

RESOLUTION NO. 72-2021

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA APPROVING EXECUTION OF A SETTLEMENT AGREEMENT BETWEEN THE CITY OF PACIFICA AND PLAINTIFFS, SEAN GEARY, LINDA MILES, JARED CARR, HARRY BODE AND STEPHEN SANDERS AND APPROVING A MEMORANDUM OF UNDERSTANDING WITH PACIFICA RESOURCE CENTER FOR DEVELOPMENT AND IMPLEMENTATION OF A SAFE PARKING PERMIT PROGRAM

WHEREAS, On March 15, 2021 the ACLU, the Legal Aid Society of San Mateo County and Disability Rights Advocates filed a class action lawsuit (Geary, et al. v. City of Pacifica, Case No. 3:21-cv-01780) against the City of Pacifica on behalf of the Plaintiffs, Sean Geary, Linda Miles, Jared Carr, Harry Bode and Stephen Sanders, challenging the City's Oversized Vehicle (OSV) Ordinance and its Vehicular Habitation Ordinance in the United States District Court for the Northern District of California; and

WHEREAS, the lawsuit alleges that the OSV Ordinance (Pacifica Municipal Code Sections 4-7.1204 and 4-7.1205) and the Vehicular Habitation Ordinance (Pacifica Municipal Code 4-7.1114) are unconstitutional and further alleges that the OSV Ordinance violates the Americans with Disabilities Act, the California Disabled Persons Act, the Rehabilitation Act of 1973 and California Government Code §11135; and

WHEREAS, through the lawsuit, Plaintiffs seek a declaration that the OSV Ordinance and the Vehicular Habitation Ordinance are unconstitutional, a preliminary and permanent injunction directing the City to cease all efforts to enforce the Ordinances, restitution for fines and penalties collected under the Ordinances, and attorney's fees; and

WHEREAS, on July 14, 2021, the Court issued a limited injunction that required the City to make available on its website, at City Hall and at Pacifica libraries a list and map of the already existing places where OSVs can safely park; and

WHEREAS, the City and the Plaintiffs, through their attorneys (collectively "Parties"), have negotiated a settlement agreement which contains the following terms:

- Plaintiffs will dismiss their lawsuit.
- The City will refund certain fines paid resulting from citations received under the Oversized Vehicles Ordinance up to the date the settlement agreement is signed, which we estimate to be approximately \$5,000.
- The City will develop and staff will recommend to the Council a Safe Parking Permit Program to be implemented by the Pacifica Resource Center. Under that potential Safe Parking Permit Program ("Program"), the City would allow parking of oversized vehicles that meet certain safety standards and have operable restroom facilities, and where owners of the oversized vehicle agree to a strict code of conduct in 13 designated spots in the public right-of-way for up to 29 days at a time while they are seeking PRC services towards housing.
- The City would work with Pacifica Resource Center to establish a twice monthly mobile dumping station and trash collection that will be accessible to oversized vehicle owners who receive a voucher from PRC.
- The City will be able to resume enforcement of its Oversized Vehicle Ordinance and will have the option of towing oversized vehicles not participating in the Safe Parking Permit Program that park on City streets for longer than 72 hours or that or that have more than five unpaid parking citations.

- The City and the Plaintiffs will attempt to agree on an amount of attorney's fees due to Plaintiff. If those efforts are not successful, the Court will resolve whether and what amount of attorney's fees the Plaintiff is entitled to.

WHEREAS, the Parties desire to enter into the settlement agreement attached hereto as Exhibit A to completely and finally resolve the claims in the Complaint; and

WHEREAS, one of the provisions of the proposed Settlement Agreement is that the City will develop and staff will recommend to the Council a Program to be implemented by the Pacifica Resource Center; and

WHEREAS, staff has prepared an Memorandum of Understanding ("MOU") between the Pacifica Resource Center and the City, to document the agreement of the City and the PRC for consideration of a potential Program that would be subsequently formalized by the Parties' by execution of a Program operations agreement; and

