

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARK WILLITS, JUDY GRIFFIN,
BRENT PILGREEN, and
COMMUNITIES ACTIVELY
LIVING INDEPENDENT & FREE
("CALIF"),

Plaintiffs,

v.

CITY OF LOS ANGELES,

Defendant.

CASE NO. CV 10-5782 CBM (RZx)

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

This Settlement Agreement and Release of Claims (the “Settlement Agreement”) is made and entered into by and between: (i) the City of Los Angeles (the “City”), on the one hand; and (ii) Communities Actively Living Independent and Free (“CALIF”), a non-profit corporation, and Mark Willits, Judy Griffin and Brent Pilgreen (collectively, the “Willits Plaintiffs”), individually and on behalf of themselves and a class of persons similarly situated (the “Settlement Class,” as defined below), on the other hand.

CALIF and the Willits Plaintiffs shall be referred to in this Settlement Agreement collectively as “Plaintiffs.” Plaintiffs and the City shall be referred to in this Settlement Agreement individually as a “Party” and collectively as the “Parties.”

I. RECITALS

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

A. On December 12, 2006, Sandra Carter and nine other individuals commenced a class action against the City in the Superior Court of the State of California for the County of Los Angeles (the “Superior Court”), Case No. BC 363305. On December 5, 2007, Nicole Fahmie commenced a class action against the City in the Superior Court, Case No. BC 381773. On January 27, 2011, the Superior Court consolidated the actions under Case No. BC 363305 (the “*Carter/Fahmie* Action”).

B. On December 8, 2008, Victor Pineda and Anatoli Ilyashov (the “Pineda Plaintiffs”) and CALIF commenced a class action against the City and various individual defendants in the Superior Court, Case No. BC 403327 (the “*Pineda* Action”). In the complaint, the Pineda Plaintiffs and CALIF alleged claims under the Americans with Disabilities Act of 1990 (the “ADA”), Section 504 of the Rehabilitation Act of 1973 (the “Rehabilitation Act”), California Government Code §§ 11135, et seq., California Civil Code §§ 51, et seq., and California Government Code §§ 4450, et seq. On July 6, 2010, the Pineda Plaintiffs filed a first

amended complaint, which, among other things, eliminated the class allegations that had been set forth in the original complaint.

C. On August 4, 2010, Plaintiffs commenced a class action against the City and various individual defendants in the United States District Court for the Central District of California (the “District Court”), Case No. CV 10-05782 CBM (RZx) (the “*Willits* Action”). In the complaint, Plaintiffs alleged claims under the ADA, Section 504 of the Rehabilitation Act, California Government Code §§ 11135, *et seq.*, California Civil Code §§ 51, *et seq.*, California Government Code §§ 4450, *et seq.* and California Civil Code §§ 54, *et seq.* On December 10, 2010, the District Court ordered Plaintiffs’ claims under California law dismissed, without prejudice, to be pursued in state court.

D. On March 15, 2011, the Willits Plaintiffs commenced an action against the City in the Superior Court, Case No. BC 457403 (the “*Griffin* Action”). In the complaint, the Willits Plaintiffs alleged claims under California Government Code §§ 11135, *et seq.*, California Civil Code §§ 51, *et seq.* and California Government Code §§ 4450, *et seq.*

E. On January 3, 2011, the District Court in the Willits Action granted the Willits Plaintiffs’ motion for class certification pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. The District Court certified the following class of persons for declaratory and injunctive relief only: “All persons with mobility disabilities who have been denied access to pedestrian rights of way in the City of Los Angeles as a result of Defendant’s policies and practices with regard to its pedestrian rights of way and disability access.”

F. During the pendency of the Pineda Action, the Willits Action and the Griffin Action (collectively, the “Actions”), the City, Plaintiffs and Class Counsel (as defined below) undertook extensive discovery and engaged in extensive discussions regarding a potential resolution and settlement of the alleged claims, including in mediation before private mediators. As a result of such discussions, the Parties now wish to effect a complete resolution and settlement of the claims, disputes, and controversies relating to the allegations of Plaintiffs and

the Settlement Class, and to resolve their differences and disputes by settling such claims, disputes and controversies under the terms set forth in this Settlement Agreement.

G. In entering into this settlement, the Parties intend to resolve any and all claims that either were or could have been asserted in the Actions on behalf of individuals with Mobility Disabilities for declaratory and injunctive relief with respect to the accessibility of the City's Pedestrian Facilities. Said settlement is expressly intended to assure that no further lawsuits for these claims for declaratory and injunctive relief may be maintained at any time during the Term of this Settlement Agreement.

H. The Parties intend this Settlement Agreement to bind and apply to the City, its Related Entities (as defined below), CALIF, the Willits Plaintiffs (individually and in their capacity as representatives of the Settlement Class) and all members of the Settlement Class. This Settlement Agreement shall extinguish all Released Claims (as defined below) and constitutes the final and complete resolution of all issues addressed herein.

II. DEFINITIONS

For purposes of this Settlement Agreement, the following terms have the following definitions:

A. "Accessibility Laws" means all local, state and federal laws and regulations requiring, promoting, and/or encouraging equal or improved access to persons with disabilities (including, without limitation, the following: the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101, *et seq.* and all of its implementing regulations and design standards; the Rehabilitation Act of 1973, 29 U.S.C. §§ 790, *et seq.* and all of its implementing regulations and design standards; the Unruh Act, Cal. Civ. Code §§ 51, *et seq.*; the Disabled Persons Act, Cal. Civ. Code §§ 54, *et seq.*; California Government Code §§ 4450, *et seq.*; California Government Code §§ 11135, *et seq.*; California Health & Safety Code §§ 19955, *et seq.*; and the regulations codified in Title 24 of the California Code of Regulations).

B. “ADA Coordinator for the Pedestrian Right of Way” means the individual or individuals retained or designated by the City pursuant to and in accordance with the terms of Section 14 below.

C. “Annual Commitment” means the funds committed by the City pursuant to this Settlement Agreement annually for the duration of the Compliance Period for the Program Access Improvements and other uses expressly identified in this Settlement Agreement.

D. “Carter /Fahmie Settlement Agreement” means the Settlement Agreement and Release of Claims between the City and plaintiffs in the *Carter/Fahmie* Action substantially in the form attached to this Settlement Agreement as Exhibit “A”.

E. “City Council” means the Los Angeles City Council.

F. “Class Counsel” means collectively the law firm of Schneider Wallace Cottrell Konecky Wotkyns, LLP, the law firm of Goldstein Borgen Dardarian & Ho, the Disability Rights Legal Center and the Legal Aid Society – Employment Law Center.

G. “Compliance Period” means the period of time in which the City will have obligations under Section 12 of this Settlement Agreement.

H. “Fairness Hearing” means the hearing to be held by the District Court, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, to determine whether the settlement set forth in this Settlement Agreement should be approved.

I. “Final,” as applied to the term “Judgment” (as defined below), means that (i) the time for appeal or writ has expired and no appeal or petition for review has been taken, or (ii) if an appeal or petition for review is taken and the settlement set forth in this Settlement Agreement has been affirmed in full, the time period during which any further appeal or review can be sought (including through any appeal, petition for review, writ of certiorari or otherwise) has expired and no such further appeal or review has been sought. In the event that no objections to this Settlement Agreement are raised prior to or at the Fairness Hearing, that any objections that have been raised have been fully and formally withdrawn, or that no viable objections otherwise exist at the time of the Fairness Hearing, the Judgment shall become “Final” as of the District

Court's issuance of the Judgment. If the Judgment is set aside, materially modified, disapproved or overturned by any court, and is not fully reinstated on further appeal or review, the Judgment shall not become or be "Final."

J. "Final Approval" means the order by the District Court, after notice and the holding of the Fairness Hearing, granting approval of this Settlement Agreement under Rule 23(a) of the Federal Rules of Civil Procedure.

K. "Grievance System" means the policy and procedure for the submission of grievances and complaints by Settlement Class members, as set forth in Section 17 below.

L. "Judgment" means a judgment entered by the District Court in the Willits Action, substantially in the form attached to this Settlement Agreement as Exhibit "D", that, among other things, fully approves the terms of this Settlement Agreement and retains the District Court's jurisdiction to enforce the Settlement Agreement throughout its term.

M. "Mayor" means the Mayor of the City of Los Angeles.

N. "Mobility Disability" or "Mobility Disabilities" means any impairment or medical condition that limits a person's ability to walk, ambulate, maneuver around objects, or to ascend or descend steps or slopes. A person with a Mobility Disability may or may not use a wheelchair, scooter, electric personal assisted mobility device, crutches, walker, cane, brace, orthopedic device, or similar equipment or device to assist her or his navigation along sidewalks, or may be semi-ambulatory.

O. "Notice of Settlement" means the notice substantially in the form attached to this Settlement Agreement as Exhibit "B", to be provided to the Settlement Class as set forth in Section 6.5 below.

P. "Pedestrian Facility" or "Pedestrian Facilities" means any sidewalk, intersection, crosswalk, street, curb, curb ramp, walkway, pedestrian right of way, pedestrian undercrossing, pedestrian overcrossing, or other pedestrian pathway or walk of any kind that is, in whole or in part, owned, controlled or maintained by or otherwise within the responsibility of the City of Los Angeles.

Q. “Preliminary Approval” means the preliminary approval of this Settlement Agreement by the District Court as described in Section 6.2 below.

R. “Program Access” means applicable Accessibility Laws directing a public entity to operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with Mobility Disabilities.

S. “Program Access Improvements” means all Program Access work performed by or on behalf of the City to bring any Pedestrian Facilities in the City into compliance with applicable Accessibility Laws.

T. “Related Entities” means any and all departments, divisions, agencies, bureaus, commissions, offices, corporations, commissioners, officers, employees, agents, representatives, board members, officials, assigns, assignors, attorneys, affiliates, predecessors, successors, employee welfare benefit plans, pensions, or deferred compensation plans (and their trustees, administrators, and other fiduciaries) of the City and any other person or entity acting or purporting to act by, through, under, in concert with or on behalf of the City, or any of them, with respect to the matters described in this Settlement Agreement.

