

CPC-2019-7393-CA

EXHIBIT F – Historical Document - Settlement Agreement

SETTLEMENT AGREEMENT

**BETWEEN THE CITY OF LOS ANGELES AND
THE VENICE TOWN COUNCIL, INC., THE BARTON HILL NEIGHBORHOOD
ORGANIZATION, AND CAROL BERMAN**

**CONCERNING IMPLEMENTATION OF THE MELLO ACT
IN THE COASTAL ZONE PORTIONS OF THE CITY OF LOS ANGELES**

December 5, 2000

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EXHIBITS

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- B. Scope of Work for Interim Study
- C. Affordable Housing Incentives Guidelines
- D. Draft Coastal Zone Maps:
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 - Northeast Brentwood Subarea
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- E. Draft Map: Areas Within Three Miles of the Coastal Zone

I. FINAL SETTLEMENT AGREEMENT AND RELEASE

This Final Settlement Agreement and Release (Agreement) is entered into this ____ day of November, 2000, between the City of Los Angeles (City) and the Venice Town Council, etc. (Plaintiffs). The City and the Plaintiffs are collectively referred to in this Agreement as the "Parties" and sometimes individually referred to as "Each Party."

II. RECITALS**A. PARTIES**

Plaintiffs/Petitioners are the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, and Carol Berman. Defendant/Respondent is the City of Los Angeles.

B. PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES

In September, 1993, Plaintiffs filed a Petition for Writ of Mandate and Complaint for Injunction and Declaratory Relief. On October 22, 1993, the City demurred and moved to strike. The trial court granted the City's motion to strike and sustained the City's demurrers with leave to amend.

The Court also granted the City's motion to strike and sustained its demurrers with leave to amend to the Plaintiffs' First Amended Complaint and Petition for Writ. On November 18, 1994, the trial court granted the City's demurrers to the Second Amended Complaint and Petition for Writ of Mandate.

On February 24, 1995, the Plaintiffs appealed the decision sustaining the City's demurrers. The court in Venice Town Council, v. City of Los Angeles, et al., 47 Cal. App.4th 1547, 55 Cal.Rptr.2d 465 (July 31, 1996), held that while the Act did not require the City to adopt procedures to implement the Act, the complaint stated a cause of action and the demurrers should be overruled. A significant dispute existed as to whether Defendant complied with its affordable housing obligation under the Mello Act, Government Code Section 65590 et seq. This Agreement is entered into with the intention of resolving all issues pending prior to or on the Date of Execution of this Agreement among the parties regarding the Defendant's practices under the Mello Act. However, the Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to the following three policy areas: (1) Categorical Exemption for Small New Housing Developments (See Section V A 3); (2) Affordability Covenants (See Section V C); and Income Targeting Standards (See Section V F).

III. DEFINITIONS

“**Administrative Fees**” are the fees the City charges Applicants to recover the City’s costs of administering the Mello Act and City Policies and City Procedures.

“**Affordable Housing Incentives Guidelines**” means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

“**Affordable Replacement Unit**” means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

“**Affordable Monthly Housing Cost**” refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, “Affordable Monthly Housing Cost” refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

“**Affordable Existing Residential Unit**” means an existing Residential Unit proposed for Conversion or Demolition that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in Section VI C 4 of this Agreement.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low; Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

“**Agreement**” means this Agreement and all exhibits to the Agreement.

“**Appellant**” means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal.

“**Applicant**” means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

“**Application, Discretionary**” means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements: approval-in-concept, coastal development permit, conditional use permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary

approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

“Application, Non-Discretionary” means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety,

“Categorical Exemption” means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act, City Policies, and the terms of this Agreement.

“City” means the City of Los Angeles and its officers, agents and employees.

“City Policies” means all interim and permanent policies, ordinances, and resolutions the City adopts to implement the Mello Act and the terms of this Agreement.

“City Procedures” means all interim and permanent administrative procedures the City adopts or issues to implement City Policies, the Mello Act, and the terms of this Agreement.

“Coastal Commission Guidelines” means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

“Coastal-Dependent Non-Residential Use” means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

“Coastal Development Permit” means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

“Coastal-Related Nonresidential Use” means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

“Coastal Zone” means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

“Coastal Zone Affordable Housing Trust Fund” is the reserve account kept separate from the General Fund into which In-Lieu Fees received from Applicants shall be

deposited, and which shall only be used to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to the Mello Act, City Policies and City Procedures.

“Complaint” means the Second Amended Complaint for Injunctive and Declaratory Relief and Petition for Writ of Mandate in this action.

“Conversion” means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Date of Execution” means the date this Agreement is completely executed by all parties.

“Defendant” refers to the City of Los Angeles and its officers, agents and employees.

“Demolition” means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Director’s Determination” means a determination issued by the Director of Planning of the Department of City Planning, or his or her designee.

“Density Bonus” means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

“Household, Low Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

“Household, Moderate Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

“Household, Very Low Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

“Housing Department General Manager” means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

“Inclusionary Residential Unit” means a Residential Unit with an Affordable Monthly Housing Cost.

“In-Lieu Fees” means fees charged to an Applicant in-lieu of the Applicant providing Affordable Replacement Units or Inclusionary Residential Units, and that are deposited into the Coastal Zone Affordable Housing Trust Fund.

“Interim Administrative Procedures” means the Interim Administrative Procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000, and included as Exhibit A.

“Interim Ordinance” means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

“Interim Study” means the study that consultants shall complete to assist the City in implementing the Mello Act; complying with the terms of this Agreement; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

“Local Coastal Program” means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

“Longer-Term Study” means the study that consultants shall complete to assist the City in developing permanent City Policies and City Procedures.

