



Board Agenda Item 27

DATE: September 1, 2020

TO: Board of Supervisors

SUBMITTED BY: Daniel C. Cederborg, County Counsel

SUBJECT: Settlement with Comunidades Unidas Por Un Cambio

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute Settlement Agreement with petitioner Comunidades Unidas Por Un Cambio in connection with Comunidades Unidas Por Un Cambio v. County of Fresno, et al., Fresno Superior Court Case No. 18CECG04586 (\$130,000 payment)

ALTERNATIVE ACTION(S):

There is no viable alternative action. The Board gave its conceptual approval to the settlement in closed session on July 7, 2020.

FISCAL IMPACT:

Under the recommended Settlement Agreement, the County would pay \$130,000 to petitioner Comunidades Unidas Por Un Cambio's attorney, Leadership Counsel for Justice and Accountability. There are sufficient appropriations for this payment in the General Fund FY 2020-21 Adopted Budget Org 2540, Account No. 7295.

DISCUSSION:

The recommended Settlement Agreement would resolve the remaining issue of attorney's fees and costs in the litigation identified above. In this case, the Fresno Superior Court enter judgment on April 23, 2020, in favor of the petitioner Comundiades Unidas Por Un Cambio. The court found that the County did not timely implement certain programs in its 2016-2023 Housing Element and did not timely adopt the analysis of the infrastructure deficiencies for certain disadvantaged unincorporated communities as required by Government Code 65302.10. Now, the petitioner seeks its attorney's fees incurred in this litigation. Attorney's fees in this matter are authorized pursuant to Code of Civil Procedure section 1021.5 for the enforcement of an important public right.

The recommended Settlement Agreement provides that the County will pay \$130,000 to the petitioner's attorney to fully resolve the remaining dispute as to the petitioner's demand for attorney's fees and costs. In exchange, the petitioner will waive and release the respondents County and the Board from any additional claims for attorney's fees and costs associated with the above identified litigation. If any additional or future legal proceedings are necessary to enforce the recommended Settlement Agreement, the prevailing party in such a proceeding would be entitled to recover its costs, including reasonable attorney's fees. County Counsel and the Department of Public Works and Planning believe that this settlement is reasonable and in the best interests of the County to avoid further expenditure of staff resources and the costs of additional litigation.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Settlement Agreement

CAO ANALYST:

Raul Guerra