

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is effective as of the date of the last signature, and is entered into by and between (1) the MENDOCINO COUNTY BLACKTAIL DEER ASSOCIATION; PAUL TROUETTE (“Petitioners”) and (2) the COUNTY OF MENDOCINO (“Respondent” or “County”). Petitioner and Respondent are collectively referred to as “Parties” and individually as “Party.”

**RECITALS**

A. WHEREAS, on or about May 17, 2016, the County Board of Supervisors (“Board”) adopted Ordinance No. 4356, which amended Mendocino County Code Chapter 9.31 relating to Medical Marijuana Cultivation Regulation to reflect certain recent changes to State law and to establish a permit program that would authorize permittees to grow up to ninety-nine (99) marijuana plants on a legal parcel.

B. WHEREAS, Ordinance No. 4356 was adopted on an urgency basis to establish registration and permitting requirements, as well as additional measures intending to protect the environment, that would provide for additional enforcement capability by the County and allegedly limit further degradation of the environment.

C. WHEREAS, Ordinance No. 4356 additionally contains provisions asserting that it is exempt from the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.; “CEQA”).

D. WHEREAS, on May 24, 2016, the County filed a Notice of Exemption with the Mendocino County Clerk-Recorder finding that Ordinance No. 4356 was categorically exempt under CEQA Guidelines sections 15308 and 15321, and exempt under the “exemptions” described by CEQA Guidelines section 15060(c)(2) and 15061(b)(3).

E. WHEREAS, on June 8, 2016, Petitioners filed a Verified Petition for Writ of Mandate in Mendocino County Superior Court (Case No. SCUJ-CVPT-16-67623), alleging that: (i) the County's adoption of Ordinance No. 4356 was not exempt from CEQA, and (ii) that Ordinance No. 4356 was improperly adopted as an urgency ordinance.

F. WHEREAS, on June 13, 2016, Petitioners filed an Amended Verified Petition for Writ of Mandate ("Lawsuit"), which contained the same allegations as the Verified Petition for Writ of Mandate but corrected an exhibit to the Verified Petition for Writ of Mandate.

G. WHEREAS, following service of the initial Verified Petition for Writ of Mandate, the Parties engaged in good faith efforts to settle the Lawsuit and have reached agreement to settle the Lawsuit on the following terms.

#### **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises and/or covenants contained in this Settlement Agreement, and for good and sufficient consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Recitals.** The Parties incorporate herein each of the foregoing Recitals in full.

2. **No Admissions.** The Parties understand and agree that this Agreement is the result of a compromise and nothing contained herein shall be construed as an admission of liability, responsibility, or wrongdoing by any Party hereto.

3. **Obligations of County.** As of June 23, 2016, the County shall cease accepting applications for permits pursuant to Mendocino County Code Chapter 9.31 as amended by Ordinance No. 4356 until such time as the County completes environmental review under CEQA; provided, however, that the County may review and, if determined to be in compliance

with the provisions of Chapter 9.31 as amended by Ordinance No. 4356, approve applications for permits that were submitted prior to June 23, 2016. As to applications received prior to June 23, 2016, the County shall enforce the Urgency Ordinance.

4. Obligations of Petitioners. Within seven (7) days of the County executing this Agreement, Petitioners shall enter into a stipulation dismissing, or otherwise file a motion for dismissal of, the entire Lawsuit without prejudice and asking that the Court enter judgment in this matter consistent with this Agreement. A copy of the stipulation shall be served on all parties to the Lawsuit via fax or pdf/email and by U.S. Mail. This stipulation shall include the language referenced in Section 12 of this Agreement.

5. Cooperation. The Parties shall cooperate to ensure that the steps necessary to implement this Settlement Agreement are carried out.

6. Representations and Warranties.

a. The Parties each represent and warrant that they are natural persons or duly incorporated or otherwise existing under statutory enabling authority, and they have the full power and authority to enter into and consummate the matters set forth in this Agreement, and that this Agreement constitutes a legal, valid, and binding obligation of the Parties which is enforceable in accordance with its terms and admissible in court.

b. The Parties each represent and warrant that no representations or promises of any kind other than as contained in this Agreement have been made by any party to induce them to enter into this Agreement. The Parties agree that this Agreement constitutes the sole and only agreement between the Parties with respect to the subject matter hereof and correctly sets forth the rights, duties and obligations of each to the others hereunder. The terms of this Agreement are contractual and not mere recitals. This Agreement is executed without reliance

upon any recital(s) or representation(s) by any person concerning the nature or extent of legal liability therefor, and the Parties have carefully read and understand the contents of this Agreement and sign the same as their own free act.

