

## **SETTLEMENT AGREEMENT AND RELEASE**

This SETTLEMENT AGREEMENT (“Agreement”) is made and entered into as of the last day set forth on the signature page (“Effective Date”) by and between Richmond Shoreline Alliance, SPRAWLDEF, Citizens for East Shore Parks, Sunflower Alliance, and Greenaction for Health and Environmental Justice (the foregoing, collectively, “plaintiffs”) and the City of Richmond, a Municipal Corporation (the “City”) (individually, a “Party,” and collectively, the “Parties”).

### **RECITALS**

This Agreement is entered into with reference to the following facts:

- A. Beginning early in 2020, with the advent of the COVID-19 Pandemic, the City, through its staff, its Planning Commission and other advisory bodies to the City Council, and its City Council, modified its procedures for conducting public hearings in conjunction with considering approval of development projects.
- B. Petitioners have asserted that City staff and City officials, and specifically the then-Mayor, conducted proceedings, and specifically public hearing, in a manner that interfered with Richmond citizens participating in the public process and unfairly favored developers.
- C. The City has denied all these assertions.
- D. On December 30, 2020, the Plaintiffs filed a lawsuit entitled *Richmond Shoreline Alliance et al., v. City of Richmond et al.* (Case No. MSN20-1967) against the City and others. The suit alleged, in its Fourth Cause of Action, that the City had engaged in a pattern and practice of improper conduct of its administrative approval process in considering large development projects within the City, and that such conduct violated the right of Plaintiffs and others to a fair hearing.
- E. Plaintiffs’ ultimate goal has been to improve public processes of the City. In 2022 a new City Attorney was appointed and with the goal to reduce litigation, he has engaged in dialogue with Plaintiffs’ counsel to resolve litigation, including the claims in the Fourth Cause of Action and the Plaintiffs now believe this is possible.
- F. Under the leadership of the current Mayor, a council ad hoc subcommittee met with the City Attorney and Plaintiffs to consider the modifications recommended by Plaintiffs and recommend the measures outlined below.

### **AGREEMENT**

The following exchange of promises shall constitute consideration for this Agreement:

- A. Plaintiffs shall:
  1. Dismissal. Within ten days of the execution of this Agreement, dismiss the fourth cause of action in the above-referenced lawsuit with prejudice.
- B. City shall:
  1. Acknowledgement. Acknowledge that during the COVID-19 Pandemic, the conduct of City administrative approval processes for development projects could have been improved in certain respects, although City continues to assert that those flaws did not affect the outcome of the approval processes.

2. Purpose. Agrees that with respect to public hearings for development projects (i) the purpose is to assure public participation, (ii) hearing procedures are understood and fair, and (iii) speakers are treated consistently and not arbitrarily.
3. Specifics. Notwithstanding the generality of the foregoing, the City procedures shall include the following:
  - (a) Prior to the start of a hearing, the procedure for providing testimony shall be announced and shall be adhered to, including established time limits per City procedure allotted to each speaker. The City's rules permit representative speakers to be appointed, and time can be limited depending on the number wanting to speak or the lateness of the hour, as long as the sides are treated equally. Deadlines for providing written comments shall be stated in the notice announcing the meeting.
  - (b) Speakers will have a right to express their opinions, raise questions, and voice their concerns fully during the hearing process as long as they comply with allotted time limits and their conduct is orderly.
  - (c) At the conclusion of a speaker's testimony, members of the body holding the hearing shall have the right to ask questions of the speaker, and the time spent by a speaker responding will not be counted against their time to testify. Such questions shall be factual and not statements of opinion or argumentation. The presiding officer may, at or prior to the beginning of the hearing, place uniform limits on how long a member of the body may question any individual speaker.
  - (d) Prior to closing the public hearing, the presiding officer shall announce the intent to close the hearing and may provide additional opportunity for anyone who has not yet spoken to testify unless the time allowed for the hearing has been exceeded.
  - (e) Once the public hearing has been closed, a member of the body may ask questions of City staff or technical experts. The presiding officer should be aware that allowing any other persons to speak after the close of the hearing would require reopening the public hearing, allowing additional testimony .
4. Further consideration: As further consideration, agrees to pay to plaintiffs the sum of \$435.

