

From: [Phan, Johnny](#)
To: [Downtown West Project](#)
Subject: FW: Revised Draft Settlement Agreement
Date: Thursday, May 27, 2021 3:57:41 PM

From: Shimko, Anna C. <AShimko@bwsllaw.com>
Sent: Tuesday, May 25, 2021 6:09 PM
To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Imwalle, Miles <mimwalle@coblantzlaw.com>
Cc: Lucy Lofrumento <lal@lmalp.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>; Casey Strong <CStrong@rwglaw.com>; Jonathan Becher <jbecher@sjsharks.com>
Subject: RE: Revised Draft Settlement Agreement

[External Email]

Yes, our client received it.

Anna C. Shimko | Partner

Pronouns: she, her, hers

1 California Street, Suite 3050 | San Francisco, CA 94111

d - 415.655.8115 | t - 415.655.8100 | m - 415.860.5305

ashimko@bwsllaw.com | bwsllaw.com



The information contained in this e-mail message is intended only for the CONFIDENTIAL use of the designated addressee named above. The information transmitted is subject to the attorney-client privilege and/or represents confidential attorney work product. Recipients should not file copies of this email with publicly accessible records. If you are not the designated addressee named above or the authorized agent responsible for delivering it to the designated addressee, you received this document through inadvertent error and any further review, dissemination, distribution or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. Thank you.

From: Phan, Johnny [<mailto:Johnny.Phan@sanjoseca.gov>]
Sent: Tuesday, May 25, 2021 6:08 PM
To: Imwalle, Miles
Cc: Lucy Lofrumento; Shimko, Anna C.; Day, Cameron; Roland, Steven D.; Gray, Matthew S. (SFO); Casey Strong; Jonathan Becher
Subject: Re: Revised Draft Settlement Agreement

[EXTERNAL]

My staff sent out. Please check email for electronic signature.

Johnny V. Phan
Chief Deputy City Attorney
Office of the City Attorney
City of San Jose
[200 East Santa Clara Street](#)
[San Jose, CA 95113-1905](#)
Main Ph: [\(408\) 535-1900](#)
Direct No.: [\(408\) 535-1981](#)
Fax No. [\(408\) 998-3131](#)

On May 25, 2021, at 6:06 PM, Imwalle, Miles <mimwalle@coblentzlaw.com> wrote:

[External Email]

I understand that Johnny's office is also generating a Docusign version.

The "Exhibit B" shown on the upper left of Exhibit K is for the Supplemental Memo and I think should be deleted in this version.

From: Lucy Lofrumento <llal@lmalp.com>
Sent: Tuesday, May 25, 2021 6:03 PM
To: Imwalle, Miles <mimwalle@coblentzlaw.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Shimko, Anna C. <AShimko@bwslaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Roland, Steven D. <SRoland@bwslaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>; Jonathan Becher <jbecher@sjsharks.com>
Subject: [EXTERNAL] RE: Revised Draft Settlement Agreement

Here is the Agreement, with the redlined Exhibit K attached. This should be correct – fingers crossed!



Lucy Lofrumento
Attorney at Law

One Almaden Blvd., Suite 700
San Jose, CA 95113
Office: (408) 560-3665 | Cell: (408) 605-3448
Email: jal@LMALLP.com | Web: www.LMALLP.com

The information in this e-mail and any attachments is confidential, and may be subject to the attorney-client or work product privilege. If you are not the intended recipient, any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please destroy it and notify the sender immediately.

From: Lucy Lofrumento
Sent: Tuesday, May 25, 2021 5:41 PM
To: Imwalle, Miles <mimwalle@coblentzlaw.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Shimko, Anna C. <AShimko@bwsllaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>; Jonathan Becher <jbecher@sjsharks.com>
Subject: RE: Revised Draft Settlement Agreement
Importance: High

All,

Attached is what I believe to be a correct version of the Settlement Agreement, ready for signature. I also ran the attached redline to make sure we weren't missing anything.

Jess and I will work on providing the correct Attachment 1/Exhibit K shortly, but please start the execution process now.

Thanks
Lucy



Lucy Lofrumento
Attorney at Law
One Almaden Blvd., Suite 700
San Jose, CA 95113
Office: (408) 560-3665 | Cell: (408) 605-3448
Email: jal@LMALLP.com | Web: www.LMALLP.com

The information in this e-mail and any attachments is confidential, and may be subject to the attorney-client or work product privilege. If you are not the intended recipient, any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please destroy it and notify the sender immediately.