WHEREAS, the MOU, attached hereto as Exhibit B, formalizes the City and PRC's agreement to work together to identify the substantive terms and details of the Program in an operations agreement for the Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pacifica hereby approves and authorizes the City Manager to execute the Settlement Agreement between the City of Pacifica and Plaintiffs in substantially the form attached hereto as Exhibit A, with minor revisions that may be approved by the City Manager and the City Attorney, and to execute any other necessary documents to effectuate the terms of the Settlement Agreement.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica hereby approves and authorizes the City Manager to execute the Memorandum of Understanding between the City of Pacifica and Pacifica Resource Center in substantially the form attached hereto as Exhibit B, with minor revisions that may be approved by the City Manager and the City Attorney, and to execute any other necessary documents to effectuate the terms of the Memorandum of Understanding.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 8th day of November, 2021, by the following vote:

AYES, Councilmembers: Beckmeyer, Bier, Bigstycck, O'Neill, Vaterlaus.

NOES, Councilmembers: n/a.

ABSENT, Councilmembers: n/a.

ABSTAIN, Councilmembers: n/a.



Sue Beckmeyer, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

Exhibit A

SETTLEMENT AGREEMENT

This settlement agreement (“Agreement”) is made and entered into by and between Sean Geary, Linda Miles, Jared Carr, Harry Bode, and Stephen Sanders (“Plaintiffs”), and the City of Pacifica (“Defendant” or “City”) (together, “Parties”).

RECITALS

A. In 1987, Defendant adopted Ordinance 480-C.S. (“Human Habitation Ordinance”), which, among other things, generally made it unlawful for any person to occupy a vehicle for the purpose of habitation between the hours of 10:00 p.m. and 6:00 a.m. within the City.

B. On January 27, 2020, Defendant adopted Ordinance No. 855-C.S. (“OSV Ordinance”), which, among other things, made it unlawful to “park or leave standing” a vehicle exceeding certain stated dimensions (“Oversized Vehicle” or “OSV”) “on public streets with a road width of less than forty (40) feet of width or on public streets that have width constraints which cause the street to be unsafe for traffic.”

C. On March 15, 2021, Plaintiffs filed their Class Action Complaint in the action entitled *Geary, et al. v. City of Pacifica*, Case No. 3:21-cv-01780 in the United States District Court for the Northern District of California (“Action”), ECF No. 1, alleging various claims that the Human Habitation Ordinance and the OSV Ordinance violated the constitutional rights of Plaintiffs and others who reside, have resided, or seek to reside in recreational vehicles (“RVs”) in the City. Defendant denies the factual allegations and legal claims contained in the complaint.

D. On March 30, 2021, Plaintiffs filed a motion for preliminary injunction in the Action.

E. On June 1, 2021, Defendant filed a motion to dismiss the complaint in the Action.

F. On June 28, 2021, the City amended the OSV Ordinance to:

1. remove from Pacifica Municipal Code (“PMC”) Section 4-7.1204 the sentence that says: “The Traffic engineer is hereby authorized to erect signs indicating no parking of an oversized vehicle or boats on public streets where such parking, in her or his professional opinion, would interfere with aesthetics, ocean views, parking, traffic, or otherwise create a safety concern.”; and
2. modify PMC Section 4-7.1205(a)(a)(1) to authorize the Traffic Engineer to permit parking on streets less than 40 feet wide if he or she finds that parking would be safe on such streets.

G. On June 28, 2021, the City repealed the Human Habitation Ordinance.

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H. On July 14, 2021, the Court entered a preliminary injunction based on the stipulation of the Parties, ECF No. 55, pursuant to which, *inter alia*, the City was ordered to (1) include a link to its interactive map of allowable OSV parking (“Allowable Parking Map”) on its OSV website as long as Pacifica Municipal Code §§ 4-7.1204 and 4-7.1205, or any similar ordinance pertaining to OSV parking, remain in effect; (2) include a link to a list of streets that are allowable for OSV parking (“Allowable Parking List”) as long as Pacifica Municipal Code §§ 4-7.1204 and 4-7.1205, or any similar ordinance restricting OSV parking remain in effect; and (3) cause the Allowable Parking List and the Allowable Parking Map, and a printout containing a link to the Allowable Parking Map in a form that is readable and easily understood, to be made available upon request at both of the City’s public libraries and at City Hall, and to include a notice of such availability on the City’s OSV website page(s). The parties also agreed to a 90-day stay of discovery, Plaintiffs withdrew their motion for preliminary injunction, and Defendants took their motion to dismiss the complaint off calendar without prejudice.