U. “Settlement Class” means the class of all persons (including, without limitation, residents of and visitors to the City) with any Mobility Disability, who, at any time from the beginning of time through the term of this Settlement Agreement (as set forth in Section 8 below):

(i) accessed or attempted to access a Pedestrian Facility located in the City but were impaired or unable to do so due to any barrier or condition rendering such Pedestrian Facility not suitable or sufficient for use; or

(ii) allege that they would have accessed or attempted to access a Pedestrian Facility located in the City but for allegedly being denied such access due to any barrier or condition rendering such Pedestrian Facility not suitable or sufficient for use.

V. “Support Costs” means only those incremental costs and expenses incurred by the City as a result of implementing or performing the terms of this Settlement Agreement which would not otherwise have been incurred if the terms of this Settlement Agreement did not exist. For example, the term “Support Costs,” as used in this Settlement Agreement, shall not include the pre-existing costs or expenses for services performed by the City Attorney of Los Angeles, or the City’s Mayor, City Council, Chief Administrative Officer, or their respective offices or staff, or the Controller, Personnel Department or Finance Department.

W. “WCAG” means version 2.0 Levels A and AA of the “Web Content Accessibility Guidelines” published by the Web Accessibility Initiative (WAI) of the World Wide Web Consortium (W3C), or any subsequent version(s) that are published during the Compliance Period.

III. AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

1. **Recitals**

The recitals set forth above are incorporated by reference in this Section and made a part of this Settlement Agreement.

2. **No Admission**

The City has denied and disputed, and continues to deny and dispute, the claims and contentions by Plaintiffs, and does not admit any liability to Plaintiffs or otherwise. By agreeing to and voluntarily entering into this Settlement Agreement, there is no admission or concession by the City, direct or indirect, express or implied, that any Pedestrian Facility located in the City is in any way inaccessible to individuals with a Mobility Disability, that the City owns or has responsibility to build, fix, or remove barriers to access on any such Pedestrian Facility, or that the City has violated any Accessibility Laws, committed any wrongdoing, or has any liability for

any alleged matters. The City does not admit any entitlement by Plaintiffs to any relief, or that Plaintiffs have met or can meet the legal standards for a preliminary or permanent injunction, or a declaratory judgment to issue. Moreover, inclusion of obligations or requirements in this Settlement Agreement shall not be construed as a concession or admission that, absent this Settlement Agreement, the City would otherwise have such obligations or requirements or that the City has failed to abide by any applicable policies or procedures in the past. To the contrary, the City maintains that with respect to all matters alleged by Plaintiffs, it has fully complied with all Accessibility Laws and all other applicable laws at all relevant times.

3. **No Findings of Liability or Wrongdoing**

The Parties understand and agree that the District Court made no findings of any liability or wrongdoing by the City in the *Willits* Action. In addition, the District Court made no findings that the City, with respect to any Pedestrian Facilities located in the City: (i) acted intentionally to discriminate against persons with disabilities; (ii) acted with reckless disregard of the rights of persons with disabilities; or (iii) acted in any manner that would support a finding that the City is liable for damages under Title II of the ADA, Section 504 of the Rehabilitation Act, or otherwise.

The Parties further understand and agree that the District Court in the *Willits* Action determined that its February 25, 2013 decision granting partial summary judgment to Plaintiffs and ruling that there is no undue burden defense under Section 504 of the Rehabilitation Act: (i) addressed a novel issue of law; (ii) presented an issue of importance for recipients of federal financial assistance and persons with mobility disabilities to understand their respective rights and obligations under Section 504 of the Rehabilitation Act; (iii) was ruled by the District Court to be proper for interlocutory review; (iv) was certified for interlocutory appeal by the United States Court of Appeals for the Ninth Circuit (the “Ninth Circuit”); (v) was on appeal before the Ninth Circuit, with all briefing completed, at the time this settlement was reached by the Parties; (vi) was not addressed on the merits on appeal by the Ninth Circuit; (vii) was not entered as a

final judgment in the *Willits* Action; and (viii) is not binding on any other court in any other action.

The Parties shall jointly move the District Court, as part of the jointly requested settlement approval process, to confirm and enter the following findings:

(i) The City's implementation of the Settlement Agreement assures that the City's Pedestrian Facilities, when viewed in their entirety, are readily accessible to and usable by individuals with Mobility Disabilities.

(ii) The Settlement Agreement sets forth a reasonable time period and reasonable expenditures of funding for making necessary improvements to assure that the City's Pedestrian Facilities, when viewed in their entirety, are readily accessible to and usable by individuals with Mobility Disabilities.

(iii) There is no evidence before the District Court that the City has intentionally discriminated or acted with deliberate indifference against individuals with Mobility Disabilities.

(iv) The City's compliance with and implementation of the Settlement Agreement are sufficient to satisfy the City's legal obligations to provide Program Access to its Pedestrian Facilities, when viewed in their entirety, for individuals with Mobility Disabilities.

4. **Purpose of Settlement**

To avoid the cost, expense, and uncertainty of protracted litigation and preclude any similar lawsuits or challenges during the Compliance Period, the City and Plaintiffs agree to enter into this Settlement Agreement and that it shall be binding upon the City, Plaintiffs, and all members of the Settlement Class, shall extinguish all Released Claims and shall constitute the final and complete resolution of all issues addressed herein. The Parties agree that this Section and other terms of this Settlement Agreement are intended to and shall prevent relitigation of any issues settled herein and that none of the Parties shall take the position that the doctrines of res judicata and collateral estoppel do not apply to the Parties or the Settlement Class.

5. **Conditions Precedent**

The Parties agree that this Settlement Agreement shall be conditioned upon, and shall be effective only upon, the occurrence of each and every one of the following events:

(a) The Settlement Agreement has been approved by the City Council and the Mayor.

(b) The Settlement Agreement has been fully executed by the Parties.

(c) In accordance with Section 6.2 below, Plaintiffs and the City have jointly moved for an order granting Preliminary Approval of the Settlement Agreement, and such motion has been fully granted by the District Court.

(d) In accordance with Section 6.7 below, Plaintiffs and the City have jointly moved for Final Approval of the Settlement Agreement and entry of the Judgment.

(e) In accordance with Section 6.10 below, a Final Approval Hearing has been conducted by the District Court, and the Judgment has been entered by the District Court and has become Final.

(f) The Parties request that the District Court make the findings outlined in Section 3 above.

(g) The Carter/Fahmie Settlement Agreement has been fully executed by the City and the Carter/Fahmie Plaintiffs, the Superior Court in the Carter/Fahmie Action has granted final approval of the Carter/Fahmie Settlement, final judgment has been entered by the Superior Court and such final judgment has become Final.

(h) The Pineda Action has been dismissed with prejudice, and the Pineda Plaintiffs have provided the City with a general release of claims arising from or related to the matters alleged in the Pineda Action.

(i) The Griffin Action has been dismissed with prejudice, and the Willits Plaintiffs have provided the City with a general release of claims arising from or related to the matters alleged in the Griffin Action.

Prior to the occurrence of each of the foregoing events described in this Section 5, the Parties' only obligations under this Settlement Agreement shall be those set forth in Section 6 below.

6. **Settlement Approval Process**

6.1. **Court Approval**

This Settlement Agreement shall be subject to approval by the District Court. However, nothing in this Settlement Agreement shall be deemed to authorize the District Court to change or modify any of its terms. The Parties agree that any change, modification or rejection of any of the provisions of this Settlement Agreement by the District Court or any other court shall constitute a material modification of this Settlement Agreement, shall prevent the Judgment from becoming Final, and shall give any Party the right to terminate this Settlement Agreement in its entirety.

6.2. **Preliminary Approval by the District Court**

Within five (5) days of circulating the fully executed Settlement Agreement, the Willits Plaintiffs and the City shall jointly submit a request to the District Court for Preliminary Approval of this Settlement Agreement in the *Willits* Action, along with a request for an order from the District Court (substantially in the form attached to this Settlement Agreement as Exhibit "C") (the "Preliminary Approval Order"): (i) preliminarily approving this Settlement Agreement; (ii) conditionally certifying the Settlement Class; (iii) appointing the Willits Plaintiffs as class representatives for the Settlement Class; (iv) appointing Class Counsel to represent the Settlement Class; (v) directing notice to the Settlement Class as provided in this Settlement Agreement; (vi) setting forth procedures and deadlines for comments and objections as provided in this Settlement Agreement; (vii) scheduling a Fairness Hearing; and (ix) enjoining Settlement Class members from asserting or maintaining any claims to be released by this Settlement Agreement pending the Fairness Hearing.

6.3. **Conditional Certification of the Settlement Class**

The Parties agree that the Settlement Class shall be conditionally certified, in accordance with the terms of this Settlement Agreement, solely for purposes of effectuating the settlement embodied in this Settlement Agreement. The City does not consent, and Class Counsel and the *Willits* Plaintiffs agree that the City shall not be deemed to have consented, to the certification of the Settlement Class for any purpose other than to effectuate the settlement embodied in this Settlement Agreement. In the event the Settlement Agreement is terminated pursuant to its terms, or if for any reason the settlement embodied in this Settlement Agreement is not effectuated or the Judgment does not become Final, the certification of the Settlement Class shall be vacated, and the *Willits* Action shall proceed as though the Settlement Class had never been certified, with all parties reserving all of their claims and defenses.

6.4. **No Opt-Out**

The Parties agree that the Settlement Class shall be certified in accordance with the standards applicable under Rule 23(b)(2) of the Federal Rules of Civil Procedure and that, accordingly, no Settlement Class member may opt out of any of the provisions of this Settlement Agreement. The Parties further agree that any order, ruling, or determination by or of the District Court or any other court that permits or allows any Settlement Class member to opt out of any of the provisions of this Settlement Agreement shall constitute a material modification of this Settlement Agreement, shall prevent the Judgment from becoming Final and shall give any Party the right to terminate this Settlement Agreement in its entirety.