From: Imwalle, Miles <mimwalle@coblentzlaw.com>
Sent: Tuesday, May 25, 2021 5:22 PM
To: Lucy Lofrumento <lal@lmalp.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Shimko, Anna C. <AShimko@bwsllaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>
Subject: RE: Revised Draft Settlement Agreement

Attached is the word version. Please convert and circulate

From: Lucy Lofrumento <lal@lmalp.com>
Sent: Tuesday, May 25, 2021 5:13 PM
To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Imwalle, Miles <mimwalle@coblentzlaw.com>; Shimko, Anna C. <AShimko@bwsllaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>
Subject: [EXTERNAL] RE: Revised Draft Settlement Agreement

Thanks, Johnny. Miles, please also send us a final word version.

Lucy



Lucy Lofrumento

Attorney at Law
One Almaden Blvd., Suite 700
San Jose, CA 95113
Office: (408) 560-3665 | Cell: (408) 605-3448
Email: lal@LMALLP.com | Web: www.LMALLP.com

The information in this e-mail and any attachments is confidential, and may be subject to the attorney-client or work product privilege. If you are not the intended recipient, any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please destroy it and notify the sender immediately.

From: Phan, Johnny <Johnny.Phan@sanjoseca.gov>
Sent: Tuesday, May 25, 2021 5:10 PM
To: Imwalle, Miles <mimwalle@coblentzlaw.com>; Shimko, Anna C. <AShimko@bwsllaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Lucy Lofrumento <lal@lmalp.com>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>
Subject: RE: Revised Draft Settlement Agreement

Send me final version and we can process for signature.

From: Imwalle, Miles <mimwalle@coblentzlaw.com>
Sent: Tuesday, May 25, 2021 5:09 PM
To: Shimko, Anna C. <AShimko@bwsllaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>; Lucy Lofrumento <lal@lmalp.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>
Subject: RE: Revised Draft Settlement Agreement

[External Email]

My software seems to be scrubbing it.

From: Shimko, Anna C. <AShimko@bwsllaw.com>
Sent: Tuesday, May 25, 2021 5:07 PM
To: Day, Cameron <Cameron.Day@sanjoseca.gov>; Imwalle, Miles <mimwalle@coblentzlaw.com>; Lucy Lofrumento <lal@lmalp.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>
Subject: [EXTERNAL] RE: Revised Draft Settlement Agreement

Yes, Sections 3 and 4 are still missing.

Anna C. Shimko | Partner

Pronouns: she, her, hers

1 California Street, Suite 3050 | San Francisco, CA 94111

d - 415.655.8115 | t - 415.655.8100 | m - 415.860.5305

ashimko@bwsllaw.com | bwsllaw.com



The information contained in this e-mail message is intended only for the CONFIDENTIAL use of the designated addressee named above. The information transmitted is subject to the attorney-client privilege and/or represents confidential attorney work product. Recipients should not file copies of this email with

publicly accessible records. If you are not the designated addressee named above or the authorized agent responsible for delivering it to the designated addressee, you received this document through inadvertent error and any further review, dissemination, distribution or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. Thank you.

From: Day, Cameron [<mailto:Cameron.Day@sanjoseca.gov>]
Sent: Tuesday, May 25, 2021 5:07 PM
To: Imwalle, Miles; Shimko, Anna C.; Lucy Lofrumento; Phan, Johnny; Roland, Steven D.; Gray, Matthew S. (SFO)
Cc: Casey Strong
Subject: Re: Revised Draft Settlement Agreement

[EXTERNAL]

Still not right. No City Obligations.

Get [Outlook for iOS](#)

From: Imwalle, Miles <mimwalle@coblenzlaw.com>
Sent: Tuesday, May 25, 2021 5:04:15 PM
To: Shimko, Anna C. <AShimko@bwsllaw.com>; Lucy Lofrumento <lal@lmalp.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>
Subject: RE: Revised Draft Settlement Agreement

[External Email]

Anna, thank you for catching that. I have no idea what happened, sorry about that.

All, attached is a corrected version.

From: Shimko, Anna C. <AShimko@bwsllaw.com>
Sent: Tuesday, May 25, 2021 4:42 PM
To: Imwalle, Miles <mimwalle@coblenzlaw.com>; Lucy Lofrumento <lal@lmalp.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Roland, Steven D. <SRoland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>
Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>
Subject: [EXTERNAL] RE: Revised Draft Settlement Agreement

It seems the prior Sections 3 and 4 got dropped.