I. The Parties, through their counsel, have conferred in good faith and have negotiated the terms of this Agreement to avoid the expense of continued litigation.

TERMS OF AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises, covenants, and conditions contained herein, the Parties hereby agree as follows:

1. Agreement Date and Effective Date

The Agreement Date of this Agreement shall be the date on which all parties have signed the Agreement. The Effective Date of this Agreement shall be the date on which the Court enters the Injunction described in Paragraph 11 hereof and attached hereto as Exhibit 1.

2. Refund of Fines and Expungement of Infractions

Within 90 days of the Effective Date, the City shall refund all fines previously issued under the OSV Ordinance to the extent that such fines have been paid; relinquish any claim for payment of any such fines to the extent as yet unpaid; expunge all citations or infractions issued under the OSV Ordinance; and request that the California Department of Motor Vehicles recall holds on the registration of vehicles that are the result of the OSV Ordinance and that predate the Effective Date. Within 30 days of the Effective Date, the City shall provide to Plaintiffs’ counsel a complete list of persons who have paid fines under the OSV Ordinance and attest that repayment has been made. Plaintiffs’ counsel shall cooperate in locating any persons entitled to a refund to the extent the City has been unable to effectuate a payment to such persons. If a person who paid a fine under the OSV ordinance has not claimed their refund within two years of the Effective Date, the unclaimed property will revert to the City.

3. Dissemination of Allowable Parking List and Allowable Parking Map

Within 30 days of the Effective Date, the City shall provide the Allowable Parking List, and a link to the Allowable Parking Map, to (i) Plaintiffs’ Counsel; (ii) the Pacifica Resource

Exhibit A

Center; and (iii) the Pacifica Police Department, who shall provide a link to the Allowable Parking Map in connection with any alleged first violation of the OSV Ordinance occurring after the Effective Date of this Agreement. The Allowable Parking List and Allowable Parking Map shall be maintained in form substantially similar to the forms in use as of the Agreement Date, and shall be made available at both of the City's public libraries, at City Hall, and on the City's Oversized Vehicle website. The Allowable Parking List and Allowable Parking Map shall be updated and redistributed as described above to reflect any changes to the No OSV Parking Roads List (described in Section 4 below) prior to enforcement of the OSV Ordinance on any streets newly added to the No OSV Roads Parking List.

4. Changes to No OSV Parking Roads List

The City currently maintains a list of roads on which OSVs are not permitted to park ("No OSV Parking Roads List"), consisting of approximately 86 miles of City streets. Any changes to add streets to the No OSV Parking Roads List after the Effective Date shall be made pursuant to a resolution of the Pacifica City Council ("Council") pursuant to PMC Section 4-7.1204(b). In no event shall the streets added to the "No OSV Parking Roads List" result in less than 2.0 miles of suitable streets made available for OSV parking in the City on the Allowable Parking List. For purposes of this Agreement, "suitable streets" shall mean not constrained to an unusual degree by driveways or similar obstructions, nor located on steep hills. The Parties agree that, in the aggregate, the streets identified on the Allowable Parking List as of the Agreement Date satisfy the minimum requirements for suitable streets for OSV parking for the purpose of this Paragraph.

5. Safe Parking Permit Program

The City will develop and staff will recommend that the Council adopt an on-street safe parking program ("SPP") within 120 days of the Agreement Date. The program will be implemented no more than 90 days after Council approval, subject to a stipulated extension by the Parties if it is determined that Coastal Commission approval is required, and will remain in place for a minimum of three years. The details of the SPP are as follows:

- (a) The City will stripe at least thirteen spaces with an average length of thirty (30) feet which will be made available by a permit issued by the Pacifica Resource Center ("PRC") pursuant to the terms in section 5(b) through (c) in locations determined by the City. The thirteen locations are as follows:
 - (1) 4 spaces on the west side of Oceana Boulevard, west of the City of Pacifica Public Works Department Building at 151 Milagra Avenue.
 - (2) 3 spaces on Lundy Way. To accommodate these spaces, the City will widen Lundy Way sufficient to make OSV parking safe.
 - (3) 1 space on Milagra Drive, across the road from City of Pacifica Public Works Department Building at 151 Milagra Avenue.

