

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT (the “Agreement”) is entered into by and between the County of Monterey (hereinafter referred to as the “County”), Friends of Laguna Seca, Inc., a California non-profit corporation (“Friends”), and Highway 68 Coalition (“Coalition”). The County, Friends, and Coalition are collectively referred to herein as the “Parties.”

RECITALS

A. WHEREAS, on July 18, 2024, the County Board of Supervisors (“Board”) approved an agreement (“Concession Agreement”) that grants Friends the right to utilize, administer, operate, maintain, improve, and manage the Laguna Seca Recreational Area (“LSRA”) for public park and recreation purposes in accordance with historical practices and applicable covenants and restrictions and found that the approval of the Concession Agreement was exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to the Existing Facilities and Normal Operations of Facilities for Public Gatherings exemptions set forth in the California Code of Regulations Sections 15301 and 15323;

B. WHEREAS, on December 12, 2023, the Coalition filed a complaint and petition for injunctive relief and writ of mandate in Monterey County Superior Court (Case No. 23CV004043) (the “Complaint”) that seeks to set aside and vacate the Board’s approval of the Concession Agreement on the grounds that the Board violated CEQA when it found that the approval of the Concession Agreement was exempt from environmental review. The Coalition further claims that the current use and proposed use of LSRA violates the zoning of the property and seeks to curtail that continuing violation;

C. WHEREAS, the Parties have met in good faith to attempt to amicably resolve the Coalition’s dispute with the County and Friends regarding the County’s compliance with CEQA and the zoning violations alleged in the Complaint (the “Dispute”);

D. WHEREAS, in conjunction with Friends operation and management of LSRA, Friends is committed to (i) analyzing the sound of motorsports events and track rentals at LSRA on the surrounding community in a comprehensive sound impact assessment (“Sound Assessment”) prepared by a qualified third party acoustical consultant, and (ii) implementing feasible mitigation measures that are recommended in the Sound Assessment;

E. WHEREAS, Friends also is committed to including the results of the Sound Assessment in the Facility Master Plan (“FMP”) for LSRA and any specific sound mitigation projects that Friends will implement and the timeline for implementation of the sound mitigation that Friends is required to prepare and present to the Board at a noticed public hearing pursuant to Section 5.2 of the Concession Agreement;

F. WHEREAS, while Friends has committed to preparing a Sound Assessment and including the results of the Sound Assessment in the FMP that provides members of the public an opportunity to comment on the FMP, including the Sounds Assessment, the Concession

Agreement does not include any specific provision that obligates Friends to prepare a Sound Assessment or include it in the FMP; and,

G. WHEREAS, the Parties have reached agreement with respect to the essential terms for a settlement of the Dispute, and desire to set forth such essential terms in a comprehensive settlement agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and/or covenants contained in this Settlement Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

1. Recitals Incorporated. Each recital set forth above is incorporated herein by reference and is made part of this Agreement. Any conflict between the general provisions of the recitals and the specific provisions of the Agreement shall be resolved in accordance with the specific provisions of the Agreement.

2. Agreement Not Admission. All Parties understand and agree that nothing in this Agreement, or in the execution of this Agreement, shall constitute or be construed as an admission by any Party of any inadequacy or impropriety in connection with the County's approval of the Concession Agreement or the Dispute.

3. Friends' Obligations.

A. Sound Impact Assessment. Within thirty (30) days of the date that Friends assumes operational control of LSRA ("Operational Date") pursuant to Section 1 of the Concession Agreement, Friends shall retain an acoustical consultant to undertake a Sound Assessment of the motorsports events and track rentals at LSRA. Friends shall provide the Coalition with a copy of the contract between Friends and the consultant and of the consultant's qualifications within 10 days of the entry of the contract with the consultant. Friends shall use its best efforts to retain an acoustical consultant with experience in assessing and mitigating sound impacts from motorsports facilities. The Sound Assessment shall include an assessment of (i) ambient sound levels when no motorsports activity is occurring at LSRA, (ii) motorsports sound levels generated at the first major motorsports event after Friends retains the acoustical consultant and all other motorsports events through the end of the 2024 racing season or until a maximum of five (5) motorsports events have been monitored, (iii) an assessment of sound levels during a minimum of thirty (30) track rental days during weekdays and weekends, and (iv) an assessment of available technology for mitigating the amount of racetrack noise migrating into surrounding neighborhoods. The Sound Assessment shall monitor and quantify sound levels at locations that, in the discretion of the acoustical consultant, are best suited for determining sound levels at nearby residential neighbors.