“Mello Act” means California Government Code Sections 65590 and 65590.1

“Monthly Housing Cost” means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

“New Housing Development” means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or

structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Permanent Ordinance” means the ordinance that the Department of City Planning shall prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Longer-Term Study.

“Plaintiffs” means the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, Carol Berman, and their attorneys, agents and successors in interest.

“Public Nuisance” means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

“Residential Unit” means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

“Unified Development” means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

IV. GENERAL PROVISIONS

A. COVERAGE

This Agreement shall cover all property within the Coastal Zone portions of the City.

B. PRINCIPLES

1. The City shall adopt City Policies and City Procedures requiring all City departments, staff, offices, agencies and employees to comply with the Mello Act and this Agreement.
2. All City Policies and City Procedures, and all other ordinances, programs, plans, and policies in the Coastal Zone, shall be consistent with the Mello Act and this Agreement. All future zoning, land use, development and planning regulations,

ordinances, resolutions and policies adopted by the City shall be consistent with the Mello Act and this Agreement. City Policies and City Procedures pursuant to this Agreement may be modified based on any future amendments to the Mello Act.

3. In the case of conflict between this Agreement, City Policies, City Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. This Agreement and City Policies and City Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City prior to the Date of Execution of this Agreement.
4. Nothing in this Agreement, or any City Policies or City Procedures, shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.
5. Discretionary and Non-Discretionary Applications pending as of the date of execution of this Agreement are subject to the requirements of the Mello Act.

V. CITY POLICIES

The City shall develop City Policies, which shall apply equally to Affordable Replacement Units or Inclusionary Residential Units that the Applicant provides directly, or that the City subsidizes with In-Lieu Fees. City Policies shall include the following provisions:

A. CATEGORICAL EXEMPTIONS

City Policies shall include the following Categorical Exemptions:

1. Owner-Occupied One-Family Dwellings

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt.

2. Residential Structures Declared a Public Nuisance

The Demolition of residential structures declared a public nuisance pursuant to the following state and local codes are Categorically Exempt:

- 2.1 Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- 2.2 Any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

3. **Small New Housing Developments**

Small New Housing Developments consisting of nine or fewer Residential Units are Categorically Exempt until the Interim Ordinance is adopted and becomes effective.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that Categorically Exempts small New Housing Developments consisting of nine or fewer Residential Units.

B. DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE

City Policies shall provide that if Affordable Existing Residential Units are proposed for Demolition, and a New Housing Development is proposed on the same site, then the requirements set forth in City Policies concerning Affordable Replacement Units and Inclusionary Residential Units are both triggered.

City Policies shall specify that the requirements concerning Inclusionary Residential Units shall only apply to the number of new Residential Units which exceeds the total number of required Affordable Replacement Units. For example, if the City's Mello Act compliance review determines that 20 Affordable Replacement Units must be provided, and the proposed New Housing Development consists of 50 new Residential Units, then the requirements concerning Inclusionary Residential Units shall only apply to the 30 excess Residential Units. If the number of excess Residential Units is Categorically Exempt pursuant to City Policies, no Inclusionary Residential Units are required.

C. AFFORDABILITY COVENANTS

City Policies shall require, at a minimum, that affordability covenants shall guarantee that Affordable Replacement Units and Inclusionary Residential Units shall remain available at an Affordable Monthly Housing Cost for not fewer than 30 years from the date the City issues the Certificate of Occupancy. Based on the results of the Interim Study, the City shall consider including a provision in the Interim Ordinance which increases this requirement from 30 years to 55 years.

The plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require that affordability covenants for Affordable Replacement Units and Inclusionary Residential Units remain available at an Affordable Monthly Housing Cost for not fewer than 55 years from the date the City issues the Certificate of Occupancy.

D. METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS

City Policies shall permit the provision of required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

1. New construction;
2. Adaptive reuse (conversion of existing non-residential structures to Residential Units); and
3. Other methods permitted by the Mello Act and approved by the City Council by ordinance or resolution.

City Policies shall specify that Affordable Replacement Units or Inclusionary Residential Units may be either ownership units or rental units. City Policies shall not express a preference for one over the other type of unit.

E. AFFORDABLE HOUSING INCENTIVES

City Policies shall apply the incentives set forth in the Affordable Housing Incentives Guidelines, including a Density Bonus, to the provision of Affordable Replacement Units or Inclusionary Residential Units.

F. AFFORDABLE REPLACEMENT UNITS**1. Income Targeting Standards**

City Policies shall specify standards concerning the Affordable Monthly Housing Cost required of Affordable Replacement Units. Until the Interim Ordinance is adopted and becomes effective, Affordable Replacement Units may be provided at any Affordable Monthly Housing Cost. The Interim Study shall evaluate the following candidate standards, which the City is considering for inclusion in the Interim Ordinance:

- 1.1 Deep Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household.
- 1.2 Deep Targeting Standard, Based on Feasibility: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household, unless the Applicant demonstrates that deep targeting is infeasible.
- 1.3 Intermediate Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income or Low Income Household.

- 1.4 No Targeting Standard: A Residential Unit occupied by a Very Low Income Household may be replaced by a unit affordable to a Very Low, Low, or Moderate Income Household.

The scope of work for the Interim Study is included as Exhibit B.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require deep targeting as specified in Section V F 1.1 above.

2. Location

City Policies shall include standards for the required location of Affordable Replacement Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone.
- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City is considering for inclusion in the Interim Ordinance:

- 2.3 On the same site as the Conversion or Demolition;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

3. Timing Requirement

City Policies shall require that Affordable Replacement Units be provided within three years of the date that work commenced on the Conversion or Demolition.

4. **Performance Standards**

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, City Policies shall require compliance with the following portions of the performance standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 4.1 Project design (Section 4A, page 7); and
- 4.2 Equal distribution of amenities (Section 4B, page 8).