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- (4) 1 space on the west side of Francisco Boulevard near the North Coast County Water District facility at 2400 Francisco Boulevard.
- (5) 2 spaces on the west side of Bradford Way near the Sharp Park Golf Course.
- (6) 2 spaces on San Pedro in the dirt ROW in front of ACE Hardware.

The locations listed above may be subject to change by the City as long as thirteen spaces with an average length of thirty (30) feet are maintained by the City as part of the SPP. In the event the California Coastal Commission issues a decision negatively impacting the establishment or implementation of the SPP, the City will make reasonable efforts to meet objections of the Coastal Commission, including modifying the SPP and/or relocating some or all of the spaces described above.

- (b) The parking spaces identified for use in the SPP will be reserved for OSV parking. When not reserved by a Permit Holder, PRC can in its discretion make the spaces available as unpermitted OSV parking for those who sign and abide by the Code of Conduct identified in Paragraph 5, subsection (c)(2) below, subject to the City's preexisting parking regulations.
- (c) The City has obtained the general agreement of PRC to work with the City to implement the SPP. PRC and the City will set the SPP terms pursuant to a Safe Parking Program Operations Agreement which may include but are not limited to the following terms:
 - (1) PRC will agree to manage implementation of SPP by managing issuance and revocation of permits to OSV owners for each space identified in Section 4(a) ("Permit Holders") based on the SPP applicants' compliance with pre-established criteria that will be developed by PRC and the City; and
 - (2) PRC will agree to have Permit Holders sign a Code of Conduct. By signing the Code of Conduct, the Permit Holder will be agreeing to be bound by the Code of Conduct and agree that failure to comply with the Code of Conduct may be a basis for revocation of the permit. Terms of the code of conduct will be determined by PRC and the City pursuant to a Safe Parking Program Operations Agreement. Signing of the Code of Conduct will not constitute permission for City officials to enter a Permit Holder's OSV or inspect the interior thereof, except pursuant to a valid search warrant or otherwise permissible by law.

6. Other Services

- (a) Within 90 days of the Effective Date, the City, working with PRC, will host a mobile dumping station twice a month at a to-be-determined site somewhere

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within City limits for at least three years. The mobile dumping station will be available to Permit Holders and to other persons inhabiting OSV's within the City who have obtained a voucher for use of the site from PRC.

- (b) Within 90 days of the Effective Date, the City, working with PRC & Recology, will provide dumpsters or drop off service for garbage disposal for at least three years. Dumpsters and drop off stations will be available to Permit Holders and to other persons inhabiting OSV's within the City who have obtained a voucher for use of the facilities from PRC.

7. Failure to Approve Safe Parking Program

If the Council fails to approve the SPP identified in Section 5 for any reason and/or the California Coastal Commission issues a decision negatively impacting the establishment or implementation of the SPP notwithstanding the City's efforts to meet the objections of the Coastal Commission as required by Paragraph 5(a) hereof, Plaintiffs may, at their discretion, deem this Agreement void by giving notice thereof in writing to counsel for the City. In such event, the Parties will be restored to their respective litigation positions as of the Agreement Date.

8. ADA Accommodations and Procedures

The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in State and local government, public accommodations, commercial facilities, transportation, and telecommunications. If a person has a legitimate disability-related need to park their OSV somewhere that the Ordinance would not ordinarily allow (such as on a designated block), they may submit a request for reasonable accommodation to the City's ADA Coordinator, who will process such requests pursuant to applicable law. Within 30 days of the Effective Date the City will revise its existing "Americans with Disabilities Act (ADA) Complaint / Assistance" form to state that it may be used to request accommodation to the OSV Ordinance or provide this information on another ADA form made available to the public. So long as the OSV Ordinance is in effect, the City will post a link to the form on the Oversized Vehicle Parking section of its webpage.

9. Attorney's Fees

The Parties will attempt to negotiate Plaintiffs' claim for attorney's fees and costs in connection with the prosecution and settlement of the Action, which Defendant contests. If the Parties are unable to resolve this issue, Plaintiffs will file a motion for attorneys' fees and costs within 30 days after counsel for any Party notifies counsel for the other Parties via email that in its judgment the Parties have reached an impasse, but in any event no earlier than 30 days after the Court enters the Parties' Stipulated Proposed Injunction.

