

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into this 1st day of September 2020 ("Effective Date"), by and between Petitioner/ Plaintiff COMUNIDADES UNIDAS POR UN CAMBIO (Petitioner) and Respondents/Defendants COUNTY OF FRESNO and FRESNO COUNTY BOARD OF SUPERVISORS (Respondents). Petitioner and Respondents are individually referred to as a "Party" and collectively referred to as the "Parties" herein.

RECITALS

A. On December 28, 2018, Petitioner filed a Verified Petition for Writ of Mandate and Complaint for Declaratory Relief (the Petition) entitled *Comunidades Unidas Por Un Cambio v. County of Fresno, et al*, Fresno County Superior Court Case No. 18CECG04586 (the Action.) In the Action, among other claims, Petitioners alleged that Respondents violated state law in failing to implement programs in its 2016-2023 Housing Element. Respondents disputed all of Petitioners' claims.

B. The Court entered Judgment in the Action on April 23, 2020. Petitioner informed Respondents that they intended to file a motion for attorney' fees and costs incurred in prosecution of the Action.

C. This Agreement is intended to be a full and final settlement of all of Petitioner's claims for attorneys' fees and costs related to or arising out of the Action.

With reference to the foregoing recitals, which are incorporated into this Agreement, and in consideration of the mutual terms, covenants, conditions, promises and benefits set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Payment by Petitioner

No later than thirty (30) days after the Effective Date, Respondents shall pay to Petitioner the sum of \$130,000 in full and final satisfaction of all of Petitioner's claims for attorneys' fees and costs related to or arising out of the Action. Payment will be made to:

Leadership Counsel for Justice & Accountability.

And sent to:

Leadership Counsel for Justice & Accountability
Attn: Phoebe Seaton
2210 San Joaquin Street
Fresno, CA 93721

Allocation of Settlement Amount for Taxation Purposes. Petitioner represents that the \$130,000 payment shall be allocated to attorney's fees earned by Leadership Counsel for Justice & Accountability in the amount of \$129,326.79, and \$673.21 shall be allocated to court costs incurred by Leadership Counsel for Justice & Accountability.

3. Waiver and Release

Petitioner, on behalf of themselves and their directors, principals, officers, shareholders, members, employees, former employees, agents, sureties, subcontractors, attorneys, consultants, successors and assigns (past, present and future), hereby completely waive, release, and forever discharge Respondents and Respondents' Board members, staff, principals, agents, officers, directors, managers, employees, departments, commissions, committees, attorneys, insurers, and all other persons or entities in any manner related to or acting on behalf of Respondents, from any and all claims, demands, actions, proceedings, liabilities, obligations, and causes of action for attorneys' fees and/or costs, related to or arising out of the Action, except that the Parties do not release any claim for attorneys' fees and costs necessary to enforce this Agreement.

4. Civil Code Section 1542

The Parties intend this Agreement to be and to constitute a full general release and to constitute a full and final accord and satisfaction extending to all claims for attorneys' fees and/or costs related to or arising out of the Action (except for attorneys' fees and costs incurred to enforce this Agreement), whether the same are known, unknown, suspected, anticipated, unsuspected, or unanticipated. Accordingly, Petitioners, by signing this Agreement, agree and warrant that they have read, understood, and expressly release and waives the provisions of California Civil Code Section 1542, which reads 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.

5. Attorneys' Fees and Costs

The prevailing Party in any action to enforce this Agreement shall be entitled to reasonable attorneys' fees and costs.

6. Notice of Breach

If any Party believes that any other Party is in breach of any of the terms set forth in this Agreement,, the Party asserting a breach shall give written notice to the other Party of the breach, which notice shall set forth with reasonable particularity the alleged breach and the action required to remedy the alleged breach. The Parties shall meet, confer and attempt to resolve the alleged breach within fifteen working days of such notice. If the

Parties cannot resolve the alleged breach within such time, either Party may seek judicial enforcement of this Agreement. Notice shall be provided pursuant to Section 16 of this Agreement.

7. No Admission of Liability

Nothing in this Agreement may be used or constructed by the Parties or by any other person or entity as an admission of liability or fault; any such interpretation of this Agreement is hereby expressly disclaimed.

8. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Agreement. Signatures provided by facsimile or portable document format (PDF) shall have the same force and effect as original signatures.

9. Integration

This Agreement embodies the entire agreement and understanding that exists between the Parties with respect to the matters referred to herein, and supersedes all prior and contemporaneous agreements, representations, and undertakings. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both Parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

10. Headings

The titles for each section of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.

13. Severability

If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this section shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Agreement. The Parties shall use their best efforts to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Agreement and then to adopt or re-enact such part of this Agreement as necessary or desirable to permit implementation of this Agreement.

14. Each Party's Role in Drafting the Agreement

Each Party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither Party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

15. Governing Law; Venue

This Agreement shall be governed by the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the Fresno County Superior Court.

16. Notice

All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered, emailed, faxed, or mailed by express mail, return receipt requested, to the respective Party as follows:

If to Respondents:

Attn: Kyle Roberson, Deputy County Counsel
Fresno County Counsel
2220 Tulare Street, 5th floor
Fresno, CA. 95721
(559)600-3479
E-mail: kroberson@fresnocountyca.gov

If to Petitioner:

Attn: Phoebe Seaton
Ashley Werner
Leadership Counsel for Justice & Accountability
2210 San Joaquin Street
Fresno, CA 93721
(559) 369-2790
E-mail: pseaton@leadershipcounsel.org

Any Party may change the address stated herein by giving notice in writing to the other Parties as specified in this Section, and thereafter notices shall be addressed and transmitted to the new address.

17. Additional Documents and Good Faith Cooperation

The Parties agree to cooperate fully in good faith and execute any and all supplementary documents and to take all additional actions which may be reasonably necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

18. Modification

This Agreement may not be altered, amended, or modified in any respect, except by a writing duly executed by the Parties.

19. Authority of Signatories

Each signatory to this Agreement represents and agrees that he or she possesses the necessary capacity and authority to sign and enter into this Agreement and to bind the party on whose behalf he or she is a signatory.

20. Binding on Successors

This Agreement shall be binding upon and shall inure to the benefit of the Parties and the Parties' successors, administrators, managers, assigns, and employees, and shall be binding upon and shall inure to the benefit of the Parties' officers and agents acting in their official capacity.

21. No Third Party Beneficiaries

Nothing in this Agreement, whether express or implied, is intended to (i) confer any rights, benefits or remedies under or by reason of this Agreement on any person or entity other than the Parties and their successors and assigns, (ii) to relieve, terminate or discharge any obligation or liability of any person or entity not a party to this agreement to any Party hereto, or (iii) to give any third person or entity any right of action against any Party.

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IN WITNESS WHEREOF, the Parties do hereby agree to the full performance of the terms set forth herein.

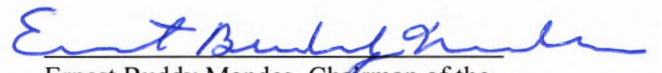
COMUNIDADES UNIDAS POR UN CAMBIO

COUNTY OF FRESNO

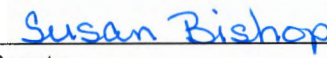
By: 
(Authorized Signature)

Angel Hernandez
Print Name

8/23/2020
Date



Ernest Buddy Mendes, Chairman of the
Board of Supervisors of the County of
Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: 
Deputy

APPROVED AS TO FORM:

LEADERSHIP COUNSEL FOR JUSTICE & ACCOUNTABILITY

By: 
Phoebe Seaton
Attorneys for Petitioner

FOR ACCOUNTING USE ONLY

ORG No	2540
Account No.	7295
Fund No.	0001
Subclass No.	10000