For all other Affordable Replacement Units, City Policies shall require compliance with the project design and amenities requirements promulgated by the Housing Department General Manager.

G. INCLUSIONARY RESIDENTIAL UNITS

1. **Standards**

City Policies shall include standards for the provision of Inclusionary Residential Units in New Housing Developments. These standards shall be based on the City's factual findings of feasibility. Until the Permanent Ordinance is adopted and becomes effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 1.1 Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- 1.2 Inclusionary Requirement Option #2. Reserve at least 10 percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

City Policies shall specify that the provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low Income or Low Income shall not comply with these standards.

2. **Location**

City Policies shall include standards concerning the required location of Inclusionary Residential Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Inclusionary Residential Units shall be located on-site.

- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City shall consider for inclusion in the Interim Ordinance:

- 2.3. On the same site as the New Housing Development;
- 2.4. Anywhere within the Coastal Zone;
- 2.5. Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6. Anywhere within three miles of the Coastal Zone.

3. **Timing Requirements**

If City Policies permit Inclusionary Residential Units for off-site provision, then City Policies shall require that these units be provided within three years of the date that the Housing Department General Manager approves the Affordable Housing Provision Plan. City Policies shall require that a New Housing Development's required Inclusionary Residential Units and market-rate Residential Units be made available at the same time.

4. **Performance Standards**

City Policies shall require compliance with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 7.5.1 Project design (Section 4A, page 7); and
- 7.5.2 Equal distribution of amenities (Section 4B, page 8).

H. IN-LIEU FEES

City Policies shall include provisions concerning payment of In-Lieu Fees by Applicants otherwise required to provide Affordable Replacement Units or Inclusionary Residential Units. The City shall deposit In-Lieu Fees into the Coastal Zone Affordable Housing Trust Fund. Administrative Fees shall be handled separately from In-Lieu Fees.

1. **Interim Ordinance**

Interim In-Lieu Fees shall be deposited into an escrow account to be used solely for the purpose of providing Affordable Replacement Units and Inclusionary Residential Units. After the Permanent Ordinance is adopted and becomes effective, any amounts remaining

in the escrow account shall be deposited into the Coastal Zone Affordable Housing Trust Fund.

1.1 Interim Study

The Interim Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Interim Study. The scope of work for the Interim Study is included as Exhibit B.

1.2 Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

1.3 Inclusionary Residential Units

The In-Lieu Fee payment schedule for New Housing Developments shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by Inclusionary Requirement Option #1 (See Section V G 1.1); or Inclusionary Requirement Option # 2 (See Section V G 1.2).

2. Permanent Ordinance

2.1 Longer-Term Study

The Permanent Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Longer-Term Study.

2.2. Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

2.3 Inclusionary Residential Units

The City may adopt one or a combination of the following policy options:

- 2.3.1 If the City determines that some or all Inclusionary Residential Units are feasible either on-site or off-site, the City shall permit the Applicant to pay In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by City Policies, the Mello Act and this Agreement.

- 2.3.2 If the City determines that some or all Inclusionary Residential Units are infeasible both on-site or off-site, but that payment of some amount of In-Lieu Fees is feasible, the City may charge such In-Lieu Fees.

3. **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

City Policies shall include the following provision: If In-Lieu Fees, Los Angeles Rental Housing Production Fees, or any similar affordable housing fees all apply to an Application, the greatest of these fees shall apply. Any fees collected shall first be deposited in the Coastal Zone Affordable Housing Trust Fund to provide Affordable Replacement Units or Inclusionary Residential Units. Then, to the extent that there are fees above and beyond those required pursuant to City Policies, those additional fees shall be deposited into the Rental Housing Production Fund.

4. **Timing of Payments**

City Policies shall require that In-Lieu Fees shall be paid in full as follows:

- 4.1 New Housing Developments: prior to issuance of the building permit;
- 4.2 Demolitions: prior to issuance of the demolition permit; and
- 4.3 Conversions: prior to recordation of the tract or parcel map, issuance of the building permit, or issuance of the change of use permit, as applicable.

Alternatively, the City may allow the Applicant to post a bond by the dates specified in Sections V H 4.1, 4.2, and 4.3 above, guaranteeing payment of all In-Lieu Fees in full within one year. The City may provide for a short-term deferral of any In-Lieu Fees if necessary to facilitate the development of any Affordable Replacement Units or Inclusionary Residential Units being built as part of a New Housing Development.

I. DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE

City Policies shall include a City presumption that a continued residential use is feasible. City Policies shall specify that the City shall deny these Applications unless the Applicant proves with substantial evidence that a residential use is not feasible on the site of the residential structure or structures proposed for Demolition or Conversion.

VI. CITY PROCEDURES

The City shall develop and implement City Procedures binding on City departments and City staff for processing Applications pursuant to the Mello Act and City Policies. The City may revise and amend City Procedures if the City Council determines that doing so advances the

goals of the Mello Act, is beneficial or appropriate for administrative efficiency, and is in compliance with State law.

Attached to this Agreement are Interim Administrative Procedures (Exhibit A). These procedures shall remain in effect until the Interim Ordinance is adopted and effective.

A. OBJECTIVES

City Procedures shall accomplish the following objectives:

1. Each Application in the Coastal Zone that conforms to the definition of a Demolition, Conversion or New Housing Development shall be identified.
2. Each residential structure proposed for Demolition or Conversion for purposes of a non-Coastal-Dependent, non-residential use shall be identified.
3. Each Application in the Coastal Zone identified as being subject to the Mello Act shall receive the proper Mello Act compliance review and determination based on that review, pursuant to City Policies and City Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement shall also apply to any Application exempted from the requirement to obtain a coastal development permit.
4. Each determination which requires findings shall be supported by such written findings, which in turn shall be supported by evidence in the file which contains the determination.