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10. Dispute Resolution

It is the intent of the Parties that any disputes concerning the interpretation or implementation of this Agreement be solved as swiftly and inexpensively as possible, initially through communication among counsel for the Parties, and, in the event such communication does not result in resolution, submission of the dispute for prompt adjudication by the Court.

If any Party believes that another Party is in violation of this Agreement or the Injunction or has a disagreement with another Party that is designated by this Agreement to be covered under the dispute resolution procedure set forth herein (collectively, a "Dispute"), counsel of record for that Party shall promptly provide a written Notice of Dispute to counsel of record for the other Party, setting forth the Dispute in reasonable detail. Counsel for the other Party shall be required to respond to the Notice of Dispute within five business days. If the Parties are unable to resolve the Dispute within ten business days of the Notice of Dispute, the Party that served the Notice of Dispute may thereafter petition the Court for resolution of the Dispute, according to such procedures as the Court may direct.

11. Dismissal of Action

Subject to any approval of the Court as may be necessary, promptly following Council approval of the SPP (or, in the event of Council's failure to approve the SPP, promptly following Plaintiffs' giving notice that they will not declare this Agreement void pursuant to Paragraph 7 hereof), the Parties shall jointly submit to the Court a [Proposed] Stipulated Injunction in the form attached as Exhibit 1 hereto.

Upon the entry by the Court of the Injunction and final resolution of Plaintiffs' claim for attorneys' fees and costs pursuant to Paragraph 9 hereof, Plaintiffs shall promptly file a dismissal with prejudice of all claims presented by Plaintiff's Complaint, with the Court to retain jurisdiction for three years following implementation of the SPP, substantially in the form attached as Exhibit 2 hereto.

12. Releases

Conditioned upon and subject to entry of the Parties' Stipulated Injunction and Defendant's compliance with the terms of the Stipulated Injunction and this Agreement, Plaintiffs hereby release Defendant and its departments, heirs, successors, present and former employees, officers, members, councilmembers, attorneys, agents, insurers, successors and assigns from any and all claims, demands, obligations or causes of action, suits for equitable relief, whether based on or arising under federal or state law, which Plaintiffs ever had, now have, or which may later appear, whether known or unknown, for any expenses and compensation of every kind or nature including but not limited to losses, damages (including punitive damages and treble damages), physical or mental injuries, loss of earnings or earning capacity, liabilities, expenses, fees and costs (but excluding the attorneys' fees and costs sought in connection with the prosecution and settlement of the Action set forth in Paragraph 9 hereof), whether anticipated or unanticipated, resulting from, arising out of, connected directly or indirectly with or relating in any way to the OSV Ordinance and/or this Action.

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Defendant and its departments, heirs, successors, present and former employees, officers, members, councilmembers, attorneys, agents, insurers, successors and assigns hereby release Plaintiffs from any and all claims, demands, obligations or causes of action, suits for equitable relief, whether based on or arising under federal or state law, which Defendants ever had, now have, or which may later appear, whether known or unknown, for any expenses and compensation of every kind or nature including but not limited to losses, damages (including punitive damages and treble damages), physical or mental injuries, loss of earnings or earning capacity, liabilities, whether anticipated or unanticipated, resulting from, arising out of, connected directly or indirectly with or relating in any way to the OSV Ordinance and/or this Action. This release does not restrict Defendant from enforcing the OSV Ordinance or any applicable law against Plaintiffs.

The above releases do not apply to any claims to enforce the terms of this Settlement Agreement.

The Parties agree as further consideration and inducement for this Release that they shall apply to all unknown and unanticipated injuries, both to person and property, and all unknown and unanticipated damages and claims resulting from the matters and things herein above mentioned. The Parties acknowledge that they have been advised by legal counsel and are familiar with the provisions of California Civil Code § 1542, which 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."

13. Authorization

Each individual or entity that executes this Agreement represents and warrants, in their personal capacity, that they are duly authorized and empowered to enter into this Agreement on behalf of themselves or the Party they purport to represent.

14. Knowing and Voluntary

This Agreement is an important legal document that has been voluntarily and knowingly executed by the Parties. The Parties, and each of them, specifically represent that, prior to signing this Agreement:

- (a) they have each been provided a reasonable period of time within which to consider whether to accept this Agreement;
- (b) they have each carefully read and fully understand all of the provisions of this Agreement; and

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- (c) they are voluntarily, knowingly, and without coercion entering into this Agreement based upon their own judgment.