6.5. **Notice to the Settlement Class**

The Parties shall jointly request approval by the District Court of notice to the Settlement Class as set forth in this Section 6.5. Following the District Court's issuance of the Preliminary Approval Order, the Parties shall provide notice of the proposed Settlement Agreement, advising the members of the Settlement Class of the terms of the proposed Settlement Agreement and their right to object to the proposed Settlement Agreement. This

notice (which may be provided in conjunction with or in coordination with any notice of the Carter/Fahmie Settlement Agreement) shall be published as follows:

6.5.1. Within forty-five days (45) days after the District Court has issued the Preliminary Approval Order, the City shall cause notice of the settlement to be published for four (4) consecutive weeks in the following papers of general circulation: *The Los Angeles Times* and *The Los Angeles Daily News* in English; and *La Opinion* in Spanish. Such notice will include the terms required by the District Court, which are anticipated to be as follows: (i) a brief statement of the *Willits* Action, the settlement embodied in this Settlement Agreement, and the claims released by the Settlement Class; (ii) the date and time of the hearing on the Final Approval of the proposed Settlement Agreement; (iii) the deadline for submitting objections to the proposed Settlement Agreement; and (iv) the web page, address, and telephone and fax numbers that may be used to obtain a copy of the Notice of Settlement (substantially in the form attached to this Settlement Agreement as Exhibit “B”) in English, Spanish or alternative accessible formats for individuals with visual impairments. The City shall pay the costs for the publication of the notice described in this Section, but the City, upon the commencement of the Compliance Period, shall be reimbursed for all such incurred costs from the Annual Commitment.

6.5.2. Within twenty (20) days after the District Court has issued the Preliminary Approval Order, the City shall cause a copy of the Notice of Settlement to be posted and remain posted on the City’s official website (www.lacity.org), on the Bureau of Street Services’ official website (www.ci.la.ca.us/boss) and on the Department of Disability’s official website (www.disability.lacity.org) for four (4) consecutive weeks. Such websites shall also make a copy of the Notice of Settlement available in English and Spanish, and in an accessible electronic format that can be recognized and read by software commonly used by individuals with visual impairments to read web pages. All pages or content on these websites that are part of the process for accessing the information in the Notice of Settlement shall comply with WCAG. The City shall pay the costs for the publication of the notice described in this Section,

but the City, upon the commencement of the Compliance Period, shall be reimbursed for all such reasonably incurred costs from the Annual Commitment.

6.5.3. Within ten (10) days after the District Court has issued the Preliminary Approval Order, Class Counsel shall cause a copy of the Notice of Settlement to be provided to the organizations listed on Exhibit “F” to this Settlement Agreement (or such other organizations that, in Class Counsel’s judgment, serve the interests of persons with disabilities who reside in the City and rely upon wheelchairs, scooters, or other devices for mobility, possess address, electronic-mail, or other contact information for such persons, and will provide copies of the Notice of Settlement to such persons on a prompt and effective basis). Class Counsel shall pay the reasonable costs for the publication of the notice described in this Section, but Class Counsel, upon the commencement of the Compliance Period, shall be reimbursed for all such reasonably incurred costs from the Annual Commitment.

6.5.4. Within ten (10) days after the District Court has issued the Preliminary Approval Order, Class Counsel shall establish a website where a copy of the Notice of Settlement will be available in English and Spanish, and in an accessible electronic format that can be recognized and read by software commonly used by individuals with visual impairments to read web pages. All pages or content on the websites that are part of the process for accessing the information in the notice shall comply with WCAG. Class Counsel shall pay the reasonable costs for the publication of the Notice of Settlement described in this Section, but Class Counsel, upon the commencement of the Compliance Period, shall be reimbursed for all such reasonably incurred costs from the Annual Commitment.

6.6. **Press Release Regarding Settlement**

The Parties agree that prior to the execution of this Settlement Agreement, Class Counsel and counsel for the City issued the joint written press release regarding the settlement set forth in this Settlement Agreement substantially in the form attached hereto as Exhibit “E”. The Parties agree that after the full execution of this Settlement Agreement, they and their

respective counsel may discuss the settlement set forth in this Settlement Agreement with the media but shall use their best efforts: (i) to ensure that such discussions are consistent with the substance and tenor of the joint press release attached hereto as Exhibit “E”; and (ii) to refrain from disparaging the other Parties or their counsel in connection with the settlement and the matters set forth in this Settlement Agreement.

6.7. **Fairness Hearing**

The Parties shall jointly request that the District Court schedule and conduct a Fairness Hearing to decide whether Final Approval of the Settlement Agreement shall be granted. At the Fairness Hearing, the Parties shall jointly move for entry of the Judgment (substantially the form as attached to this Settlement Agreement as Exhibit “D”), providing for: (i) Final Approval of this Settlement Agreement as fair, adequate, and reasonable; (ii) final certification of the Settlement Class for settlement purposes only; (iii) final approval of the form and method of notice of the Judgment to the Settlement Class; (iv) final approval of the appointment of Class Counsel for the Settlement Class; (v) final approval of the appointment of the Willits Plaintiffs as class representatives of the Settlement Class; (vi) final approval of the release of the City and its Related Entities from the Released Claims; (vii) final approval of an order that the Settlement Class members will be enjoined and barred from asserting any of the Released Claims against the City and its Related Entities following entry of Judgment and up to and including the completion of the Compliance Period; (viii) a finding by the District Court that the City’s expenditure of the amounts set forth in Section 12.2 below for the purposes set forth in this Settlement Agreement is proper and reasonably calculated based on the available information to maintain and ensure accessibility of the Pedestrian Facilities located in the City of Los Angeles to persons with Mobility Disabilities; (ix) confirmation by the District Court of the findings set forth within Section 3 hereinabove, (x) the Parties and all members of the Settlement Class to be bound by the Judgment; and (xi) the District Court’s retention of jurisdiction over the Parties to enforce the terms of the Judgment throughout the term of this Settlement Agreement.

6.8. **Objections to the Settlement Agreement**

Members of the Settlement Class shall have an opportunity to object to the proposed Settlement Agreement but may not opt-out. The Parties shall request that the District Court order the following procedures for assertion of objections, if any, to the Settlement Agreement:

6.8.1. Any Settlement Class member may object to this Settlement Agreement by filing, within forty-five (45) days of the commencement of the issuance of the notice to the Settlement Class required under Section 6.5 above, written objections with the District Court, with a copy of such objections served concurrently on Class Counsel by messenger delivery, FedEx or other overnight carrier delivery or by First Class U.S. Mail delivery and/or appearing at the Court's Final Approval Hearing and speaking to the Court.

6.8.2. With respect to any and all objections to this Settlement Agreement received by Class Counsel, Class Counsel shall provide a copy of each objection to counsel of record for the City, by messenger delivery or electronic-mail delivery, within two (2) court days after receipt of such objection.

6.8.3. Responses by Class Counsel and/or the City to any timely-filed objections shall be filed with the District Court no less than five (5) days before the Fairness Hearing, or as otherwise ordered by the Court.

6.9. **Additional Steps**

The Parties shall take all procedural steps regarding the Fairness Hearing that may be requested by the District Court and shall otherwise use their respective best efforts to consummate the settlement embodied in this Settlement Agreement, and to obtain approval of this Settlement Agreement, entry of the Judgment and dismissal with prejudice of the *Griffin* and *Pineda* Actions.

6.10. **Final Approval**

6.10.1. The Parties agree that upon Final Approval the District Court shall enter the Judgment under Rule 54(b) of the Federal Rules of Civil Procedure (substantially in the form attached to this Settlement Agreement as Exhibit “D”) dismissing the *Willits* Action with prejudice, subject to the District Court retaining jurisdiction to resolve any Dispute (as defined below) regarding compliance with this Settlement Agreement that cannot be resolved through the process described in Section 19 below, and to rule on Plaintiffs’ motion for reasonable attorneys’ fees and costs, as described in Section 21.3 below.

6.10.2. Conditioned upon: (i) the District Court granting Final Approval of this Settlement Agreement, and the Judgment becoming Final; (ii) the Superior Court dismissing with prejudice the *Pineda* and *Griffin* Actions; and (iii) the Superior Court granting final approval of the *Carter/Fahmie* Settlement and the *Carter/Fahmie* Settlement becoming Final, the Parties stipulate and agree that the City consents to the District Court exercising jurisdiction over the state law claims alleged in the *Carter/Fahmie* Action for the sole purpose of enforcing this Settlement Agreement. The City will not assert, after the Judgment has become Final, that the District Court lacks jurisdiction to enforce the terms of this Settlement Agreement, or raise any jurisdictional defense to any enforcement proceedings permitted under the terms of this Settlement Agreement.

6.10.3. Should the District Court deny the Parties’ request to enter the Judgment, should this Settlement Agreement not receive Final Approval by the District Court for any reason, or should this Settlement Agreement not become Final for any reason in accordance with its terms: (i) this Settlement Agreement shall be null and void and of no force and effect; (ii) nothing in this Settlement Agreement shall be deemed to prejudice the position of any of the Parties with respect to any matter; and (iii) neither the existence of this Settlement Agreement, nor its contents, shall be admissible in evidence, referred to for any purpose in any litigation or proceeding, or be deemed an admission by the City of any fault, wrongdoing or liability.

7. **Effect of Final Approval Order**

This Settlement Agreement, upon Final Approval, shall be binding upon the City, Plaintiffs, and all Settlement Class members and, to the extent specifically set forth in this Settlement Agreement, upon Class Counsel, shall extinguish all Released Claims and shall constitute the final and complete resolution of all issues addressed herein. This Settlement Agreement is the complete and final disposition and settlement of any and all Released Claims, as detailed in Section 9 below.