B. INITIAL SCREENING AND ROUTING

The City shall develop and implement a procedure to identify each Application subject to the Mello Act. The procedure shall consist of the following steps:

1. **Step one. Determine Coastal Zone location.**

The City shall determine which Applications are located in the Coastal Zone. If an Application is located in the Coastal Zone, the City shall go to step two.

2. **Step two. Identify Conversions, Demolitions and New Housing Developments.**

The City shall identify Applications that involve one or more Residential Units, and determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development. If Demolitions, Conversions or New Housing Developments are identified, the City shall go to step three below.

3. **Step three. Identify Categorically Exempt Applications.**

The City shall identify Applications which are determined to be Categorically Exempt from providing either Affordable Replacement Units or Inclusionary Residential Units as set forth in City Policies and the Mello Act. If the City identifies Applications as Categorically Exempt, the City shall go to step four. If the City identifies Applications as not being Categorically Exempt, the City shall review these Applications for compliance with the Mello Act as set forth in City Procedures.

4. **Step four. Send notice of Categorically Exempt Applications.**

The City shall simultaneously send notice of determinations that an Application is Categorically Exempt pursuant to step three above, within five working days of the date the determination is made, to the Applicant and to other parties specified in City Procedures. In addition, the City shall simultaneously send notice to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective. Notice of determinations that an Application is Categorically Exempt because the residential structure has been declared a public nuisance shall also be simultaneously sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt are appealable pursuant to City Procedures.

C. DEMOLITIONS AND CONVERSIONS

For each Discretionary and Non-Discretionary Application determined not to be Categorically Exempt, the City shall complete a Mello Act compliance review to determine the total number of Affordable Replacement Units the Applicant is required to provide pursuant to the Mello Act and City Policies.

The compliance review shall be structured to answer the questions and follow the procedures and steps listed below. The City shall prepare and use a worksheet to complete each Mello Act compliance review. The City shall attach supporting documentation to each completed worksheet.

1. **Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?**

If the answer to question #1 is "yes," and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then the City shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is “no,” the City shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are Affordable Existing Residential Units.

2. **Question #2. Is the proposed non-residential use Coastal-Dependent?**

If the answer to question #2 is “yes,” the City shall skip to question #4. If the answer to question #2 is “no,” the City shall go to question #3.

3. **Question #3. Is a residential use feasible at this location?**

The City shall presume that a continued residential use is feasible. Applicants may challenge the City’s presumption by presenting substantial evidence to the contrary. The City shall consider the following in reviewing an Applicant’s challenge to the City’s presumption:

- 3.1 The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- 3.2 An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a “Q” or “D” limitation may be imposed on a particular property which prohibits residential uses.
- 3.3 If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City’s presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.
- 3.4 An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- 3.5 An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator’s grant runs with the land.
- 3.6 An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site’s unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City’s presumption, an Applicant may not cite mere proximity to commercial or industrial uses.

- 3.7 An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.
- 3.8 An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

The City may require that an independent analysis of the alleged risks of other uses or hazards be performed by an expert acceptable to the City, at the Applicant's expense.

If the Applicant has proved with substantial evidence that a residential use is infeasible, the City shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, the City shall record a "yes" answer to question #3. The City shall stop the Mello Act compliance review process and deny the Discretionary or Non-Discretionary Application to demolish or convert a residential structure for purposes of a non-Coastal-Dependent, non-residential use, regardless of the income of current or past occupants; the form of ownership; or rents charged, for-sale prices, or appraised value.

4. **Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?**

City Procedures shall identify occupants in structures proposed for Demolition or Conversion who may have a Very Low, Low or Moderate Income. City Procedures shall follow the steps below:

- 4.1 Step one. Send general notice to all occupants of structures proposed for Demolition or Conversion. This notice shall contain the following: (a) a description of the proposed Demolition or Conversion; (b) an explanation of the purpose of the Mello Act and the City's Mello Act compliance review process; (c) a description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit; (d) a referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc.; and (e) a City telephone number to call for additional information.
- 4.2 Step two. Identify long-term vacant residential units. A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing. The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then the City shall not classify the Residential Unit as an Affordable Existing Residential Unit.

- 4.3 Step three. Determine occupant income based on Monthly Housing Cost or actual income data. The City may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. If current Monthly Housing Cost data indicate that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, the City shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then the City shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, the City shall go to step four. If occupant income is based on actual income, the City shall: (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.4 Step four. Verify accuracy of occupant income based on Monthly Housing Cost data. The City shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost. The City shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, the City shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income.

The City is responsible for verifying the accuracy of any submitted income data. The City shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost. Based on this review, the City shall (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.5 Step five. Identify and determine if any evictions were for the purpose of evading the Mello Act. The City shall conduct an investigation to carry out the following provision set forth in Government Code Section 65590 (b): For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit, and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the

evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision. The City shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, the City shall go to step six.

- 4.6 Step six. The City shall prepare a report summarizing the results of the occupant income determination process for occupants of structures proposed for Demolition or Conversion. This report shall contain the following information for each structure:
- 4.6.1 One-family dwellings: total number of Residential Units and total number of Affordable Existing Residential Units.
 - 4.6.2 Two-family dwellings: Total number of Residential Units and total number of Affordable Existing Residential Units.
 - 4.6.3 Triplexes and other structures that contain three or more Residential Units: total number of Residential Units and total number of Affordable Existing Residential Units.
 - 4.6.4 Summary: total number of Residential Units and total number of Affordable Existing Residential Units.

The report shall also provide the following information for each identified Affordable Existing Residential Unit:

- 4.6.5 Address;
 - 4.6.6 Names of occupants; and
 - 4.6.7 Number of bedrooms.
5. **Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?**

If the answer to both questions is “yes,” the City shall skip to question #8. If the answer to either question is “no,” the City shall go to question #6.

