

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (“Agreement”) is made effective by and between Bruno Burgin (“Claimant”), Legal Aid at Work (“Legal Aid”), and California Women’s Law Center (“CWLC”), on the one hand, and the City of Santee (“City”), on the other hand. Claimant, Legal Aid, CWLC, and the City are collectively referred to herein as “the Parties.”

RECITALS

A. WHEREAS, on October 22, 2020, the City received correspondence from Legal Aid and CWLC on behalf of Claimant (“Correspondence”), expressing concerns regarding the City’s alleged lack of compliance with AB 2404 (the Fair Play in Community Sports Act), codified as California Government Code Section 53080 (“AB 2404”), which generally prohibits gender discrimination in community youth athletic programming.

B. WHEREAS, the concerns raised in the Correspondence are principally based on alleged disparities between the City facilities available for the baseball league compared with the City facilities available to the softball league, and include an array of other issues.

C. WHEREAS, following the City’s receipt of the Correspondence, the City, on the one hand, and Legal Aid and CWLC, on the other hand, worked cooperatively to develop a plan for addressing any alleged lack of compliance with AB 2404.

D. WHEREAS, the Parties now desire to settle all issues, claims and disputes between them arising from or related to the City’s compliance with AB 2404 (“Claims”) related to the October 20, 2020 Correspondence and correspondence among the Parties in 2020 and 2021.

AGREEMENT

THEREFORE, in light of the above Recitals, which are incorporated herein, and in consideration of the mutual terms, promises, covenants and conditions contained herein and for other valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The City’s existing Town Center Community Park West Field No. 1 (“Field No. 1”) will be equipped and available for two (2) simultaneous youth softball games by January 15, 2023. A preliminary diagram of the two (2) softball game areas to be constructed on the Field No. 1 site is attached to this Agreement as Exhibit “A.” Field construction will include the construction of a backstop, dugouts, bleachers, pitchers’ bullpen, and outfield fences for each of the two (2) softball game areas on the existing Field No. 1 site. The outfield fences may be removable, if needed. The new softball game areas constructed on the existing Field No. 1 site will be made available for youth softball play on seven (7) days per week. The existing Field No. 1 will be converted to two (2) permanent girls’ youth softball fields with a pitching and warmup area on the remaining footprint of the previous infield.

2. The City will maintain all existing and new softball fields and will provide to Legal Aid and CWLC maintenance logs in the monitoring reports (“Reports”) that will be submitted to Legal Aid and CWLC three (3) times during the Term, as discussed in paragraph 11 below.

3. The City will provide draft plans, a timeline, and cost estimate relating to the softball-oriented improvements no later than June 11, 2021. The schedule for completion of the softball facility improvements is dependent on the commitment of funding through the City’s Capital Improvement Program (“CIP”) update, which is anticipated to be finalized by the City Council prior to July 1, 2021. Should such funding not be made available through CIP and/or not be approved by the City Council, the City will propose and carry out alternative plans to fund such youth sports improvements as outlined in this Agreement.

4. The City will collect data on participation levels in youth competitive sports teams facilitated by the City, such that the teams are hosted and / or run by the City, including information as to participants’ gender identity. Such data will be presented in the Reports, reflecting the number of youth participating in competitive athletic programs and their gender, along with the sport and league. No further identifying information (*e.g.*, names, addresses, etc.) will be collected or provided by the City so as to protect privacy.

5. The City will execute, complete, and compile an annual survey of girls’ athletic interests during the monitoring term prior to the December 1, 2021, and December 1, 2022, Reports. The survey will address which sports girls want to play with regard to competitive athletics and any barriers that may need to be removed in order for girls to enjoy equity in participation opportunities, treatment, and benefits. Those surveyed will include, but not be limited to, girls, their families, athletic directors, coaches, and the leadership of girls’ teams, leagues, and divisions. Legal Aid and CWLC will provide a template survey¹ to the City and will share best practices with the City regarding surveying the community as to girls’ sports.

6. The City will endeavor to encourage third party leagues using City facilities and / or resources to add competitive sports programs for girls where survey respondents (*e.g.*, girls and their families) identify interest in play. The City will take heed of the survey information to identify barriers to girls’ participation, and will make ongoing, reasonable adjustments to ensure youth athletic competitive sports programming is welcoming and tailored to girls (in addition to all youth), and to comply with AB 2404.

7. The City will ensure gender equity with respect to the following factors applied to youth competitive sports programming facilitated by the City, as detailed in AB 2404, and will detail in its Reports steps taken to assess and ensure gender equity regarding, to the extent applicable in the City:

- (2) The provision of moneys, equipment, and supplies.
- (3) Scheduling of games and practice times.

¹ Model survey: https://bf84de21-0ce6-404c-a176-57ca967c6658.filesusr.com/ugd/93c27b_1124d334ec7f4aad9fdaf6415c14fd5c.docx?dn=Sample%20Park%20and%20Recreation%20Girls%27%20Sports

- (4) Opportunity to receive coaching.
- (5) Assignment and compensation of coaches.
- (6) Access to lands and areas accessed through permitting, leasing, or other land use arrangements, or otherwise accessed through a city, a county, a city and county, or a special district.
- (7) Selection of the season for a sport.
- (8) Location of the games and practices.
- (9) Locker rooms.
- (10) Practice and competitive facilities.
- (11) Publicity.
- (12) Officiation by umpires, referees, or judges who have met training and certification standards.