8. **Term of Settlement Agreement**

The District Court shall have continuing jurisdiction over this Settlement Agreement throughout the Settlement Agreement's term. This Settlement Agreement shall expire thirty (30) years after the date of commencement of the Compliance Period (with the sole exception that the City must complete its reporting requirements after the Compliance Period, under the District Court's continuing jurisdiction, as set forth in Section 16 below). Nothing in this Section shall bar either Party from moving for an extension of the Settlement Agreement to enforce any obligations herein.

9. **Release of Claims**

9.1. **Released Claims Up to the Commencement of the Compliance Period**

Effective upon the entry of Judgment by the District Court, Plaintiffs and the Settlement Class members (and their respective heirs, assigns, successors, executors, administrators, agents and representatives) ("Releasing Parties") do fully and finally release, acquit and discharge the City and its Related Entities from any and all claims, allegations, demands, charges, complaints, actions, lawsuits, rights, liabilities, losses, injuries, obligations, disputes and causes of action of any kind, whether asserted as individual claims, as claims on a class basis or on behalf of the general public, and whether known or unknown, suspected or unsuspected, asserted or unasserted, or actual or contingent, solely for injunctive, declaratory, or

other non-monetary relief, however described, that were brought, could have been brought, or could be brought now or in the future by the Releasing Parties under any Accessibility Laws and that in any way relate to or arise from any of the City's or the Released Entities' alleged actions, omissions, incidents, or conduct related to the accessibility of any of the City's Pedestrian Facilities to persons with any Mobility Disability at any time prior to the Commencement of the Compliance Period (the "Released Claims").

9.2. **Released Claims During the Compliance Period**

Effective upon the entry of Judgment by the District Court, the Releasing Parties do fully and finally release, acquit and discharge the City and its Released Entities from any and all future claims, allegations, demands, charges, complaints, actions, lawsuits, rights, liabilities, losses, injuries, obligations, disputes and causes of action of any kind, whether asserted as individual claims, as claims on a class basis or on behalf of the general public, and whether known or unknown, suspected or unsuspected, asserted or unasserted, or actual or contingent, solely for injunctive, declaratory, or other non-monetary relief, however described, that could be or are brought by the Releasing Parties under any Accessibility Laws and that in any way relate to or arise from any of the City's or the Released Entities' alleged actions, omissions, incidents, or conduct related to the accessibility of any of the City's Pedestrian Facilities to persons with any Mobility Disability at any time during the Compliance Period ("Released Future Claims"). Such Released Future Claims, however, shall not include any claims to enforce the terms of this Settlement Agreement.

The release in this Section 9.2 will apply and be binding upon the members of the Settlement Class throughout the term of this Settlement Agreement.

10. **Known or Unknown Claims**

With respect to the release of claims as provided in Section 9 above, Releasing Parties waive and relinquish any and all rights and benefits afforded by Section 1542 of the California

Civil Code, or any other similar statute or rule of any state or jurisdiction, and acknowledge and understand that the facts with respect to the Actions and this Settlement Agreement may, after the date of execution of this Settlement Agreement, be discovered to be other than or different from the facts now known and believed to be true. Releasing Parties knowingly accept and assume the risk of the facts being different, agree that this Settlement Agreement shall be and remain in all aspects effective and not subject to termination or rescission by virtue of any such difference in facts, understand and acknowledge the significance and consequences of such specific waiver of Section 1542 of the California Civil Code (and any other similar statute or rule of any state or jurisdiction), and expressly assume full responsibility for any losses or consequences that may be incurred by making such waiver. Releasing Parties expressly understand that Section 1542 of the California Civil Code reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

The foregoing release is freely and voluntarily given by Releasing Parties, who, in agreeing to the foregoing release, did not rely on any inducements, promises or representations by the City or its representatives, other than as expressly set forth in this Settlement Agreement.

11. **Covenant Not to Sue**

11.1. The Parties agree that during the Compliance Period, the Releasing Parties will refrain and forbear from commencing, instituting, or prosecuting any lawsuit, action, or other proceeding, in law, equity or otherwise, against the City and its Related Entities arising out of or relating to any of the Released Claims or Released Future Claims, including, without limitation, an action claiming that this Settlement Agreement was fraudulently induced. The Parties agree that monetary damages alone are inadequate to compensate for injury caused or

threatened by a breach of this covenant not to sue, and that preliminary and permanent injunctive relief restraining and prohibiting the prosecution of any action or proceeding brought or instituted in violation hereof is a necessary and appropriate remedy in the event of such a breach or threatened breach. An action or proceeding brought to enforce (but not to rescind or reform) the terms of this Settlement Agreement is excepted from this covenant not to sue.

11.2. With respect to any of the Parties' obligations set forth in this Settlement Agreement, the Parties agree that no claim, action or proceeding alleging any violation of or failure to perform any provision of this Settlement Agreement shall be filed, commenced or maintained unless and until the Parties have complied with all of the procedures set forth in Section 19 below.

12. **Annual Commitment for Program Access Improvements**

The Parties agree to the following terms as the final and complete resolution of the claims pertaining to the City's funding for Program Access Improvements during the Compliance Period.

12.1. **Commencement of the Compliance Period**

The Parties agree that the Compliance Period shall commence on the date that the Judgment has become Final.

12.2. **Amount of the Annual Commitment**

The City shall expend a total of \$1,367,142,684 during the Compliance Period for Program Access Improvements. The Annual Commitment for each year of the Compliance Period shall be as follows (subject to Section 12.3):

(a) For the five fiscal years following Final Approval of this Settlement Agreement by the District Court (*i.e.*, Years 1-5), the City shall expend \$31,000,000 per year.

(b) For the five fiscal years following the period set forth in Section 12.2(a) above (*i.e.*, Years 6-10), the City shall expend \$35,743,000 per year.

(c) For the five fiscal years following the period set forth in Section 12.2(b) above (*i.e.*, Years 11-15), the City shall expend \$41,211,697 per year.

(d) For the five fiscal years following the period set forth in Section 12.2(c) above (*i.e.*, Years 16-20), the City shall expend \$47,517,066 per year.

(e) For the five fiscal years following the period set forth in Section 12.2(d) above (*i.e.*, Years 21-25), the City shall expend \$54,787,177 per year.

(f) For the five fiscal years following the period set forth in Section 12.2(e) above (*i.e.*, Years 26-30), the City shall expend \$63,169,615 per year.

The City may use any and all revenue sources available to it to fund the Annual Commitment obligations set forth in this Section 12. The Parties agree that, throughout the Compliance Period, the City shall have sole and absolute discretion to determine the revenue sources it will use for such purposes, and shall have no obligation to consult with Plaintiffs or Class Counsel regarding any such determination.

12.3. **First Year Funding**

The Parties agree that any and all amounts expended by the City in fiscal year 2015-16 (and in any period thereafter prior to the time that this Settlement Agreement becomes Final) to make Program Access Improvements (or for other expenditures to implement the Settlement Agreement as set forth in Sections 12.4 and 12.11, below) shall count towards the City's performance of its funding obligation under Section 12.2(a) as to the first year (Year 1) of the Compliance Period. (For example, if the City expends \$11,000,000 in fiscal year 2015-16, the City's obligation in the first year of the Compliance Period will be proportionately reduced, such that the City will satisfy its obligation under Section 12.2(a) as to the first year (Year 1) of the Compliance Period by expending \$20,000,000 on Program Access Improvements during such first year (Year 1).) Each subsequent fiscal year throughout the Compliance Period will commence on July 1 of the applicable year.

12.4. **Use of the Annual Commitment for Program Access Improvements**

The Annual Commitment shall be used for installation, repair, remediation, construction, design, inspection, monitoring and support costs of the implementation of the Settlement Agreement as to Pedestrian Facilities existing as of the commencement of the Compliance Period (along with the other uses expressly permitted under this Settlement Agreement), including, without limitation, for the following types of Program Access Improvements:

- (a) Installation of missing curb ramps;
- (b) Repair of damage caused by tree roots to sidewalk or walkway surfaces so that the sidewalk or walkway surfaces are made accessible to and usable by persons with Mobility Disabilities;
- (c) Upgrading of existing curb ramps to comply with the standards set forth in Section 12.9 below;
- (d) Repair of broken and/or uneven pavement in the pedestrian rights of way (including utility covers and repair covers) deeper and/or wider than 1/2 inch;
- (e) Repair of vertical or horizontal displacement or upheaval of the sidewalk or crosswalk surface greater than 1/2 inch (including sidewalk flags, curbs and utility covers);
- (f) Correction of non-compliant cross-slopes in sidewalks or sections of sidewalks;
- (g) Removal of protruding and overhanging objects and/or obstructions that narrow pedestrian rights of way to less than 4 feet of accessible width;
- (h) Widening of pedestrian rights of way and sections thereof to provide 4 feet of accessible width;
- (i) Providing 4 feet of clearance to the entrances of public bus shelters;

- (j) Repair of excessive gutter slopes at the bottom of curb ramps leading into crosswalks;
- (k) Elimination of curb ramp lips on curb ramps;
- (l) Installation of accessible tree grates, or other compliant remediation, where such grates are missing from tree wells;
- (m) Installation of missing utility covers where such covers are missing from sidewalks, crosswalks or pathways; and
- (n) Remediating other non-compliant conditions.

The Parties agree that the Annual Commitment shall not be used for Pedestrian Facilities located immediately adjacent to the facilities of the United States, the State of California, the County of Los Angeles, or other governmental entities, bodies, departments or agencies other than the City (including, without limitation, the Los Angeles Unified School District, the California Department of Transportation, and the Los Angeles County Metropolitan Transportation Authority) which are not owned or maintained by the City. Within two (2) years after the commencement of the Compliance Period, or as otherwise reasonably agreed to by the Parties, the City shall identify (by list, map or otherwise) for Class Counsel the locations of the Pedestrian Facilities that the City believes are immediately adjacent to such governmental facilities and will not be subject to Program Access Improvements under this Settlement Agreement.

12.5. **Allocation of the Annual Commitment**

For the duration of the Compliance Period, the Annual Commitment shall be allocated for Program Access Improvements, subject to the following:

- (a) Any amounts that the City may expend on curb ramp or sidewalk installation or remediation which was necessitated as the result of: (i) any alterations arising from the resurfacing of streets or roadways wherein said resurfacing involved work on a street or roadway spanning from one intersection to another and included overlays of additional materials to the road surface (excluding slurry seals); (ii) street widening or widening of other roadways

and alleys; (iii) the creation of a new street or the reconstruction of an existing street; (iv) the construction of a new City building, park or other similar major facility or site; (v) sewer or storm drain installation or repair; (vi) bridge, viaduct, and tunnel repair or construction; (vii) street lighting installation or repair; or (viii) bus pad installation or repair shall not count towards the Annual Commitment.

(b) For the first year of the Compliance Period, 20% of the Annual Commitment shall be allocated to the Access Request Program (as defined below). For each year thereafter, the City and Class Counsel shall meet and confer to discuss in good faith whether the percentage of the Annual Commitment allocated to the Access Request Program should be changed based upon the number of requests received, the amount of remediation and construction work performed, and such other factors as the Parties deem relevant. If, for any year of the Compliance Period after the first year, the City and Class Counsel are unable to agree on the percentage of the Annual Commitment that should be allocated to the Access Request Program, the percentage shall remain the same as the percentage that was allocated in the preceding year.

(c) For the first year of the Compliance Period, Five Million Dollars (\$5,000,000) of the Annual Commitment shall be allocated to construction and development relating to curb ramp or curb cut installation or remediation (including, without limitation, for Program Access Improvements described in Sections 12.4(a), 12.4(c) and 12.4(k) above and including through the Access Request Program described in Section 12.8 below). Each year thereafter, the City and Class Counsel shall meet and confer to discuss in good faith whether the amount of the Annual Commitment allocated to such construction and development should be changed based upon the number of curb ramps or curb cuts installed or remediated, the number of locations that require further curb ramp or curb cut installation or remediation and such other factors as the Parties deem relevant. If, for any year of the Compliance Period after the first year, the City and Class Counsel are unable to agree on the amount of the Annual Commitment

that should be allocated for such construction and development, the amount shall remain the same as the amount that was allocated in the preceding year.

12.6. **Pour-Over Provision**

The Annual Commitment amounts set forth in Section 12.2 above (“required amount(s)”) are the targeted commitment of funds from the City.

(a) If the City expends more than the required amount for the Annual Commitment in any year, the excess amount will be credited toward the Annual Commitment in future years.

(b) If the City expends less than the required amount for the Annual Commitment in any year, the uncommitted portion of that year’s Annual Commitment will be utilized to implement this Settlement Agreement in subsequent years as soon as practical, but within no longer than the next three fiscal years. Such uncommitted portions shall be spent or appropriated in addition to the required amount or amounts for the Annual Commitment for such subsequent years.

(c) In no fiscal year (other than the first year, in accordance with Section 12.3 above) shall the City expend less than \$25 million as its Annual Commitment pursuant to the Settlement Agreement.

12.7. **Project Prioritization**

The selection and timing of particular projects for Program Access Improvements (including, without limitation, the selection of the types of Program Access Improvements set forth in Section 12.4 above that will be conducted, the selection of locations where installation, remediation or other construction will be conducted, the selection of personnel, materials, methodologies and technologies to be utilized, and the order and scope of the particular projects) shall be determined by the City in its discretion, subject to the following priorities:

(a) Program Access Improvements needed to address Pedestrian Facilities serving the following (in descending order of prioritization):

(i) City government offices and facilities (including the pedestrian rights of way adjacent to facilities owned or operated by the City, and the paths of travel leading from such adjacent pedestrian rights of way to the primary entrances to such facilities). Program Access Improvements with respect to Pedestrian Facilities serving City government offices and facilities shall be prioritized with the goal of completing such work within the first five years of the Compliance Period (if feasible);

(ii) transportation corridors;

(iii) hospitals, medical facilities, assisted living facilities, and other similar facilities;

(iv) places of public accommodation such as commercial and business zones;

(v) facilities containing employers; and

(vi) other areas such as residential neighborhoods and undeveloped areas.

(b) With respect to Program Access Improvements addressing the Pedestrian Facilities set forth in this Section 12.7, the following barrier removal work shall receive priority:

(i) Installation of missing curb ramps;

(ii) Repair of damage caused by tree roots to sidewalk or walkway surfaces so that the sidewalk or walkway surfaces are made accessible to and usable by persons with Mobility Disabilities;

(iii) Upgrading of existing curb ramps to comply with the standards set forth in Section 12.9 below;

(iv) Repair of broken and/or uneven pavement in the pedestrian rights of way (including utility covers or repair covers) deeper and/or wider than 1/2 inch;

(v) Repair of vertical or horizontal displacement or upheaval of the sidewalk or crosswalk surface greater than 1/2 inch (including sidewalk flags, curbs and utility covers);

(vi) Correction of non-compliant cross-slopes in sidewalks or sections of sidewalks;

(vii) Removal of protruding and overhanging objects and/or obstructions that narrow pedestrian rights of way to less than 4 feet of accessible width;

(viii) Widening of pedestrian rights of way and sections thereof to provide 4 feet of accessible width;

(ix) Providing 4 feet of clearance to the entrances of public bus shelters;

(x) Repair of excessive gutter slopes at the bottom of curb ramps leading into crosswalks;

(xi) Elimination of curb ramp lips on curb ramps;

(xii) Installation of accessible tree grates, or other compliant remediation, where such grates are missing from tree wells;

(xiii) Installation of missing utility covers where such covers are missing from sidewalks, crosswalks and pathways; and

(xiv) Remediating other non-compliant conditions.

(c) When making Program Access Improvements in accordance with the priorities set forth in this Section 12.7, the City shall also apply the following principles:

(i) The City shall prioritize remediation, installation or other construction for locations that do not have site constraints or technical infeasibility issues, as defined in the standards set forth in Section 12.9 below;

(ii) With respect to unusually expensive installation or remediation concerning any Pedestrian Facility, the City shall have the discretion to address such items in connection with larger, street-related capital projects at such locations;

(iii) Work on difficult sites may be postponed if there is an alternative accessible route within no more than 200 feet of the condition at issue (to the maximum extent feasible). Such alternative routes will be identified to persons with Mobility Disabilities in accordance with applicable ADA Title II regulations;

(iv) Locations at which site constraints make strict compliance with applicable design standards impracticable may be made compliant with the standards set forth in Section 12.9 below to the maximum extent feasible;

(v) Trees that are the cause of sidewalk barriers will be preserved to the extent feasible, and protected trees may only be removed in accordance with Los Angeles Municipal Code §§ 46.00-46.06, and all other applicable City and/or State codes, rules and policies regarding trees and tree removal.

12.8. **Access Request Program**

Each year of the Compliance Period, the City shall maintain and operate a policy and procedure for Settlement Class members to submit requests for Program Access Improvements at locations identified by such members (the “Access Request Program”). The Access Request Program shall consist of and be governed by the following terms:

(a) The costs of the Access Request Program shall be funded each year from the Annual Commitment, including as provided in Section 12.2 above.

(b) Access Requests may only be made by members of the Settlement Class, including individuals acting on behalf of members of the Settlement Class, or organizations acting on behalf of members of the Settlement Class (“the requestor”) (provided that the individual on whose behalf the request is made is identified). Requests made by individuals who are not members of the Settlement Class, or by individuals who are not acting on behalf of members of the Settlement Class, shall not be processed or addressed under the Access Request Program.

(c) The funds allocated to the Access Request Program shall be used for Program Access Improvements as set forth in Section 12.4 above.

(d) The selection and timing of particular projects conducted under the Access Request Program (including, without limitation, the selection of the types of Program Access Improvements set forth in Section 12.4 above that will be conducted, the selection of locations where installation, remediation or other construction will be conducted, the selection of personnel, materials, methodologies and technologies to be utilized, and the order and scope of the particular projects) shall be determined by the City in its discretion, subject to the following priorities: (i) requests for Program Access Improvements shall be reviewed and investigated in the order received; (ii) the highest priority shall go to requests for Program Access Improvements in residential neighborhoods or that are necessary to provide access to bus stops or other forms of public transit; and (iii) the types of Program Access Improvements identified in Sections 12.4(a) – (n) above shall also receive priority.

(e) The City shall maintain facilities that enable Settlement Class Members to submit Access Requests by telephone, by electronic mail, by an accessible electronic form available on a website (with the relevant portions of the website compliant with WCAG), or by standard mail (in addition to such other methods that the City may determine). The City shall ensure that Access Requests may be made through the Grievance Procedure, as referenced in Section 17 below.

(f) The City shall require that each Access Request provide, at a minimum, the following information: (i) the requestor's name, address and other contact information; (ii) a statement that the requestor is a person with a Mobility Disability or is making the request on behalf of an identified person with a Mobility Disability; (iii) a description of the particular access barrier; (iv) the location of the particular access barrier; and (v) the method preferred by the requestor to receive the City's response to the Access Request (e.g., by telephone, by electronic mail or by standard mail). An "access barrier" shall mean and refer to any condition not in compliance with the 2010 ADA Standards for Accessible Design, subject to Section 12.9. Access Requests may be made by Settlement Class members with a request form

that shall be made available by the City and shall be in a form substantially similar to the request form attached to this Settlement Agreement as Exhibit “G”.

(g) The City shall document receipt of each Access Request made by a member of the Settlement Class or on behalf of a member of the Settlement Class. Each such Access Request shall be assigned a specific identification number (or other identifying information) and logged into a software program or other electronic system that records the requestor’s name and contact information, the date of the request, the type of access barrier, and the location of the access barrier. Within ten (10) days of receipt, the City shall notify the requestor that his or her Access Request has been received and provide the requestor with the identification number or other identifying information assigned to the Access Request. The City shall use its best efforts to conduct its investigation or determination of whether and when an Access Request may be completed within thirty (30) days of receipt of a submitted Access Request and shall promptly thereafter provide the requestor with an estimated date by which the City expects the access barrier to be removed or addressed. The City shall use its best efforts to, and to the extent feasible, complete each such Access Request within one hundred twenty (120) days of receipt. Access Requests that are not completed within the fiscal year in which they are received shall roll over to the following fiscal year and be addressed in accordance with the terms of this Section 12.8 during such year.

(h) The Parties recognize and acknowledge that the implementation of the Access Request Program will require investigation, assessment, adjustment and cooperation between the Parties throughout the Compliance Period (including, without limitation, due to the number and type of Access Requests received and the amount of Annual Commitment funds allocated to and expended through the Access Request Program). On an annual basis, the City and Class Counsel shall meet and confer to discuss in good faith whether the allocation of funds, procedures, time periods and other features of the Access Request Program should be modified to more effectively address the Access Requests and the interests of the Settlement Class.

12.9. **Standards for Accessibility and Program Access Improvements**

The parties agree that all Program Access Improvements under this Section 12 shall comply with the standards set forth in the 2010 ADA Standards for Accessible Design or the then-current iteration of Title 24 of the California Building Code, whichever provides greater protection or access to persons with Mobility Disabilities. If and as any new federal or California disability access design standards that apply to the pedestrian rights of way referenced in this Settlement Agreement become effective, or as applicable legal precedent is established, those standards shall then become the standard for performance under this Section 12.

12.10. **Exemption for Program Access Improvements**

The Parties agree that the City will be exempted from any obligation to install or perform a Program Access Improvement at a particular Pedestrian Facility location if: (i) there exist barriers to remediation controlled by third parties (such as the U.S. Post Office, the State of California, or the Gas Company); (ii) the particular location requires a Program Access Improvement that is required to be performed by a third party pursuant to a lawfully-issued permit, a conditional use permit or other agreement with such third party (in which case, the City will issue a demand to such third party for the prompt completion of the Program Access Improvement); (iii) the particular location is not within City boundaries or is owned by a third party governmental entity (e.g., the United States, the State of California, the County of Los Angeles, or a neighboring municipality); or (iv) there exists a technical infeasibility to installing or performing a Program Access Improvement at the particular location because of topography or some other factor, including if remediation would be “technically infeasible” as defined by Standard 106.5 of the 2010 ADA Standards for Accessible Design.

The Parties also agree that the obligations of the City with respect to Program Access Improvements at a particular location or with respect to a particular access barrier may be postponed if the postponement is caused by or attributable to a force majeure (that is, due to acts of God, war, government regulations (other than regulations by the City), terrorism, disaster (including power outages), strikes, civil disorder, government declared fiscal emergency, or an

emergency beyond the City's control that make it illegal or impossible for the City to perform the access work at issue. Under this provision, the City's obligations may be tolled for the period of the force majeure's effect.

12.11. Use of the Annual Commitment for Other Expenses

In addition to the matters set forth above in this Section 12, the Annual Commitment shall be used for the following:

(a) Any reasonable costs incurred by the City to provide notice to the Settlement Class regarding the settlement embodied in this Settlement Agreement, the Fairness Hearing, the Judgment or any other matter as required under this Settlement Agreement (including as set forth in Section 6.5 above) and to provide outreach and information to the general public regarding the Settlement Agreement.

(b) Any costs incurred by Class Counsel to provide notice to the Settlement Class regarding the settlement embodied in this Settlement Agreement, the Fairness Hearing, the Judgment or any other matter as required under this Settlement Agreement (including as set forth in Section 6.5 above).

(c) The City's Support Costs.

(d) The costs of creating, updating and maintaining the Access and Construction Database, as set forth in Section 14 below.

(e) The costs of the ADA Coordinator for the Pedestrian Right of Way, as set forth in Section 15 below.

(f) Plaintiffs' Inspection Fees, as set forth in Section 18 below.

(g) The Parties' attorneys' fees and costs incurred for any Dispute, pursuant to Section 19 below.

(h) “Monitoring Fees” paid to class counsel in the Carter/Fahmie Action of up to a maximum of Twenty-Five Thousand Dollars (\$25,000) annually during only the third, fourth and fifth years of the Compliance Period, as set forth in the Carter/Fahmie Settlement Agreement attached hereto.

13. **New Construction and Alterations**

The City shall ensure that all new construction and alteration work at Pedestrian Facilities fully complies with the 2010 ADA Standards for Accessible Design or the then-current iteration of the California Building Code (“CBC” or “Title 24”), whichever standard provides greater protection or access to persons with Mobility Disabilities. In the event that the City constructs any new Pedestrian Facilities or alters any such existing Pedestrian Facilities, those facilities shall fully comply in all aspects with the ADA Standards or CBC requirements for new construction or alterations. In the event that the federal and/or state government adopts further disability access design standards, the City shall comply with any such updated access standards when it performs new construction or alterations to its facilities.

14. **Access and Construction Database**

14.1. Within two (2) years after the commencement of the Compliance Period or as otherwise reasonably agreed to by the Parties, the City shall create a database (the “Access and Construction Database”) that contains the following information:

(a) a listing and map of all locations at which curb ramps were installed or remediated during the prior two (2) City fiscal years pursuant to the terms of this Settlement Agreement;

(b) a listing and map of all locations at which Pedestrian Facilities were remediated or improved during the prior two (2) City fiscal years pursuant to the terms of this Settlement Agreement;

(c) a list of the pending Access Requests submitted to and received by the City during the prior two (2) City fiscal years pursuant to the terms of this Settlement Agreement;

(d) a listing and map of the Access Requests processed and completed by the City during the prior two (2) City fiscal years pursuant to the terms of this Settlement Agreement;

(e) a listing and map of all locations with respect to which the City received grievances or complaints during the prior two (2) City fiscal years through the Grievance System described in Section 17 below;

(f) the amount of Annual Commitment funds expended during the prior two (2) City fiscal years (with a breakdown of the amounts expended for general categories of projects); and

(g) a listing and display of the street resurfacing or repaving projects by the City involving alterations or improvements to pedestrian pathways, capital improvement projects by the City involving alterations or improvements to pedestrian pathways, and significant construction projects by private or public entities (other than the City) involving alterations or improvements to pedestrian pathways, and pending Access Requests pursuant to Section 12.8 that the City believes will be conducted during the then current fiscal year.

14.2. The Access and Construction Database shall be made available to the public (i) in electronic form on or through the City's official website and (ii) in written form through the office of the ADA Coordinator. The access information in the database shall also be made available to the public upon request in the form of printed maps, as well as in necessary and appropriate alternative formats, including foreign languages (consistent with ballot requirements), large print, Braille (if feasible) and accessible electronic formats that can be recognized and read by software commonly used by individuals with visual impairments to read digital information. All pages or content on the City's website that are part of the process for obtaining the information in the database shall comply with WCAG.

14.3. Following the creation of the Access and Construction Database as set forth in Section 14.1 above, the City shall maintain the Access and Construction Database for the remainder of the Compliance Period and shall update the information therein on an annual basis.

15. **ADA Coordinator for the Pedestrian Right of Way**

15.1. Within twelve (12) months after the commencement of the Compliance Period, the City shall hire, pursuant to this Settlement Agreement and consistent with applicable City contracting requirements, an ADA Coordinator for the Pedestrian Right of Way. Such ADA Coordinator for the Pedestrian Right of Way, and any other ADA Coordinator for the Pedestrian Right of Way subsequently hired: (i) shall have substantial experience in evaluating or assisting public entities in evaluating the accessibility of facilities under Title II of the ADA; (ii) shall be knowledgeable in current federal and state accessibility standards; (iii) shall have a minimum of three (3) years' experience in providing ADA services related to accessible facilities; and (iv) must be licensed either as an architect or as a registered civil engineer. The ADA Coordinator for the Pedestrian Right of Way shall be CASp certified within no more than twelve months of her or his hiring date.

15.2. An ADA Coordinator for the Pedestrian Right of Way shall be retained and directed by the City throughout the Compliance Period.

15.3. The fees and expenses of the ADA Coordinator for the Pedestrian Right of Way shall be paid out of the Annual Commitment.

15.4. For the first five (5) years of the Compliance Period, the ADA Coordinator for the Pedestrian Right of Way will report to the Parties, in writing, two (2) times each City fiscal year (once during the first half of the fiscal year and once during the second half of the fiscal year) on the status of the City's compliance with the terms of this Settlement Agreement. For the remainder of the Compliance Period thereafter, the ADA Coordinator for the Pedestrian Right of Way will provide such reports to the Parties on an annual basis. Each of the reports shall include the following information:

(a) A detailed description of the compliance efforts which have been made since the last report with respect to each of the substantive terms of this Settlement Agreement.

(b) A list of the Program Access Improvements performed or implemented since the last report (including an itemization of the types or categories of Program Access Improvements performed or implemented, what parts of the City's pedestrian rights of way or Pedestrian Facilities have been modified and in what manner, and what access work has been performed including a report of which curb ramps, sidewalks, crosswalks, walkways and other parts of the City's Pedestrian Facilities have been brought into compliance with Section 12.9).

(c) The status of any scheduled Program Access Improvements.

(d) A description of any Pedestrian Facility that the City has decided to exempt from Program Access Improvements, as set forth in Section 12.10, and the reasons for that decision.

(e) A description of any previously scheduled Program Access Improvements that have not been timely completed as of the date of the report and an explanation of the reason(s) why such Program Access Improvements have not been timely completed.

(f) A list of the Access Requests received by the City since the last report and the actions taken in response.

(g) A list of the grievances or complaints that were received by the City through the Grievance System (including copies of any written grievances or complaints) since the last report and the actions taken in response.

(h) The amount of Annual Commitment funds expended since the last report and an itemization of the monies expended to perform Program Access Improvements pursuant to Section 12.