6. **Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, the City shall record a “no” answer to question #6 and go to question #7. If the

Applicant is proposing to demolish or convert eleven or more Residential Units, the City shall record a “yes” answer to question #6, and require that all of the Affordable Existing Residential Units identified by the answer to question #4 be replaced as a condition of Application approval.

7. **Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?**

If the answer to question #7 is “yes,” the City shall go to question #8. If the answer to question #7 is “no,” and all of the Affordable Existing Residential Units identified by the answer to question #4 are in triplexes and other structures that contain three or more Residential Units, the City shall require that all of these units be replaced as a condition of Application approval.

8. **Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?**

If the answer to question #8 is “yes,” the City shall determine the number of Affordable Replacement Units it is infeasible for the Applicant to provide, and record this number on the worksheet. The City shall then subtract this number from the number of Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

If the answer to question #8 is “no,” then it’s feasible for the Applicant to replace all Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

City Policies and City Procedures with regard to question #8 shall include the City’s consideration of typical public subsidies, and other affordable housing incentives available by-right. Until the Interim Ordinance is adopted and becomes effective, the City shall answer question #8 pursuant to the provisions set forth in the Interim Administrative Procedures (Exhibit A). Thereafter the City shall answer question #8 by following the provisions set forth in those City Policies and City Procedures in effect after the Interim Ordinance is adopted and becomes effective. After May 28, 2001, the City shall not use Attachment 3 to Exhibit A (Form CP-6391) to answer question #8.

D. NEW HOUSING DEVELOPMENTS

City Procedures shall implement the standards concerning the provision of Inclusionary Residential Units in New Housing Developments set forth in City Policies.

E. IN-LIEU FEES

City Procedures shall implement the provisions concerning In-Lieu Fees set forth in City Policies.

F. DETERMINATIONS

City Procedures shall specify that a determination shall be issued for each Demolition, Conversion, and New Housing Development determined not to be Categorically Exempt.

For Discretionary Applications, the City shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file the City creates for the underlying case.

For Non-Discretionary Applications, the City shall issue the determination as a Director's Determination. The City shall prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

The City shall simultaneously transmit a copy of each determination to the Applicant, all building occupants, and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of each determination to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

1. Demolitions and Conversions

Each determination shall include the following:

- 1.1 Results of the Mello Act compliance review process completed pursuant to City Procedures;
- 1.2 Total number of identified Affordable Existing Residential Units;
- 1.3 Total number of required Affordable Replacement Units;
- 1.4 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures;
- 1.5 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan prepared pursuant to City Procedures; and
- 1.6 Information for Appellants pursuant to City Procedures.

2. **New Housing Developments**

Each determination that includes a requirement that the Applicant provide Inclusionary Residential Units shall include the following:

- 2.1 A requirement that the Applicant comply with the requirements concerning Inclusionary Residential Units set forth in City Policies.
- 2.2 Total number of required Inclusionary Residential Units.
- 2.3 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures.
- 2.4 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan pursuant to City Procedures.
- 2.5 Information for Appellants pursuant to City Procedures.

G. **AFFORDABLE HOUSING PROVISION PLAN**

City Procedures shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units to prepare and submit for the City's review and approval an Affordable Housing Provision Plan which specifies how the Applicant shall comply with City Policies. The City's approval of the Affordable Housing Provision Plan shall be a condition of Application approval.

The City shall require the Affordable Housing Provision Plan to include the following elements:

1. **Methods to Provide Required Affordable Units**

The Affordable Housing Provision Plan shall specify the methods by which Applicants shall provide required Affordable Replacement Units or Inclusionary Residential Units, as permitted by City Policies.

2. **Operational Details**

The Affordable Housing Provision Plan shall contain the following operational details:

- 2.1 Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these units to be provided off-site.
- 2.2 General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.

- 2.3 Affordable housing incentives and subsidies that will be utilized.
- 2.4 Methods for complying with the Performance Standards set forth in City Policies, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- 2.5 Financing; construction plan; and project timetable for complying with the timing requirements set forth in City Policies for Affordable Replacement Units and Inclusionary Residential Units.

H. APPEALS

The City shall permit determinations to be appealed. City Procedures shall include the following requirements and provisions:

1. General Information

Each determination issued pursuant to City Procedures shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

2. Burden of Proof and Findings

Appellants shall have the burden of proof. Applicants shall present substantial evidence to support their appeal supported by specific facts. In granting an appeal, the appellate body shall find that the appeal is consistent with the Mello Act.

3. Notice

The City shall simultaneously transmit a copy of the results of each appeal to the Applicant, all building occupants and any other parties specified in City Procedures.

In addition, the City shall simultaneously transmit a copy of the results of each appeal to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

4. Discretionary Applications

The appeals procedures and appellate body shall be those connected to the underlying case.

5. **Non-Discretionary Applications**

Appellants may appeal a Director's Determination using the forms and following the City Procedures promulgated by the City. The appellate body shall be the Area Planning Commission.

6. **Department of Building and Safety Actions**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

I. MONITORING AND ENFORCEMENT

The City shall monitor and enforce compliance with all conditions set forth in determinations.

1. **Approval of Applications**

The City shall not issue any permits or other approvals for any Applications determined not to be Categorically Exempt until the Applicant has satisfied all conditions set forth in the determination and City Policies and City Procedures.