Plaintiffs, and each of them, further specifically represent that, prior to signing this Agreement, they have conferred with counsel of their choice to the extent desired concerning the legal effect of this Agreement, and that the legal effect of this Agreement has been adequately explained to them.

15. Denial of Liability

This Agreement provides for the settlement of disputed claims in this Action, the allegations of which are denied and contested, and nothing contained in this Agreement shall be construed as an admission by the City of any liability of any kind, all such liability being expressly denied.

16. Entire Agreement

This Agreement embodies the entire understanding and agreement between the Parties with respect to the matters referred to herein. This Agreement supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, between the parties to the same. No other representations, covenants, undertakings or other prior or contemporaneous agreements, oral or written, respecting such matters, which are not specifically incorporated herein, shall be deemed in any way to exist or to bind any of the Parties. Each of the Parties acknowledges that they have not executed this Agreement in reliance on any such promise, representation, or warranty.

17. Modification

This Agreement may not be modified except by a writing executed by each Party or through court order.

At any time thirty-six (36) months after the Effective Date, any Party may provide notice to the Parties that any of the Injunction provisions (Paragraphs 2-6, 8) of this Agreement should expire and have no further force or effect (“Notice of Termination”). Following a meet and confer by the Parties, a motion or other appropriate filing seeking to modify or terminate the Injunction may be filed and set for hearing by the Court. Nothing in this paragraph is intended to modify existing law with respect to the modification or termination of injunctions.

18. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile signatures and signatures in PDF format transmitted by email shall be deemed originals.

Exhibit A

19. Successors and Assigns

The obligations set forth in this Agreement shall be binding on the Parties and their successors and assigns.

20. No Waiver of Terms of Agreement

The failure to insist upon compliance with any term, covenant or condition contained in the Agreement shall not be deemed a waiver of that term, covenant, or condition.

21. Severability

If any provision of this Agreement or the application of this Agreement is adjudicated to be void, invalid or unenforceable, such action shall not make the entire Agreement void, but rather only such provision. All remaining provisions shall remain in full force and effect.

22. No Third-Party Beneficiary

Except as provided in Paragraph 2 hereof, the terms and provisions of this Agreement, including the Injunction, shall be binding upon and inure to the benefit of the Parties, and is made solely and specifically for their benefit. No other person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement or the Injunction as a third-party beneficiary or otherwise.

23. Notices

Unless otherwise specified, any notices provided by this Agreement shall be sent to the following addresses by certified mail, return receipt requested unless otherwise designated in writing by the party to receive the notice or request.

(a) If to Plaintiffs:

William S. Freeman
Grayce Zelphin
American Civil Liberties Union Foundation of Northern California
39 Drumm Street
San Francisco, CA 94111

With a copy to:
Thomas Zito
tzito@dralegal.org
Disability Rights Advocates
2001 Center Street, 4th Floor
Berkeley, CA 94704

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Exhibit A

Shirley Gibson
sgibson@legalaidsmc.org
Legal Aid Society of San Mateo County
Sobrato Center for Nonprofits
330 Twin Dolphin Dr. Ste. 123
Redwood City, CA 94065

(b) If to City:

City Manager
170 Santa Maria Avenue
Pacifica, CA 94404

With a copy to:
Michelle Marchetta-Kenyon
City Attorney, City of Pacifica
Burke, Williams & Sorensen, LLP
1901 Harrison Street, Suite 900
Oakland, California 94612

IN WITNESS WHEREOF, the Parties hereby enter into this Agreement

Plaintiffs

Date: _____

Sean Geary

Date: _____

Linda Miles

Date: _____

Jared Carr

Date: _____

Harry Bode

Date: _____

Stephen Sanders

Exhibit A

Defendant

Date: _____

CITY OF PACIFICA

By: _____

Its: _____

Exhibit B

MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF PACIFICA AND PACIFICA RESOURCE CENTER

This Memorandum of Understanding (“MOU”) is made and entered into this 8th day of November 2021 (“Effective Date”) by and between the City of Pacifica (“City”), a municipal corporation and Pacifica Resource Center, a 501(c)(3) organization (“PRC”). City and PRC shall be identified as “City,” “PRC” or individually as “Party” or collectively as “Parties.”