Anna C. Shimko | Partner

Pronouns: she, her, hers

1 California Street, Suite 3050 | San Francisco, CA 94111

d - 415.655.8115 | t - 415.655.8100 | m - 415.860.5305

ashimko@bwsllaw.com | bwsllaw.com



The information contained in this e-mail message is intended only for the CONFIDENTIAL use of the designated addressee named above. The information transmitted is subject to the attorney-client privilege and/or represents confidential attorney work product. Recipients should not file copies of this email with publicly accessible records. If you are not the designated addressee named above or the authorized agent responsible for delivering it to the designated addressee, you received this document through inadvertent error and any further review, dissemination, distribution or copying of this communication by you or anyone else is strictly prohibited. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONING THE SENDER NAMED ABOVE AT 800.333.4297. Thank you.

From: Imwalle, Miles [<mailto:mimwalle@coblentzlaw.com>]

Sent: Tuesday, May 25, 2021 4:36 PM

To: Lucy Lofrumento; Phan, Johnny; Shimko, Anna C.; Roland, Steven D.; Gray, Matthew S. (SFO)

Cc: Casey Strong; Day, Cameron

Subject: RE: Revised Draft Settlement Agreement

[EXTERNAL]

Attached is the execution version. Johnny, this is not set up for e-signature yet, so please do that for the City and Sharks (although it has a Google legal stamp on it). Google is routing this for signature, but there is a bit of a process and they will do their own e-signature, so you don't need to set this up for their e-signature. This can be signed in counterparts, so I think everyone can sign separately.

Please confirm that all makes sense. My cell is 415-596-0542 if anyone runs into any issues.

From: Lucy Lofrumento <lal@lmallp.com>

Sent: Tuesday, May 25, 2021 4:11 PM

To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Imwalle, Miles <mimwalle@coblentzlaw.com>; Anna Shimko <ashimko@bwsllaw.com>; Steve Roland <sroland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: [EXTERNAL] RE: Revised Draft Settlement Agreement

Sounds good!

**Lucy Lofrumento**

Attorney at Law

One Almaden Blvd., Suite 700

San Jose, CA 95113

Office: (408) 560-3665 | Cell: (408) 605-3448

Email: lal@LMALLP.com | Web: www.LMALLP.com

The information in this e-mail and any attachments is confidential, and may be subject to the attorney-client or work product privilege. If you are not the intended recipient, any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please destroy it and notify the sender immediately.

From: Phan, Johnny <Johnny.Phan@sanjoseca.gov>

Sent: Tuesday, May 25, 2021 4:11 PM

To: Lucy Lofrumento <lal@lmallp.com>; Imwalle, Miles <mimwalle@coblentzlaw.com>; Anna Shimko <ashimko@bwslaw.com>; Steve Roland <sroland@bwslaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: RE: Revised Draft Settlement Agreement

My understanding is Google will circulate the executed version by Adobe for electronic signature. If not, City can.

Thanks. Johnny

Johnny V. Phan

Chief Deputy City Attorney

Office of the City Attorney

City of San Jose

200 East Santa Clara Street

San Jose, CA 95113-1905

Main Ph: (408) 535-1900

Direct No.: (408) 535-1981

Fax No. (408) 998-3131

NOTICE TO RECIPIENT: This communication is intended **only** for the person to whom it is addressed, and may be protected by law. If you receive this in error, any review, use, dissemination, distribution, or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attached documents from your system. Thank you for your cooperation.

From: Lucy Lofrumento <lal@lmallp.com>

Sent: Tuesday, May 25, 2021 4:09 PM

To: Imwalle, Miles <mimwalle@coblentzlaw.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Anna Shimko <ashimko@bwsllaw.com>; Steve Roland <sroland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: RE: Revised Draft Settlement Agreement

[External Email]

Thanks, Miles.

We'll look for the execution version of this as soon as you've made the noted correction and inserted the addresses.

Jonathan Becher is standing by to sign as soon as the document is ready.

Best
Lucy



Lucy Lofrumento

Attorney at Law

One Almaden Blvd., Suite 700

San Jose, CA 95113

Office: (408) 560-3665 | Cell: (408) 605-3448

Email: lal@LMALLP.com | Web: www.LMALLP.com

The information in this e-mail and any attachments is confidential, and may be subject to the attorney-client or work product privilege. If you are not the intended recipient, any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please destroy it and notify the sender immediately.

From: Imwalle, Miles <mimwalle@coblentzlaw.com>

Sent: Tuesday, May 25, 2021 3:54 PM

To: Lucy Lofrumento <lal@lmallp.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Anna Shimko <ashimko@bwsllaw.com>; Steve Roland <sroland@bwsllaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: RE: Revised Draft Settlement Agreement

Lucy,

I just saw this email, will make this revision in the final.