The Sound Assessment shall identify feasible mitigation measures to reduce sound levels from the levels detected during the Sound Assessment in surrounding residential areas. For purposes of this Agreement, "feasible" means that the cost to plan, permit, and construct one or all proposed measures when added to the cost of the Sound Assessment would not exceed two million dollars (\$2,000,000.00) and the measures are (i) legally permitted based on applicable

land use and zoning regulations governing improvements at LSRA, and (ii) capable of being accomplished in a successful manner within a reasonable period of time, taking into account environmental, social, and technological factors.

B. Incorporation of Sound Assessment Into Facility Master Plan.

The Sound Assessment shall be incorporated into the FMP that Friends is required to prepare and present to the Board within one year of the Operational Date pursuant to Section 5.2 of the Concession Agreement. The FMP must also identify the feasible sound mitigation measures that Friends will implement as set forth in the Sound Assessment and a cost estimate for planning, permitting, and implementing these measures.

C. Public Review of the Facility Master Plan.

Friends shall publish and post the FMP on the LSRA website at least two weeks prior to Friends' presentation of the FMP to the Board to allow Coalition and members of the public to review and comment on the FMP and Sound Assessment prior to Friends' presentation to the Board.

D. Financial Commitment to Implement Feasible Sound

Mitigation Measures. Friends shall spend a maximum of two million dollars (\$2,000,000.00) to undertake the Sound Assessment and to plan, permit, and construct feasible sound mitigation measures.

E. Timing of Implementation of Feasible Sound Mitigation

Measures. Friends shall implement the feasible sound mitigation measures set forth in the FMP within the initial five (5) year term of the Concession Agreement. However, any prevention, delay, or stoppage due to strikes, walkouts, labor disputes, acts of God, inability to obtain labor or materials, governmental restrictions, governmental regulations, governmental controls, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Friends, shall excuse the performance by such Party for a period equal to any such prevention, delay or stoppage.

F. Termination of the Concession Agreement.

The Parties acknowledge that the Concession Agreement (Section 2.3) includes several conditions precedent that must be satisfied prior to Friends operating LSRA and, if said conditions are not satisfied, neither Friends, the County, nor the Coalition shall have any further obligations under the Concession Agreement. Accordingly, if the conditions precedent are not satisfied, the Concession Agreement is terminated and Friends shall have no obligations under this Agreement.

4. County's Obligations.

A. Public Notice of FMP.

County shall publish and post the FMP on the County's website at least two weeks prior to Friends presentation of the FMP to the Board. County shall also provide public notice on the time and date of the Board hearing where Friends will present the FMP.

B. Sound Impact Assessment.

If the conditions precedent in the Concession Agreement are not satisfied and the Concession Agreement is terminated as described in Paragraph 3.F, above: (a) before the County enters into a new agreement or extends

