

Settlement Agreement  
*Vidovich v. City of Half Moon Bay*  
(San Mateo County Superior Court Case No. 24-CIV-08216)

**PART I: PARTIES**

**A.** This settlement agreement (“Agreement”) is entered into as of May 6, 2025 (“Effective Date”) between John Vidovich (“Petitioner”) and the City of Half Moon Bay (the “City,” and collectively the “Parties”).

**PART II: RECITALS**

**A.** Petitioner owns a 31,709 square foot lot located at 2800 Champs Elysee Boulevard, City of Half Moon Bay, CA, identified as San Mateo County Assessor’s Parcel Number 048-133-060 (“Property”).

**B.** On August 16, 2017, Petitioner submitted an application to the City requesting approval of a Coastal Development Permit (“CDP”) and Architectural Review to allow for the construction of a new single-family residence on the Property, which was designated application PDP-17-055 (the “Project”).

**C.** On July 31, 2017, the City issued to Petitioner a Measure D residential dwelling unit allocation (“Measure D Allocation”) for the Project.

**D.** The City’s Planning Commission considered the Project at public hearings on August 14, 2018, April 9, 2019, and May 26, 2020.

**E.** Following submission of a revised design proposal, the Architectural Advisory Committee conducted duly noticed public design review sessions to consider the Project on September 22 and December 15, 2022.

**F.** On July 11, 2023, the Planning Commission held a public hearing on the Project. At the hearing, the Commission expressed concern regarding drainage and potential flooding related to the Project, continued the hearing on the Project to a later date, and directed staff to further evaluate stormwater containment, the applicability of the 10-year flood event analysis, and drainage and grading issues associated with the Project. The Commission also identified concerns with the Project’s conformance with Land Use Plan (“LUP”) Policy 7-12 (Site-Specific Shoreline Hazards Evaluation), Policy 7-8 (Shoreline Hazards and New Development), and Policy 7-10 (Shoreline Hazard Mapping).

**G.** On September 10, 2024, the Planning Commission held a public hearing on the revised Project. The Commission denied the Project by a 3-0 vote, with two commissioners absent, and adopted Resolution for Denial PDP-17-055 (“Resolution of Denial”) on the grounds that (1) the Planning Commission lacked sufficient information to determine the Project would not cause or contribute to flood hazards under LUP Policy 7-51; and (2) the Project failed to evaluate potential impacts to adjacent properties from its proposed flood protection measures under LUP Policy 7-57.

**H.** On September 13, 2024, Petitioner appealed the Planning Commission's decision.

**I.** On October 15, 2024, the City Council held a public hearing to consider Petitioner's appeal. The Council voted 2-2 on a motion to grant the appeal and voted 2-2 on a motion to deny the appeal, with one Council member recused. Because a tie vote is deemed denial of such an appeal, the City Council affirmed the Planning Commission's Resolution of Denial.

**J.** On December 23, 2024, