

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement is entered into between the undersigned, Josephine W. Damico, M.B. Quarles and Claire Quarles, Ellen A. Tipton and James C. Tipton, Linda L. Broesch, and Colleen McLaughlin (hereinafter collectively referred to as "Releasors"), and the City of Birmingham, Alabama ("Releasee").

In consideration of payment to the Releasee the sum of \$3,000 and the Releasee's promise to perform those acts stated in Exhibit A attached hereto, Releasors hereby release and discharge the Releasee, and all principals, officers, agents, attorneys, servants, employees, successors or assigns, insurers, and/or representatives of the Releasee from any and all claims, demands, causes of action, known or unknown, which the undersigned Releasors now have or may hereafter have on account of any and all known and unknown damages sustained by the Releasee from the events and occurrences more specifically described in the Complaint filed in the Circuit Court of Jefferson County, Alabama, Civil Action No. CV 005932.

It is understood and agreed that this is a full and final settlement and release applying to all damages, or expenses, or fees, associated with or as a consequence of the alleged damages of the Releasee that was the subject of said lawsuit.

It is understood and agreed that this settlement is the compromise of a doubtful and dispute claim, and the payment made and acts promised to be performed herein and in Exhibit A attached hereto are not to be construed as an admission of liability on the part of the party or parties hereby released, and that said Releasee denies liability therefor and intends merely to avoid further litigation and buy its peace.

The undersigned hereto declare and represent by execution of this agreement, they have relied wholly upon their judgment, belief and knowledge of the claims, causes of action, damages, losses, or rights arising out of the lawsuit described herein and that each has had the opportunity to consult with legal counsel of their own choosing concerning the advisability of entering into this agreement.

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"Exhibit A"

The City recognizes its duties to provide services to all its citizens on an equal basis. As a result of the litigation in this case, the City appreciates the need to state formally in the context of a settlement of this litigation the service goals for drainage maintenance in the community served by the drainage system in Upper Shades Creek.

1. The city will maintain the drainage system by clearing vegetation, trees, dirt, and other blockage or obstruction from the City's drainage system. The City shall schedule such maintenance on the same basis throughout the city, which will be approximately every nine months, but not more than an unreasonable amount of time longer than every nine months, and will respond to complaints of residents as soon as practical.
2. An herbicide application program will be employed to retard the growth of vegetation alongside the banks of Upper Shades Creek in those areas determined by the Public Works Department.
3. The Public Works Department shall use its "Slash Buster" equipment to cut and clean the banks as necessary in Upper Shades Creek every nine months.
4. The Public Works Department shall employ its "Long Reach Excavator" every 18 months as necessary in areas of Upper Shades Creek. The "Long Reach Excavator" will be used to remove silt, sand bars, and dirt blocking bridges or otherwise impeding the flow of Upper Shades Creek. All parties should understand that the use of any of this equipment will not result in, and is not intended to result in any deepening of the channel of Upper Shades Creek or any other stream within the City of Birmingham. It is clear to all parties that any maintenance "dredging" will be performed only within the required context of US Army Corps of Engineers permit.