an existing agreement that provides for management of the LSRA and which allows continuation of historical practices at LSRA, the County shall develop a written description of the historical practices at LSRA and shall make the description of historical practices available to the public; and (b) during the first racing season at LSRA following the entry of a new agreement or the extension of an existing agreement, County shall undertake or cause to be undertaken a Sound Assessment by an acoustical consultant of the motorsports events and track rentals at LSRA. Any new or extended management or concession agreement shall include a statement that use of the LSRA shall be not be expanded beyond historical practices unless the County has conducted the appropriate level of CEQA review (e.g., exemption, negative declaration, or environmental impact report). The acoustical consultant selected shall have the necessary experience and expertise to assess and develop mitigation for sound impacts from motorsports facilities. The Sound Assessment shall include an assessment of: (i) ambient sound levels when no motorsports activity is occurring at LSRA, (ii) motorsports sound levels generated at the first major motorsports event after the services of the acoustical consultant has been retained and all other motorsports events through the end of the racing season or until a maximum of five (5) motorsports events have been monitored, (iii) an assessment of sound levels during a minimum of thirty (30) track rental days during weekdays and weekends, and (iv) an assessment of available technology for reducing sound emitted from motor racing vehicles and for mitigating the amount of racetrack noise migrating into surrounding neighborhoods. The Sound Assessment shall monitor and quantify sound levels at locations that, in the discretion of the acoustical consultant, are best suited for determining sound levels at nearby residential neighbors.

5. Coalition's Obligation. Coalition shall file a Request for Dismissal of the Complaint with prejudice within three (3) business days of receiving full payment of the attorneys' fees and costs pursuant to Paragraph 8, below.

6. Release and Waiver. Except as to the enforcement of the terms of this Agreement, the Parties intend and agree that this Agreement shall be a full and final accord and satisfaction and general release of and from all Released Claims. The Parties on behalf of themselves, their members, owners, directors, officers, employees, agents and representatives (the "Releasing Parties") do hereby release all other Parties and their respective heirs, administrators, successors, assigns, agents, members, employees, officers, agents, representatives, partners and directors (the "Released Parties") from all rights, actions, claims, debts, demands, costs, contracts, allegations, liabilities, obligations, demands, and causes of action, whether known, suspected, or unknown, at law or in equity, which each of the Parties, or any of them, had, now has, as to the Dispute and as of the Effective Date of this Agreement, has against the other Parties, including without limitation, all costs and fees incurred by the each Party in, or arising from the Dispute (collectively, the "Released Claims"). The Parties shall conclusively be deemed to have waived and relinquished to the fullest extent that it may lawfully do so, all rights and benefits afforded by Section 1542 of the Civil Code of the State of California ("Section 1542") which states as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO ANY CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE

MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.”

7. Future Projects. Nothing in this Agreement shall be read to prohibit the Coalition from challenging, either administratively or judicially, future projects or activities that may be approved by the County or implemented by Friends at LSRA that are unrelated to the CEQA and zoning-based challenges to the County’s approval of the Concession Agreement resolved under this Agreement, nor shall anything in this Agreement be read to prohibit the County from proposing or approving any project in the future.

8. Attorneys’ Fees and Costs Already Incurred. Coalition shall not seek any fees or costs from Friends and Friends and County shall be responsible for their own costs and attorney fees. The County agrees to pay the liquidated sum of \$75,000.00 to the Coalition for reimbursement of its attorneys’ fees, costs, and related litigation expenses actually incurred in this litigation. The payment of fees and costs shall be made within twenty (20) days of the Effective Date of this Agreement. Said payment shall be made payable to Richard H. Rosenthal Attorney at Law Attorney Trust Account.

9. Notices. All notices required under this Agreement shall be in writing and may be given either personally or by registered or certified mail (return receipt requested). Any Party may at any time, by giving 10 calendar days’ written notice to the other Party, designate any other person or address in substitution of the address to which such notice shall be given. Such notice shall be given to the Parties at their addresses set forth below:

For Coalition:

Highway 68 Coalition
c/o Richard H. Rosenthal
P.O. Box 1021
Carmel Valley, CA 93924
(831) 625-5193
rosenthal62@sbcglobal.net

For County:

County of Monterey
Attn: County Counsel
168 W. Alisal Street
Salinas, CA 93901
(831) 755-5045
whildenm@co.monterey.ca.us

With a copy to:

Downey Brand LLP
c/o Christian Marsh
455 Market Street, Suite 1500
San Francisco, CA 94105
(415) 848-4830
cmarsh@downeybrand.com

For Friends:

Ross Merrill
Friends of Laguna Seca, Inc.
18900 Portola Drive
Salinas, CA 93908
(831) 809-7309
ross@merrillfarms.com

With a copy to:

Jason S. Retterer
JRG Attorneys at Law
318 Cayuga Street
Salinas, CA 93901
(831) 269-7127
jason@jrgattorneys.com

10. Attorneys' Fees Arising Out of Enforcement of the Agreement. In any action to enforce this Agreement, the prevailing Party shall recover its reasonable attorneys' fees and costs.