(i) A list of any new construction or projects by the City resulting in improvements to pedestrian rights of way since the last report.

15.5. In connection with the reporting described in Section 15.4 above, the ADA Coordinator for the Pedestrian Right of Way shall have the authority and responsibility to perform the following activities:

- (a) Reviewing Program Access Improvements annually for compliance with this Settlement Agreement.
- (b) Consulting, as needed, with appropriate City personnel or representatives to obtain information concerning the City's compliance with the terms of this Settlement Agreement.
- (c) Providing training on access requirements relating to Program Access Improvements for appropriate City personnel, including in the Bureau of Engineering and the Bureau of Street Services.
- (d) Conducting field spot checks of Pedestrian Facilities to investigate whether: (i) completed Program Access Improvements, (ii) New Construction or Alterations, and (iii) accessible temporary routes, are in compliance with this Settlement Agreement. The ADA Coordinator for the Pedestrian Right of Way shall maintain copies of any checklists used or data collected to verify compliance with the standards set forth in Section 12.9 for a period of five (5) years. The checklists used or data collected shall be provided or made available to Class Counsel upon request.
- (e) Reviewing the Access Requests, grievances or complaints, and the City's response thereto.

15.6. At all times during the Compliance Period, the ADA Coordinator for the Pedestrian Right of Way shall have:

- (a) Responsibility and authority to receive and respond to Settlement Class members' reasonable inquiries and complaints concerning physical access barriers affecting the Pedestrian Facilities.

(b) Responsibility and authority to recommend the adoption or modification of the City's policies and procedures concerning access barriers affecting the Pedestrian Facilities.

(c) Responsibility and authority to ensure the City's adoption of written policies and procedures concerning the maintenance of accessible paths of travel and keeping such pathways accessible to persons with Mobility Disabilities.

(d) Responsibility and authority to ensure the City's adoption of written policies and procedures concerning the provision of appropriate signage whenever construction work is in process, and directing persons with Mobility Disabilities to appropriate accessible alternative routes.

(e) Responsibility and authority to recommend to appropriate supervisory authorities that any Program Access Improvements or New Construction or Alterations work being performed in the pedestrian right of way that does not comply with Section 12.9 be stopped.

15.7. With respect to all activities and obligations of the ADA Coordinator for the Pedestrian Right of Way set forth in Section 15, the ADA Coordinator for the Pedestrian Right of Way may utilize staff or her or his designees to carry out such activities and obligations.

16. **Meetings with Class Counsel**

During the first five (5) years of the Compliance Period, the Parties shall, if requested by Class Counsel, meet on a bi-annual basis to discuss the City's efforts to implement this Settlement Agreement and to attempt to resolve any disputes regarding its implementation or enforcement. For the remainder of the Compliance Period thereafter, the Parties shall, if requested by Class Counsel, meet on an annual basis to discuss the City's efforts to implement this Settlement Agreement and to attempt to resolve any disputes regarding its implementation or enforcement.

Within six (6) months after the end of the Compliance Period, but no less than three months prior to the termination of the District Court's jurisdiction herein, the City shall provide

Class Counsel with a final report describing the City's compliance with the terms of this Settlement Agreement, including a description and listing of the Program Access Improvements implemented or conducted during the Compliance Period and the City's other major new construction and alteration projects to the Pedestrian Facilities during the Compliance Period.

17. **Grievance and Complaint System**

Within six (6) months after the commencement of the Compliance Period, and with input from Class Counsel, the City shall establish a policy and procedure for Settlement Class members to submit, and the City to respond to, grievances or complaints regarding access to the City's pedestrian rights of way for persons with Mobility Disabilities. The City shall maintain this policy and procedure throughout the Compliance Period. This policy and procedure shall comply with the requirements of 28 C.F.R. § 35.107.

18. **Inspections**

18.1. During the first five (5) years of the Compliance Period, Class Counsel may conduct semi-annual inspections of: (i) any drawings and/or designs prepared by or for the City for Program Access Improvements concerning pedestrian right of way during the Compliance Period; and (ii) the Pedestrian Facilities (the "Inspections") for purposes of monitoring the City's compliance with this Settlement Agreement. For the remainder of the Compliance Period thereafter, Class Counsel may conduct the Inspections on an annual basis. During the Compliance Period, Class Counsel shall have reasonable access to the City's designs and drawings for street projects, to the extent that such designs and drawings are prepared for such work.

18.2. Any reasonable and necessary monitoring fees and expenses incurred by Class Counsel shall be paid out of the Annual Commitment and the interest thereon (if any), subject to Section 18.3 below. However, monitoring fees and costs that may be paid to Class Counsel shall be capped each year and shall not exceed the following amounts, exclusive of any disputes resolved by the District Court:

(a) For the five fiscal years following Final Approval of this Settlement Agreement by the District Court (*i.e.*, Years 1-5), such fees and costs shall be capped at a maximum of \$250,000 each year.¹

(b) For the five fiscal years following the period set forth in Section 18.2(a) above (*i.e.*, Years 6-10), such fees and costs shall be capped at a maximum of \$135,000 each year.

(c) For the five fiscal years following the period set forth in Section 18.2(b) above (*i.e.*, Years 11-15), such fees and costs shall be capped at a maximum of \$155,655 each year.

(d) For the five fiscal years following the period set forth in Section 18.2(c) above (*i.e.*, Years 16-20), such fees and costs shall be capped at a maximum of \$179,470 each year.

(e) For the five fiscal years following the period set forth in Section 18.2(d) above (*i.e.*, Years 21-25), such fees and costs shall be capped at a maximum of \$206,928 each year.

(f) For the five fiscal years following the period set forth in Section 18.2(e) above (*i.e.*, Years 26-30), such fees and costs shall be capped at a maximum of \$238,587 each year.

18.3. All requests by Class Counsel for payment of reasonable and necessary monitoring fees and costs must be submitted to the City in writing, and shall be subject to the same standard rules and procedures then applicable to the City's payment of attorneys' fees and

¹ For the first through fifth year of the Compliance Period, class counsel in the *Carter/Fahmie* Action shall be entitled to participate in the meetings, inspections and monitoring discussed herein, as they relate to curb ramps. Class counsel in the *Carter/Fahmie* Action shall be entitled to receive up to a maximum of Twenty-Five Thousand Dollars (\$25,000) annually for attorney's fees reasonably and necessarily spent on their Monitoring of the *Carter/Fahmie* settlement, subject to the provisions of Section 18.3 herein. Said payments shall be made from the funds allocated in Section 18.2(a) for the first and second year of the Compliance Period. In the third through fifth years of the Compliance Period, said payments shall be made from the Annual Commitment as set forth in Section 12.11(h).

costs to outside counsel. Class Counsel shall only be paid for monitoring fees and costs actually and reasonably incurred and necessary to monitoring of the implementation of the Settlement Agreement. Class Counsel shall use the following maximum rates for the Inspections: \$550 per hour for partners, \$400 per hour for associates, and \$195 per hour for paralegals. These hourly rates shall increase at the rate of 2.5% per year of the Compliance Period to account for inflation.

19. **Dispute Resolution**

19.1. **Meet and Confer Obligation**

If any Party believes that a dispute exists relating to any violation of or failure to perform any of the provisions of this Settlement Agreement, it shall notify the other Party in writing and describe the alleged violation or failure to perform with particularity. The Party alleged to have committed the violation or failure to perform shall provide a written response within ten (10) business days of receipt of such notice and shall have a period of thirty (30) days to cure the alleged violation or failure to perform. If the Party alleging a violation or failure to perform maintains that the violation or failure to perform has not been cured, the Parties shall meet and confer, in person or by telephone, and attempt to resolve the dispute on an informal basis for a period of at least thirty (30) days.

19.2. **Mediation Obligation**

If the Parties are unable to resolve a dispute through the meet and confer process described in Section 19.1 above, the Parties shall mediate the dispute. The Parties shall have thirty (30) days to jointly select a mediator. If the Parties are unable to reach agreement on a mediator, each side may submit three (3) names of proposed mediators to the District Court and the District Court shall select the mediator. The mediation shall be conducted in the manner determined by the mediator, and the Parties shall engage in good faith efforts to resolve the dispute through such mediation.

19.3. **Resolution by the District Court**

If the parties are unable to resolve a dispute through the mediation process described in Section 19.2 above, any Party may make a motion to the District Court to enforce

the Settlement Agreement in order to resolve the dispute. The City's attorneys' fees and costs incurred in any such motion shall be paid from the Annual Commitment, except that the Court may deny the City such payment if it determines that the City's position with respect to such motion was without any substantial legal basis. The Court may award to Class Counsel their reasonable attorneys' fees and costs incurred in any such motion in the event that the District Court determines that Plaintiffs are the prevailing parties on such motion in accordance with prevailing party standards under the ADA. Such attorneys' fees and costs awarded to Class Counsel shall be paid from the Annual Commitment, except that the Court may order the City to pay such attorneys' fees and costs (i.e., not from the Annual Commitment) if the Court determines that the City's position with respect to such motion was without any substantial legal basis.

19.4. **First Year Grace Period**

Notwithstanding any other terms in this Settlement Agreement, Plaintiffs, for themselves and as representatives of the Settlement Class, covenant not to sue, file a complaint, provide notice of an alleged violation of or failure to perform any provision of this Settlement Agreement, initiate any legal proceeding, or otherwise seek to enforce any rights based upon or as a result of any alleged violation of or failure to perform any provision of this Settlement Agreement by the City: (i) with respect to any of the City's obligations set forth in Sections 12, 13, 14, 15, 16 or 17, for a period of one (1) year following the commencement of the Compliance Period ("Grace Period"). Nothing in this Section shall waive any of Plaintiffs' or Settlement Class Members' claims arising during the Grace Period or limit any monitoring rights and duties provided in Section 18 above.