C. **Release.** In consideration of said exchanges, and as further consideration for this compromise and release, each Party covenants and agrees that:

1. This Agreement is a good faith compromise and settlement of all current and past claims that exist between the Parties related to the Fourth Cause of Action in the above-referenced litigation.
2. All Parties hereby release and forever discharge each other, and their elected officials, agents, employees, successors or assigns, Attorneys or insurers from any and all claims or demands, actions or causes of action included in the fourth cause of action, as set forth in Paragraph D of the Recitals herein (except for enforcement of this Agreement).

3. The terms of this release and settlement are contractual and are not a mere recital. This release and settlement is executed without reliance upon any representation by any person concerning the nature and extent of any damages or legal liability thereof, and the undersigned have carefully read and understand the contents of this contract and sign the same as their own free act.
  4. Neither the delivery of any consideration hereunder (including the execution of this Agreement) nor anything contained herein shall be taken or construed to be at any time or place an admission of liability or concession of any kind by the Parties hereto, it being the sole intention of the Parties hereto that the settlement and release provided in this Agreement are solely in furtherance of a compromise of the disputed claims herein identified.
- D. **Binding Effect.** This Settlement Agreement and release shall inure to the benefit of each Party hereto and their predecessors, successors, subsidiaries, affiliates, representatives, assigns, agents, officers, directors, employees, and personal representatives, heirs, past, present, and future.
- E. **Severability.** If any provision of this Agreement is held invalid, the remainder of the Agreement shall nevertheless remain in full force and effect in all other circumstances.
- F. **Counterparts.** This Agreement may be executed in counterparts and as so executed, shall constitute an Agreement that shall be binding upon all Parties hereto, notwithstanding that the signatures of all Parties and/or their designated representatives do not appear on the same page.
- G. **Execution.** The Parties named below have executed this Settlement Agreement and release as of the date and year appearing below adjacent to the signatures of the Parties. This Agreement shall be binding upon the receipt of facsimile signatures, emailed by PDF, or otherwise. Any person transmitting their signature by facsimile or electronically shall promptly send an original signature to the other Party. The failure to send an original shall not affect the binding nature of this Agreement.
- H. **Advice of Counsel.** The Parties have been afforded the opportunity to seek the advice of an independent attorney and have either been advised by an attorney regarding this Agreement, or hereby waive the right to be advised by independent counsel.
- I. **Enforceability.** In the event the terms and conditions of this Agreement are breached or are not abided by either Party to this settlement, either Party may seek relief pursuant to California Code of Civil Procedure Section 664.6 to enforce the terms of this Agreement.
- J. **Termination of Agreement.** This Agreement shall terminate on its own within ten (10) years.

The undersigned have carefully read and understand the contents herein and signs the same freely and voluntarily.

*[Signatures on following page]*

Dated: July \_\_\_\_\_, 2023

**Richmond Shoreline Alliance**

By: \_\_\_\_\_

Dated: July \_\_\_\_\_, 2023

**SPRAWLDEF**

By: \_\_\_\_\_

Dated: July \_\_\_\_\_, 2023

**Citizens for East Shore Parks**

By: \_\_\_\_\_

Dated: July \_\_\_\_\_, 2023

**Sunflower Alliance**

By: \_\_\_\_\_

Dated: July \_\_\_\_\_, 2023

**Greenaction for Health and Environmental Justice**

By: \_\_\_\_\_

Dated: July \_\_\_\_\_, 2023

**City of Richmond**

By: \_\_\_\_\_

Eduardo Martinez, Mayor

Attest:

\_\_\_\_\_  
Pamela Christian, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for Richmond Shoreline Alliance

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Attorney for SPRAWLDEF

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Attorney for Citizens for East Shore Parks

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Attorney for Sunflower Alliance

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Attorney for Greenaction for Health and Environmental Justice

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David J. Aleshire, City Attorney  
City of Richmond