11. Governing Law. This Agreement shall be governed by and interpreted and construed in accordance with the laws of the State of California with venue in Monterey County.

12. Construction. This Agreement shall in all cases be construed according to its fair and plain meaning, and not strictly for or against any of the Parties. As used in this Agreement, the masculine or neuter gender and single or plural numbers shall be deemed to include the others wherever the context so indicates or requires. Nothing in this Agreement shall be deemed to restrict the County's land use authority or police power in any way with respect to future legislative, administrative, or other actions by the County.

13. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the Parties hereto with respect to the subject matter contained herein. All prior agreements or understandings, oral or written, are merged into this Agreement and are of no further force or effect.

14. Counterparts. This Agreement may be executed in counterparts and by facsimile or electronic signatures, and when joined together, all counterparts shall constitute one agreement, which shall be binding on all of the Parties, even though all signatures may not be on one original or the same counterpart.

15. Amendments. This Agreement may only be modified or amended by a written amendment thereto executed by all of the Parties.

16. Successors and Assigns; No Third Party Beneficiaries. This Agreement shall inure to the benefit of and be binding upon the Parties, and their respective heirs, administrators, successors, assigns, agents, employees, officers, partners and directors. Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the Parties or their respective successors and assigns, any rights or benefits under or by reason of this Agreement.

17. No Waiver. The failure of any Party to enforce any of its rights arising by reason of any breach of covenant on the part of any other Party will not constitute a waiver of such breach. No custom or practice that exists or arises between or among the Parties in the course of administering this Agreement will be construed to waive any Party's rights to (i) insist upon the performance by any other Party of any covenant in this Agreement or (ii) exercise any rights given it on the account of any breach of such covenant. A waiver of any particular breach will not be deemed to be a waiver of same or any other subsequent breach.

18. Headings. The descriptive headings used in this Agreement are for convenience only and shall not affect the meaning of any provision of this Agreement.

19. Authority to Sign. The individuals signing this Agreement on behalf of each party represent and warrant that they are authorized to do so on behalf of their respective

Parties. The Parties to this Agreement further represent and warrant that this Agreement is valid upon execution by the Parties, and that no other person or entity has an interest in this matter such that he/she/it must sign this Agreement in order for it to be valid.

20. Severability. The invalidity of any portion of this Agreement shall not invalidate the remainder.

21. Advice of Counsel. Each Party has received independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein, and with respect to the advisability of executing this Agreement. Each Party has been fully advised by its attorneys with respect to its rights and obligations under this Agreement and understands those rights and obligations. No rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall be employed in the interpretation of this Agreement.

22. Cooperation. Each Party agrees to cooperate with the other in implementation of this Agreement.

IN WITNESS WHEREOF the undersigned, as authorized representatives of the County of Monterey, Friends, and the Coalition have signed this Agreement as of the dates written below. This Agreement shall be effective as of the last date signed below (the "Effective Date").

Dated: 3/20/2024

COUNTY OF MONTEREY

DocuSigned by:
Susan K. Blitch

By: Susan K. Blitch
Its: Acting County Counsel

APPROVED AS TO FORM:

DocuSigned by:
Michael J. Whilden

By: Michael J. Whilden
Its: Deputy County Counsel

Dated: 3/20/2024

FRIENDS OF LAGUNA SECA, INC.

DocuSigned by:
[Signature]

By: Ross Merrill
Its: President

Dated: 3/20/2024

HIGHWAY 68 COALITION

DocuSigned by:

Mike Weaver

By: ~~Mike Weaver~~

Its: Authorized Representative