Can someone please send where notices should go for SSE? With that, I can prepare an execution version.

From: Lucy Lofrumento <lal@lmalp.com>

Sent: Tuesday, May 25, 2021 3:05 PM

To: Imwalle, Miles <mimwalle@coblentzlaw.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Anna Shimko <ashimko@bwslaw.com>; Steve Roland <sroland@bwslaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: [EXTERNAL] RE: Revised Draft Settlement Agreement

Thanks for the update – sounds encouraging.

By the way, I was re-reading the compiled document that Johnny sent out at 1:30, and it looks like the phrase highlighted below (from Paragraph 5) was inadvertently omitted from that draft:

Nothing in this section in particular, is intended to release the Parties or any other person from any claim that is not related, directly or indirectly, to the Project, the EIR, or the Project Approvals **through and including the Effective Date**. In making this release, SSE acknowledges that Section 1542 of the Civil Code of the State of California provides as follows:

I am sure this is a result of my mistake, sending out the wrong draft initially. The attached email has the corrected document. Let me know if you have any questions about this.

Regards
Lucy



Lucy Lofrumento

Attorney at Law

One Almaden Blvd., Suite 700

San Jose, CA 95113

Office: (408) 560-3665 | Cell: (408) 605-3448

Email: lal@LMALLP.com | Web: www.LMALLP.com

The information in this e-mail and any attachments is confidential, and may be subject to the attorney-client or work product privilege. If you are not the intended recipient, any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please destroy it and notify the sender immediately.

From: Imwalle, Miles <mimwalle@coblentzlaw.com>

Sent: Tuesday, May 25, 2021 2:54 PM

To: Lucy Lofrumento <lal@lmallp.com>; Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Anna Shimko <ashimko@bwslaw.com>; Steve Roland <sroland@bwslaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: RE: Revised Draft Settlement Agreement

I am working on getting approval to release, hopefully shortly, but we will be going with your definition of Project Approvals. We also need to make sure that the changes being approved tonight are not effective until the Agreement is effective, but that will be addressed through the Supplemental Memo. I am confirming whether we have anything further.

From: Lucy Lofrumento <lal@lmallp.com>

Sent: Tuesday, May 25, 2021 2:38 PM

To: Phan, Johnny <Johnny.Phan@sanjoseca.gov>; Anna Shimko <ashimko@bwslaw.com>; Steve Roland <sroland@bwslaw.com>; Imwalle, Miles <mimwalle@coblentzlaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: [EXTERNAL] RE: Revised Draft Settlement Agreement

Thanks – we'll review.

Do you have an idea of when we should expect to see Google's proposed edits? We are standing by.

Best

Lucy



Lucy Lofrumento

Attorney at Law

One Almaden Blvd., Suite 700

San Jose, CA 95113

Office: (408) 560-3665 | Cell: (408) 605-3448

Email: jal@LMALLP.com | Web: www.LMALLP.com

The information in this e-mail and any attachments is confidential, and may be subject to the attorney-client or work product privilege. If you are not the intended recipient, any review, disclosure, copying, distribution, or use of the contents of this e-mail or any attachment is strictly prohibited. If you have received this e-mail in error, please destroy it and notify the sender immediately.

From: Phan, Johnny <Johnny.Phan@sanjoseca.gov>

Sent: Tuesday, May 25, 2021 1:30 PM

To: Lucy Lofrumento <jal@lmallp.com>; Anna Shimko <ashimko@bwsllaw.com>; Steve Roland <sroland@bwsllaw.com>; Imwalle, Miles <mimwalle@coblenzlaw.com>; Gray, Matthew S. (SFO) <mgray@perkinscoie.com>

Cc: Casey Strong <CStrong@rwglaw.com>; Day, Cameron <Cameron.Day@sanjoseca.gov>

Subject: Revised Draft Settlement Agreement

I believe this is the latest draft Settlement Agreement with SSE changes. Thanks.

Johnny

Johnny V. Phan

Chief Deputy City Attorney
Office of the City Attorney
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905
Main Ph: (408) 535-1900
Direct No.: (408) 535-1981
Fax No. (408) 998-3131

NOTICE TO RECIPIENT: This communication is intended **only** for the person to whom it is addressed, and may be protected by law. If you receive this in error, any review, use, dissemination, distribution, or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attached documents from your system. Thank you for your cooperation.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.