2. **Monitoring**

- 2.1 If the determination requires the provision of Affordable Replacement Units or Inclusionary Residential Units, the City shall require the Applicant to comply with the monitoring requirements set forth in Section IV C of the Affordable Housing Incentives Guidelines (page 10 of Exhibit C).
- 2.2 The City may require Applicants to submit periodic progress reports which describe the progress the Applicant is making in implementing the approved Affordable Housing Provision Plan.
- 2.3 The City shall conduct annual monitoring of all Affordable Replacement Units and Inclusionary Residential Units to insure that they continue to be available at an Affordable Monthly Housing Cost and occupied by Very Low, Low and Moderate Income Households. The City's monitoring procedures may include a requirement that owners of Affordable Replacement Units and Inclusionary Residential Units submit tenant income information to the City that has been verified by third party sources, and that meets the same standards for income verification as the requirements set out in the City's HOME and Community Development Block Grant (CDBG) programs.

3. **Affordability Covenants**

- 3.1 The City shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to an approved Affordable Housing Provision Plan to record a covenant with the Los Angeles County Recorder guaranteeing that these units shall remain available at an Affordable Monthly Housing Cost for not fewer than the number of years specified in City Policies, from the date the City issues the Certificate of Occupancy. The covenants recorded with the County Recorder's office shall run with the land and be enforceable by the City.
- 3.2 Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

4. **Financial Assurances**

The City may require Applicants to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

5. **Certificates of Occupancy**

The City shall not issue final certificates of occupancy for any of the buildings in a New Housing Development or Conversion until all of the conditions set forth in the determination have been satisfied in full, and all required affordability covenants have been recorded.

6. **Right of First Refusal**

The City shall require Applicants to provide notice to the City when an Affordable Replacement Unit becomes available for occupancy. The City shall then require the Applicant to provide notice to the occupants of the Affordable Existing Residential Unit that was demolished or converted. The notice shall explain that if the occupants have a qualifying income, they shall have a right of first refusal on the Affordable Replacement Unit.

VII. FOLLOW-UP ACTIONS

A. MAPPING

1. **Coastal Zone Maps**

The City shall prepare maps which identify those lots and properties that are located in the Coastal Zone portions of the City of Los Angeles. A draft of these maps is attached as Exhibit D.

2. **Three Mile Radius Maps**

The City shall prepare maps which depict those areas of the City of Los Angeles that are located within a three mile radius of the inland boundary of the Coastal Zone. A draft of these maps is attached as Exhibit E.

B. LEGISLATIVE ACTIONS

The City Council has agreed that it shall take the following legislative actions:

1. **Motions**

The City Council shall adopt the following motions:

- 1.1 A motion which rescinds the Board of Zoning Appeals policy set out in the July 24, 1990 memo regarding presumptions on appeals; and
- 1.2 A motion which supersedes the March 20, 1984 report from the Planning and Environment Committee adopted by the City Council (File No. 81-6299).

2. **Ordinances**

2.1 **Mello Act Implementation Ordinances**

The City Council shall adopt Interim and Permanent Ordinances to implement the Mello Act and the provisions of this Agreement; and to establish Administrative Fees which shall be charged to Applicants to recover the City's costs in administering the Mello Act, City Policies, City Procedures, and the provisions of this Agreement.

2.2 **Coastal Zone Affordable Housing Trust Fund Ordinance**

The City Council shall adopt an ordinance which establishes the Coastal Zone Affordable Housing Trust Fund.

2.3 **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

The City Council shall adopt an ordinance amending Los Angeles Municipal Code Section 12.95.2(K) providing for the simultaneous application of Rental Housing Production Fees and In-Lieu Fees, as specified in Section VI G 4 of this Agreement.

2.4 **Rent Stabilization Ordinance and Condominium Conversion Provisions**

The City shall evaluate its Rent Stabilization Ordinance (RSO) and condominium conversion provisions to determine if any amendments are needed to make them consistent with City

Policies and City Procedures. If so, the City shall prepare the necessary amendments and submit them to the City Council for review and possible action.

C. CONSULTANT CONTRACTS

The City shall enter into one or more consulting contracts to complete studies to assist it in implementing the provisions of this Agreement and the Mello Act; and to develop City Policies and City Procedures. These studies shall be made available to the Plaintiffs and the public within five working days of the City's receipt of these studies from the consultants. Consultants shall be available for reasonable consultations with the Plaintiffs and the Plaintiffs' attorneys during and following any study.

1. Interim Study

The City shall enter into a contract with the consulting firm of Hamilton, Rabinovitz & Alschuler (HR&A) to complete the Interim Study. The scope of work for this contract is included as Exhibit B.

2. Longer-Term Study

The City shall enter into a contract with a qualified consultant to complete the Longer-Term Study. Among other provisions, the contract scope of work shall require the consultant to:

- 2.1 To take into consideration the public subsidies and other incentives the City typically utilizes to encourage affordable housing in evaluating proposed City Policies regarding the feasibility of Affordable Replacement Units and Inclusionary Residential Units, as required by the Mello Act; and
- 2.2 Determine the amount of In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units otherwise required by City Policies, the Mello Act and this Agreement.

D. ANNUAL REPORT

The City shall prepare and annually release to the public a report which contains, at a minimum, the following information for the preceding year:

1. The number of new Residential Units for which the City issued building permits in the Coastal Zone;
2. The number of Inclusionary Residential Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone;

3. The number and location of new Inclusionary Residential Units for which construction was completed, either within the Coastal Zone or within three miles of the Coastal Zone;
4. The number and location of Affordable Existing Residential Units approved for Demolition or Conversion;
5. The number of Affordable Replacement Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone; and
6. The number and location of Affordable Replacement Units for which construction was completed either within the Coastal Zone, or within three miles of the Coastal Zone.