7. Costs and Fees. Provided that this Agreement is executed by all parties no later than 5:00 p.m. on June 23, 2016, and a stipulation for continuing jurisdiction with this Agreement attached is submitted to the Mendocino County Superior Court for its approval forthwith, Petitioners agree to waive all claims to any costs and attorneys' fees.

8. Interpretation. For purposes of interpretation, this Agreement shall be deemed to have been drafted jointly by the Parties and their counsel, and no ambiguity shall be resolved against any Party by virtue of its participation in drafting this Agreement.

9. Waiver. Each Party expressly releases, waives, and relinquishes and forever discharges the other Parties from all claims, actions, liabilities, and causes of action, of every nature and kind whatsoever, whether known or unknown, suspected or unsuspected, asserted or unasserted, or hereafter discovered or ascertained, in law or equity, by reason of any matter, cause or thing whatsoever, it has, or may have, with respect to the claims set forth in the petition for writ of mandate filed in the Lawsuit, and those claims Petitioners could have included in the petition. Each Party acknowledges and agrees that all rights under Section 1542 of the California Civil Code are expressly waived. That section provides:

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

Each Party understands, acknowledges, and agrees that this Agreement constitutes a complete and sufficient defense barring any such claim, and the Parties can rely upon this Agreement as a complete defense. For the avoidance of doubt, the Parties agree that the above release does not extend to any claims related to any decision by the County to approve any other ordinance or program related to the cultivation of medical marijuana that may occur in the future.

10. Captions. The captions, titles and headings of this Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement and shall have no effect on its interpretation.

11. Governing Law. This Agreement shall be governed by the laws of the State of California, except to the extent that the laws of the United States are applicable.

12. Continuing Jurisdiction. The Parties agree that they will file a notice of settlement and request for dismissal of this action, as well as a stipulation request and proposed order for continuing jurisdiction pursuant to California Code of Civil Procedure § 664.6. The Parties further agree that the Court shall retain jurisdiction over the parties to enforce this Agreement until performance in full of the terms herein.

13. Severability. The invalidity of any portion of this Agreement shall not invalidate the remainder. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the Parties shall amend this Agreement and/or take other action necessary to achieve the intent of this Agreement in a manner consistent with the ruling of the court.

14. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors, assigns, heirs, executors, and administrators.

15. Notice. 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) or facsimile. Any Party may at any time, by giving ten (10) 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 Petitioners:**

Christopher J. Neary  
Neary and O'Brien  
110 S. Main St., Ste. C  
Willits, CA 95490

**For Mendocino County:**

Katharine Elliott, County Counsel  
Mendocino County Counsel's Office  
501 Low Gap Road #1030  
Ukiah, CA 95482

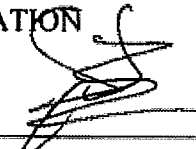
16. Counterparts and Signatures. This Agreement may be executed in separate counterparts, by either an original signature or signature transmitted by facsimile transmission or signature transmitted by email attachment or other similar process. Each copy so executed shall be deemed to be an original and all copies so executed shall constitute one and the same agreement.

17. Entire Agreement. This Agreement consists of a total of 7 pages, including signature pages, and represents the complete and entire agreement between the Parties. This Agreement supersedes all prior agreements, negotiations and discussions among the Parties and/or their respective counsel with respect to the subject matters covered hereby. Any amendment to this Agreement must be in writing and signed by the Parties' duly authorized representatives, and must state the intent of all Parties to amend this Agreement.

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Agreement as of the date(s) set forth below.

Dated: 6/20, 2016

MENDOCINO COUNTY BLACKTAIL DEER ASSOCIATION

By: 

Its: PRESIDENT

Dated: 6/20, 2016

PAUL TROUETTE

By: 

Paul Trouette

Dated: 6/20  
6/21, 2016

COUNTY OF MENDOCINO BOARD OF SUPERVISORS

By: 

Dan Gjerde, Chair

Dated: 6/21, 2016

COUNTY OF MENDOCINO RISK MANAGEMENT

By: 

Alan Flora, Risk Manager

**APPROVED AS TO FORM AND CONTENT:**

Dated: 6/21, 2016

By: 

Katharine L. Elliott, County Counsel  
MENDOCINO COUNTY

Dated: 6/20, 2016

By: 

Christopher J. Neary, Attorney for MENDOCINO COUNTY BLACKTAIL DEER ASSOCIATION and PAUL TROUETTE