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, assigns, partners, partnerships, affiliated entities, agents, and representatives.

16. Entire Agreement. This document is a fully integrated contract. It contains all agreements, covenants, understandings, representations, and warranties between the Parties concerning the subject matter of the Agreement. The Parties have made no other express or implied agreements, covenants, understandings, representations, or warranties concerning the subject matter of this Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, understandings, representations, covenants, and warranties concerning the subject matter of this Agreement, other than those referred to herein, are merged herein. This

Agreement cannot be modified or amended by the exchange of electronic communications or any means other than a fully integrated writing signed by all Parties.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement effective as of the date last set forth below.

6/22/2026
Dated: _____ By:  Signed by: 95301CA6761A4DB...
FRANKIE MARTINEZ, Plaintiff MARY MARTINEZ'S
SUCCESSOR IN INTEREST

6/22/2026
By:  DocuSigned by: DF06FD4A898947E
GERRY MARTINEZ, Plaintiff MARY MARTINEZ'S
SUCCESSOR IN INTEREST

CITY OF SAN JOSE

Dated: _____ By: _____
SUSANA ALCALA WOOD
City Attorney as Authorized Agent for the City of San
José

Approved as to for form:

Dated: 6/22/26 _____ LAW OFFICE OF GUSTAVO MAGAÑA

By:  _____
GUSTAVO MAGAÑA
Attorney for Plaintiff

CITY OF SAN JOSE

By:  _____
KAVEH MIRSHAFIEI
Senior Deputy City Attorney
Attorney for City of San José