Information concerning Affordable Existing Residential Units, Affordable Replacement Units, and Inclusionary Residential Units shall be organized by the following sub-categories:

7. Very Low Income Households;
8. Low Income Households; and
9. Moderate Income Households.

E. WORK PROGRAM

Upon the date this Agreement is executed, the City shall initiate a work program to implement the terms of this Agreement. The City shall submit to the plaintiffs quarterly progress reports which describe the reasonable further progress the City is making. The City shall complete the following work program tasks by the dates referenced below, with the understanding, however, that there may be minor and reasonable delays in completing these tasks by these dates:

Task	Date
1. Prepare and release Interim Administrative Procedures (Exhibit A).	The Interim Administrative Procedures were released on May 17, 2000.
2. Execute consultant contract with HR&A to complete Interim Study (VII C 1).	The consultant contract was executed on July 7, 2000.
3. City Council rescinds Board of Zoning Appeals policy. (VII B 1.1).	Within 60 days of Date of Execution of thjs Agreement.

4.	City Council rescinds March 20, 1984 report from the Planning and Environment Committee. (VII B 1.2).	Within 60 days of Date of Execution of this Agreement.
5.	Prepare and submit to the plaintiffs the first required quarterly progress report.	Ten days after execution of the agreement. Thereafter quarterly progress reports shall be submitted no less than 10 working days after the end of the quarter.
6.	Prepare and release Coastal Zone maps (VII A 1).	Maps are included in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
7.	Prepare and release Three Mile Radius maps (VII A 2).	Maps are in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
8.	Complete Interim Study (Exhibit B).	January 5, 2000.
9.	Prepare and submit Interim Ordinance to City Planning Commission (VII B 2.1).	February 16, 2001.
10.	Prepare and submit ordinance establishing the Coastal Zone Affordable Housing Trust Fund to City Council (VII B 2.2).	February 16, 2001.
11.	Prepare and submit to the City Council an ordinance concerning the simultaneous application of Rental Housing Production and In-Lieu Fees. (VII B 2.3).	April 18, 2001.
12.	Review Rent Stabilization Ordinance and condominium conversion provisions, and prepare any necessary amendments. Submit ordinance (s) to City Council. (VII B 2.4).	April 18, 2001, if the City determines any amendments are necessary.
13.	Revise and release Interim Administrative Procedures. Complete related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Interim Ordinance.
14.	Select consultant to complete Longer-Term Study (VII C 2).	July 2, 2001.

15.	Prepare and release the first annual report (VII D) covering the period from the Date of Execution through and including June 30, 2001. Thereafter, the annual report shall be prepared covering the period from July 1 through June 30 of the following year.	September 17, 2001. Thereafter the annual report shall be prepared and released within 60 working days of June 30.
16.	Execute contract with selected consultant to complete Longer-Term Study (VII C 2).	November 1, 2001.
17.	Complete Longer-Term Study (VII C 2).	November 1, 2001.
18.	Prepare and submit Permanent Ordinance to City Planning Commission (VII B 2.1).	February 10, 2003.
19.	Prepare and release Permanent Administrative Procedures. Revise related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Permanent Ordinance.

VIII. AGREEMENT

NOW THEREFORE, the Parties agree as follows:

A. **DISMISSAL OF ACTION WITH PREJUDICE**

Within 28 business days after the City executes this Agreement, the Plaintiffs agree to file with the Court a Request for Dismissal of the Action with prejudice.

B. **PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES**

Within 28 business days after the parties execute this Agreement, the City shall deliver a check in the amount of \$325,000 made payable to Western Center on Law and Poverty, Inc., as payment for all claims by Plaintiffs in this action for attorneys' fees, costs and expenses. Western Center on Law and Poverty, Inc., shall assume responsibility for distributing this payment to the different attorneys and law firms that represented Plaintiffs in this Action.

C. **GENERAL RELEASES**

1. Claims Defined

For purposes of this Agreement, the term "Claims" shall be defined as any actions, claims, demands, suits, liens, debts, dues, damages, judgments, bonds, executions, and liabilities of whatever kind, nature or description whatsoever, known or unknown, suspected or unsuspected, arising out of, or in any way related to the City's implementation of the Mello Act prior to the Date of Execution of this Agreement.

2. **Releases**

Except as otherwise set forth in this Agreement, the Parties hereby fully, finally, and forever release and discharge each other of and from all manner of Claims.

3. **Waiver of Civil Code Section 1542**

The Parties acknowledge that if they hereafter discover facts in addition to or different from those which they may now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intention to fully and forever settle and release any and all Claims. In furtherance of this intention, the Parties, acknowledge that they are familiar with section 1542 of the California Civil Code which provides:

"A general release does not extend to [Claims] which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The Parties hereby waive and relinquish any rights and benefits they may have under section 1542, and represent that section 1542 has been fully explained to them by their attorneys.

D. FURTHER ASSURANCES

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances and shall perform any and all acts and things reasonably necessary in connection with the performance of the obligations under this agreement and to carry out the intent of the Parties.

E. OWNERSHIP OF CLAIMS

The Parties hereby warrant that they are the owners of, and the Party legally entitled to settle and release, every Claim referred to in this agreement.

F. INDEPENDENT ADVICE AND INVESTIGATIONS

Each Party represents and warrants that it has received independent legal advice from its attorneys with respect to the execution of this Agreement and that it has read this Agreement and understands its contents. Each Party represents and warrants that it has made such investigation of the facts pertaining to the settlement set forth in this Agreement and of all matters pertaining thereto as it is independently deemed necessary and appropriate. Each Party further represents and warrants that it has relied solely upon facts obtained from its own investigations and upon the advice of its own attorneys and legal representatives in executing this Agreement and that it has not relied upon any statement or representation of any other Party or their attorneys or representatives.

G. MISTAKE

In entering into this Agreement, each Party assumes the risk of any mistake. If any Party should subsequently discover that any fact relied upon by it in entering into this Agreement was untrue or that its understanding of the facts or the law was incorrect, that Party shall not be entitled to relief in connection herewith and including without limitation on the generality of the foregoing, no Party shall have any right or claim to set aside or rescind this Agreement. This Agreement is intended to be and is final and binding between the Parties to the agreement regardless of any claims of mistake of fact or law.

H. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of California.

I. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding of the Parties with respect to its subject matter. All prior and contemporaneous conversations, negotiations, possible or alleged agreements, covenants, releases, representations and warranties in respect of the subject matter of this Agreement are integrated herein and superseded by this Agreement.

J. SEVERABILITY

In the event any part of this Agreement should be found invalid, unenforceable, or nonbinding, the remaining portion will remain in force and fully binding.

K. AGREEMENT NEGOTIATED

The text of this Agreement is the product of negotiation among the Parties and their counsel and is not to be construed as having been prepared by one party or the other.

L. HEIRS, SUCCESSORS AND ASSIGNS

This Agreement shall bind and inure to the benefit of the Parties and their heirs, successors and assigns.

M. EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

N. MODIFICATIONS

1. **Time Limit Extensions**

Any time limit contained in this Agreement may be extended by the mutual agreement of the parties in writing, which agreement will reasonably be given.

2. **City Procedures**

The parties may agree to modify the City Procedures contained in this Agreement; however, any such modification must be in writing and signed by the parties' respective counsel.

O. ENFORCEMENT OF AGREEMENT

If any party allegedly breaches this Agreement, then the party alleging the breach shall notify the breaching party in writing. The notice shall set forth, with reasonable particularity, the alleged breach. The party alleged to have breached this Agreement shall meet with the party giving notice and attempt to resolve the alleged breach within 30 days of the mailing of the notice of alleged breach. If the parties cannot resolve the alleged breach, either party may seek judicial relief by filing a new action in Los Angeles Superior Court to enforce the terms of this Agreement. The aggrieved party may seek judicial relief prior to the expiration of 30 days if necessary to prevent the expiration of any rights, claims, or causes of action or to prevent irreparable harm. The following individuals or entities shall be entitled to enforce this Agreement as assignees of the Plaintiffs specified in Section VIII P:

Venice Community Housing Corporation;
Dan Tokaji; and
Linda Lucks.

P. NOTICES

Any notices, reports or other documents required to be provided pursuant to this Agreement shall be sent by first class mail to the parties at the following addresses, or any subsequent address or person provided by a party:

1. **Plaintiffs**

Richard A. Rothschild
Western Center on Law and Poverty
3701 Wilshire Boulevard, Suite 208
Los Angeles, CA 90010

Robert Jacobs
Law Office of Robert Jacobs
12240 Venice Boulevard, Suite 25A
Los Angeles, CA 90066

Franklin P. Eberhard, Deputy Director
 Department of City Planning
 221 North Figueroa Street, 16th Floor
 Los Angeles, CA 90012

Q. NOTICE REQUIRED

In addition to any notices otherwise required by this Agreement, Defendants shall provide Notice to Plaintiffs until two years after the Permanent Ordinance is adopted as follows:

1. Notice shall be given no less than 24 days prior to:
 - 1.1 Any proposed change in any City Policies or City Procedures regarding the Mello Act;
 - 1.2 Any proposal to adopt or amend any ordinances or resolutions implementing the Mello Act, including any ordinances proposed as a result of any of the consultant studies referenced in this Agreement;
 - 1.3 Any submission of any local coastal plan or any land use portion of a Local Coastal Program to the Coastal Commission for approval, pursuant to Public Resources Code Section 30512.
2. Notice shall be given within 15 days of any changes to the maps defining or describing the Coastal Zone, or the description of such boundaries.
3. Notice shall be given within five days of receipt of any studies, including interim reports (deliverables), commissioned by the City in conjunction with the Mello Act.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

Date: 12-20-00

VENICE TOWN COUNCIL, INC.
 By Stathis Maphersen
 Its President

Date:

CITY OF LOS ANGELES

By _____

Its _____

Date: 12/20/00

CAROL BERMAN



Date:

BARTON HILL NEIGHBORHOOD ORGANIZATION

By _____

Its _____

APPROVED AS TO FORM:

Date:

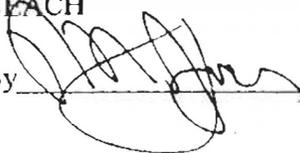
CITY OF LOS ANGELES
JAMES K. HAHN, City Attorney

By _____

Its _____

Date:

WESTERN CENTER ON LAW AND POVERTY, INC.
LAW OFFICES OF ROBERT JACOBS
LEGAL AID FOUNDATION OF LONG BEACH

By  _____

By _____

Its _____

Date:

CITY OF LOS ANGELES

By _____

Its _____

Date:

CAROL BERMAN

Date:

12/16/00

BARTON HILL NEIGHBORHOOD ORGANIZATION

By *[Signature]*
Its *Community Organizer*

APPROVED AS TO FORM:

Date:

CITY OF LOS ANGELES
JAMES K. HAHN, City Attorney

By _____

Its _____

Date:

WESTERN CENTER ON LAW AND POVERTY, INC.
LAW OFFICES OF ROBERT JACOBS
LEGAL AID FOUNDATION OF LONG BEACH-

By *[Signature]*

Date: 1/3/01

CITY OF LOS ANGELES

By Claudia Culling

Its Attorney of record

Date:

CAROL BERMAN

Date:

BARTON HILL NEIGHBORHOOD ORGANIZATION

By _____

Its _____

APPROVED AS TO FORM:

Date: 1/3/01

CITY OF LOS ANGELES

JAMES K. HAHN, City Attorney

By Claudia Culling

Its Assistant City Attorney

Date:

WESTERN CENTER ON LAW AND POVERTY, INC.

LAW OFFICES OF ROBERT JACOBS

LEGAL AID FOUNDATION OF LONG BEACH

By _____