Purpose

This MOU will serve to document the agreement of the Parties for consideration of a potential Safe Parking Program that would be formalized by the Parties’ on some future date that is yet to be determined by execution of a Safe Parking Program Operations Agreement (“Operations Agreement”).

The intent of this MOU is to establish a formal working relationship for the Parties’ consideration of a Safe Parking Program and Operations Agreement.

Background

The City is exploring the potential for adopting a Safe Parking Program (“Program” or “Safe Parking Program”) which would provide participants living in an operational oversized vehicle (“OSV”), under requirements determined by the City and PRC, a temporary parking permit to park their OSV in a parking space in the public right-of-way at certain locations for a specified period of time as participants in the Program try to find permanent housing solutions.

PRC is the point of entry for homeless services in Pacifica and offers a number of programs and services to assist the unhoused in finding and maintaining temporary and permanent shelter and has established connections with non-governmental and governmental agencies to coordinate the various housing programs. PRC is a core agency in San Mateo County that provides these services to individuals in the City.

The Parties anticipate that if the City adopts a three-year Safe Parking Program, it would be beneficial to utilize the specialized services of PRC to operate the Program. In particular, the Parties envision that in operating the Program, PRC will manage the issuance and revocation of permits to OSV owners for each designated parking space based on the Program applicants’ compliance with pre-established criteria that will be developed by PRC and the City.

Exhibit B

Agreement

The Parties of this MOU agree:

The Parties agree to work together to discuss the substantive terms of an Operations Agreement for a three-year Safe Parking Program, including but not limited to the duration of the Operations Agreement, the obligations of PRC, the obligations of the City, indemnification, insurance, standard of performance, and termination provisions.

In particular, the Parties agree to consider specific terms in the Operation Agreement regarding the implementation and operation of the Safe Parking Program, which may include, but shall not be limited to, PRC's preparation of an operation plan; Program criteria for applicants to obtain a parking permit; details regarding the application process, issuance and/or revocation of permits; the term length of permits; rules and regulations (e.g. a code of conduct) for Program permit holders; consequences of failing to comply with the rules and regulations; potential City funding for the Program, and potential fees assessed by PRC.

The Parties also agree to consider terms in the Operation Agreement pertaining to (1) PRC's hosting of a mobile dumping station and (2) garbage and recyclable containers and drop off stations provided by the City (working with PRC and Recology of the Coast).

Term, Duration, and Modification

The term of this agreement shall be November 8, 2021 through March 1, 2022 or this Agreement shall terminate on the date when the Operations Agreement is fully executed by the Parties, whichever occurs first. Notwithstanding the foregoing, either party may terminate this MOU, with or without cause, by delivery of written notice to the other and the notice shall set forth the effective date of termination. If modifications are necessary to complete this agreement, they will be added to this MOU by written mutual consent of all parties involved.

Waiver

No failure on the part of either Party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder. A waiver by either City or PRC of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other further breach.

Exhibit B

Counterparts

This Agreement may be executed in multiple counterparts.

Authority

Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

IN WITNESS WHEREOF, the parties have caused their authorized representative to execute this Agreement on the date first written above.

CITY

By: _____

Its:

PRC

By:  _____

Anita M. Rees

Its: Executive Director

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Michelle Marchetta-Kenyon, City Attorney





For Signature: ResolutionNo72-2021-Settlement Agmt_MOU_SafeParking

Final Audit Report

2021-11-22

Created:	2021-11-19
By:	Sarah Coffey (scoffey@pacifica.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAsEKDVcTcggScLXRH4QZVqWD98UDAzbSn

"For Signature: ResolutionNo72-2021-SettlementAgmt_MOU_SafeParking" History

-  Document created by Sarah Coffey (scoffey@pacifica.gov)
2021-11-19 - 6:54:02 PM GMT
-  Document emailed to Sue Beckmeyer (beckmeyers@ci.pacifica.ca.us) for signature
2021-11-19 - 6:54:38 PM GMT
-  Email viewed by Sue Beckmeyer (beckmeyers@ci.pacifica.ca.us)
2021-11-22 - 7:20:36 PM GMT
-  Document e-signed by Sue Beckmeyer (beckmeyers@ci.pacifica.ca.us)
Signature Date: 2021-11-22 - 7:21:15 PM GMT - Time Source: server
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