8. The City will conduct one (1) training regarding AB 2404 for the City's Department of Community Services, Parks and Recreation ("Department") staff, the City Council, the Sports Council, and third party league leadership and, if possible, coaches (paid, stipend, and volunteer). The Department will identify individuals who should attend the training, and will satisfy the training requirement by providing training to individual representatives from the above-mentioned groups, ensuring that hand-outs and other materials are available for wider distribution to group members that are not able to attend. Such training will occur no later than December 1, 2021. Sign-in sheets will be required at the meetings and will be provided to Legal Aid and CWLC in the Reports. A follow-up training will occur no later than December 1, 2022, with sign-in sheets completed to evidence the training's occurrence and attendance.

9. A Department policy regarding gender equity in youth competitive athletics will be developed by the City and the Department, based on AB 2404 requirements, and posted on the City website, as well as in a prominent physical area of the Department that is viewable to the public.

10. A complaint process, detailing how a member of the public can complain about and have addressed gender inequity in youth competitive athletics, will be developed and made available on the Department website and in a prominent physical area of the Department viewable to the public.

11. Monitoring by Legal Aid and CWLC will take place beginning from the full execution of this Agreement until two (2) years thereafter ("Term"), with the Term concluding so long as all conditions have been met by the City and Department. The City will provide Reports documenting compliance with the Agreement three (3) times during the Term: on December 1, 2021, December 1, 2022, and June 30, 2023. The Reports will include all underlying data, documents, photographs, and / or forms to demonstrate compliance. The City will allow Legal Aid and CWLC or their designee to conduct one (1) site visit per year (in calendar years 2021, 2022, and 2023) to review City and Department compliance with the Agreement, including, but not limited to, softball field construction and improvements.

12. In the interest of resolving this matter expeditiously, the City will pay Legal Aid and CWLC attorneys' fees, costs, and expenses incurred in connection with the Claims in the amount of \$31,779, to be paid within thirty (30) business days of the date of notice of the full

execution of the Agreement. Except as provided otherwise in this paragraph, the Parties shall bear their own attorney's fees, costs, and expenses incurred in connection with the Claims.

13. The Parties will jointly craft and release a press statement about this Agreement and its terms to inform the community and to express the City's commitment to gender equity in youth competitive athletics under AB 2404.

14. Each Party, on its behalf and on behalf of its parents, subsidiaries, partners, members, shareholders, principals, officers, directors, boards, councils, employees, agents, representatives, attorneys, insurers, reinsurers, subrogees, bonding companies, claims administrators, predecessors, successors, beneficiaries, heirs, and assigns, hereby releases and forever discharges every other Party and its parents, subsidiaries, partners, members, shareholders, principals, officers, directors, boards, councils, employees, agents, representatives, attorneys, insurers, reinsurers, subrogees, bonding companies, claims administrators, predecessors, successors, beneficiaries, heirs, and assigns from any and all rights, claims, losses, debts, demands, obligations, liabilities, damages, compensation, fees, costs, expenses, actions, and causes of action arising from or related to the Claims.

15. With respect to the release described in paragraph 14 of this Agreement, the Parties waive all rights under California Civil Code section 1542, which provides that a general release does not extend to unknown or unsuspected claims which, if known, would have materially affected the settlement. California Civil Code section 1542 provides:

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 Parties each acknowledge that they may hereafter discover facts different from, or in addition to, those which they now believe to be true with respect to the release of claims and agree that this Agreement shall remain effective in all respects, notwithstanding such different or additional facts, or the discovery thereof.

16. Each Party agrees that this settlement is made in compromise of disputed claims, and that by entering into and performing the obligations of this Agreement, no party concedes or admits the truth of any claim or any fact alleged by any other Party, and the execution and performance of this Agreement shall not be construed as an admission by any Party.

17. Claimant hereby covenants, promises, and agrees that Claimant shall refrain from initiating, cooperating in, or assisting in any manner, either directly or by proxy, with any and all legal actions in any legal forum against the City that may seek to challenge the City's compliance with AB 2404 or similar state or federal law.

18. No Party shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing

Party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics and pandemics, and related health orders; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint. Should such circumstances occur, the non-performing Party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Upon completion of the event, the Party whose performance has been affected must, as soon as reasonably practicable, recommence the performance of its obligations under the Agreement.

19. No retaliation as to the Parties will be permitted, such that a Party shall not retaliate against any other Party for the making of the Claims and / or executing and implementing this Agreement.

20. The Parties agree that the terms, conditions, and provisions of this Agreement are binding upon, and shall inure to the benefit of, all assigns and successors of each of the Parties hereto.

21. The Parties agree to perform any acts and execute any documents consistent with the terms and conditions of this Agreement which may be needed, desired, or required to effectuate the terms, conditions, and provisions hereof.

22. The Parties each represent and warrant that the individuals signing below are duly authorized to bind their respective principals to the terms of this Agreement. The individuals signing below also represent and warrant that they have obtained all necessary approvals and have the authority to bind their respective principals to the terms of this Agreement.

23. The Parties represent and warrant that they have not assigned or transferred (voluntarily, involuntarily, or by operation of law), to any person or entity, any right, title or interest in any claim released and discharged herein.

24. The Parties represent that they have consulted legal counsel prior to the execution of this Agreement and have executed this Agreement with full knowledge of its meaning and effect.

25. This Agreement constitutes the entire and only agreement between the Parties with reference to the subject matter hereof and supersedes any prior agreement, oral or written, with respect thereto. The Parties further agree that no representation, warranty, agreement, or covenant has been made with regard to this Agreement, except as expressly recited herein and that in entering into this Agreement, no party is relying upon any representation, warranty, agreement, or covenant not expressly set forth herein.

26. The Parties agree that this Agreement shall not be construed in favor of, or against, any Party by reason of the extent to which any Party or their counsel participated in the drafting of this Agreement.