20. **Additional Payments and General Release of Claims**

Within thirty (30) days after the Judgment becomes Final, the City shall: (i) pay the sum of \$5,000 to each of the Willits Plaintiffs; and (ii) pay the sum of \$25,000 to CALIF, all for services rendered to the Settlement Class.

21. **Attorneys' Fees and Costs**

With respect to the issue of attorneys' fees and costs incurred by Plaintiffs and the payment thereof by the City, the Parties agree to the following as a complete resolution of the issue.

21.1. No attorneys' fees or costs incurred by Plaintiffs or Class Counsel in connection with any of the Actions or the *Carter/Fahmie* Action may be claimed except as expressly set forth in this Settlement Agreement.

21.2. The Parties agree that, conditioned upon the District Court granting Final Approval of this Settlement Agreement, the Judgment becoming Final, and the District Court granting Plaintiffs' application for an award of attorneys' fees and costs in the amounts set forth in this Section 21, the City shall pay to Class Counsel: (i) the sum of \$13,300,000 as reasonable attorneys' fees in this matter; and (ii) the sum of \$1,700,000 for costs and expenses. These amounts shall satisfy all claims for attorneys' fees, costs and other expenses incurred by Plaintiffs and Class Counsel in connection with each and all of the Actions (except as expressly set forth in this Settlement Agreement).

21.3. Plaintiffs shall move or apply for approval by the District Court of the reasonable attorneys' fees and costs set forth in this Section 21, pursuant to Rule 23(h) of the Federal Rules of Civil Procedure. The City shall not oppose such motion or application. The City shall pay the amounts set forth in this Section 21 within thirty (30) days after: (i) the District Court has issued a written order granting Final Approval of this Settlement Agreement; (ii) the Judgment has become Final; and (iii) the District Court has approved the award of attorneys' fees and costs in the amounts set forth in this Section 21.

21.4. The City's payment of the amounts set forth in this Section 21 is in full and complete satisfaction of any and all claims for attorneys' fees and costs incurred by Plaintiffs and Class Counsel in any and all of the Actions as well as any related litigation (including without limitation the *Carter/Fahmie* Action), and Plaintiffs (on behalf of themselves and the Settlement Class) and Class Counsel expressly waive any right to recover any additional

attorneys' fees and costs of any kind in connection with any of the Actions or this Settlement Agreement, except for attorneys' fees and costs recoverable by Plaintiffs and Class Counsel as expressly provided in Sections 18.2, 19.3 or any provision of this Settlement Agreement other than this Section 21.

22. **Enforcement**

Nothing in this Settlement Agreement, express or implied, is intended to or shall confer upon any person or entity not a Party to this Settlement Agreement any right, benefit or remedy of any nature whatsoever under or by reason of this Settlement Agreement. Only the Class Representatives and Class Counsel may seek to enforce the terms of this Settlement Agreement through the dispute resolution process provided for in Section 19 above, up to and including a motion before the District Court. To the extent individual members of the Settlement Class have complaints regarding the City's compliance with the terms of this Settlement Agreement, they must bring them to the attention of Class Counsel, who shall have the sole and complete discretion to seek to enforce any right, benefit or remedy under or by reason of this Settlement Agreement.

23. **Entire Agreement**

This Settlement Agreement, and the documents attached to or expressly referred to in this Settlement Agreement, constitute the final and complete written expression and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the Parties with respect to the matters referenced in this Settlement Agreement, and supersede all prior or contemporaneous negotiations, promises, covenants, agreements or representations of any nature whatsoever with respect to such matters, all of which are superseded by this Settlement Agreement. Each of the Parties understands and agrees that in the event of any subsequent litigation, controversy, or dispute concerning any of the terms, conditions or provisions of this Settlement Agreement, no Party shall be permitted to offer or introduce any oral evidence concerning any oral promises or oral agreements between the Parties relating to the subject matters of this Settlement Agreement not included or referred to in this Settlement

Agreement and not reflected in a writing. This Settlement Agreement cannot be amended, modified or supplemented except by a written document signed by all of the Parties and approved by the District Court.

24. **No Other Representations**

Each of the Parties represents, warrants and agrees that, in executing this Settlement Agreement, he, she or it has relied solely on the statements expressly set forth in this Settlement Agreement, and has placed no reliance whatsoever on any statement, representation, or promise of any other Party, or any other person or entity, not expressly set forth in this Settlement Agreement, or upon the failure of the other Party, or any other person or entity, to make any statement, representation or disclosure of anything whatsoever. The Parties have included this provision: (i) to preclude any claim that any Party was in any way fraudulently induced to execute this Settlement Agreement; and (ii) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Settlement Agreement.

25. **No Assignment of Claims**

Each of the Plaintiffs, for themselves and as representatives of the Settlement Class, represent and warrant that they have not transferred or otherwise assigned, either by contract or by operation of law, any of the claims released under this Settlement Agreement. To the extent that they have assigned or transferred any such claims, Plaintiffs agree to defend, indemnify, and hold the City harmless from and against any and all claims, actions, demands, liabilities, damages, losses and expenses (including attorneys' fees) that might be asserted or incurred by reason of any such assignment or transfer. It is the intention of the Parties that this indemnity does not require payment as a condition precedent to recovery.

26. **Notice**

Any notice to be provided between or among the Parties in accordance with the terms of this Settlement Agreement shall be given by electronic mail or First Class U.S. mail to the following addresses:

To Plaintiffs:

Guy B. Wallace, Esq.
Schneider Wallace Cottrell Konecky Wotkyns LLP
2000 Powell Street, Suite 1400
Emeryville, CA 94608

Linda M. Dardarian, Esq.
Goldstein, Borgen, Dardarian & Ho
300 Lakeside Drive, Suite 1000
Oakland, CA 94612

Jinny Kim, Esq.
The Legal Aid Society – Employment Law Center
180 Montgomery Street, Suite 600
San Francisco, CA 94104

Anna M. Rivera, Esq.
Disability Rights Legal Center
256 S. Occidental Boulevard, Suite B
Los Angeles, CA 90057

To the City:

City Attorney
City of Los Angeles
200 North Main Street, Room 800
Los Angeles, CA 90012

with a copy to:

Laurie Rittenberg, Esq.
Assistant City Attorney
City of Los Angeles
200 North Main Street, Room 700
Los Angeles, CA 90012

Kevin E. Gilbert, Esq.
Lozano Smith, LLP
2001 North Main Street, Suite 500
Walnut Creek, CA 94596

Any Party may subsequently designate other individuals or entities for receipt of notice, provided that 10-days' written notice of such designation is provided to all other Parties in accordance with the terms of this Section 26.

27. **Drafting of this Agreement**

The Parties acknowledge and agree that this Settlement Agreement shall for all purposes be deemed jointly-drafted and fully-negotiated, and as a result, shall not in any manner be interpreted in favor of, or as against, any particular Party by reason of being the drafting Party. Any rule of law, including, without limitation, Section 1654 of the California Civil Code, or any other statute, legal decision or principle of common law that would require interpretation of any ambiguities or uncertainties in this Settlement Agreement against one of the Parties, shall have no application and is hereby expressly waived.

28. **Voluntary Agreement**

Each of the Parties represents, warrants and agrees that he, she or it has read this Settlement Agreement carefully, and knows and understands its contents, that this Settlement Agreement has been voluntarily entered into, that he, she or it has received independent legal advice from his, her or its attorneys with respect to the advisability of executing this Settlement Agreement, and that any and all investigation and analysis of the facts deemed necessary or desirable have been conducted prior to the execution of this Settlement Agreement.

29. **Binding Effect**

All of the terms and provisions of this Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties, their heirs, successors and assigns.

30. **Authority**

Each of the Parties represents, warrants and agrees that he, she or it has the full right and authority to enter into this Settlement Agreement, and that the person executing this Settlement Agreement has the full right and authority to commit and bind such Party.

31. **Governing Law**

This Agreement shall be governed by and construed in accordance with the internal laws of the State of California with respect to principles of common law contract interpretation.

32. **Paragraph Headings**

The headings, or lack thereof, preceding each of the paragraphs in this Settlement Agreement are for convenience only, and shall not be considered in the construction or interpretation of this Settlement Agreement.

33. **Execution by Facsimile and in Counterparts**

This Settlement Agreement may be executed by the Parties in separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Settlement Agreement on the dates set forth opposite their respective signatures.

EXECUTED by the Parties as follows:

DATED: _____, 2015 THE CITY OF LOS ANGELES

By: _____
James P. Clark
Its: Chief Deputy City Attorney

DATED: _____, 2015 THE CITY OF LOS ANGELES

By: _____
Miguel A. Santana
Its: City Administrative Officer

DATED: _____, 2015 COMMUNITIES ACTIVELY LIVING
INDEPENDENT AND FREE

By: _____
Lilibeth Navarro
Its: Executive Director

DATED: _____, 2015 By: _____
Mark Willits, individually and as representative of
the Settlement Class

DATED: _____, 2015 By: _____
Judy Griffin, individually and as representative of
the Settlement Class

DATED: _____, 2015 By: _____
Brent Pilgreen, individually and as representative of
the Settlement Class

APPROVED AS TO FORM:

DATED: _____, 2015 LOZANO SMITH LLP
By: _____
Kevin Gilbert, Esq.
Attorneys for Defendant City of Los Angeles

DATED: _____, 2015 SCHNEIDER WALLACE COTTRELL KONECKY
WOTYKNS, LLP
By: _____
Guy B. Wallace, Esq.
Lead Counsel for the Plaintiff Class

DATED: _____, 2015 GOLDSTEIN BORGEN DARDARIAN & HO
By: _____
Linda M. Dardarian
Attorneys for Plaintiffs

DATED: _____, 2015 DISABILITY RIGHTS LEGAL CENTER
By: _____
Anna M. Rivera
Attorneys for Plaintiffs

DATED: _____, 2015 THE LEGAL AID SOCIETY –
EMPLOYMENT LAW CENTER
By: _____
Jinny Kim
Attorneys for Plaintiffs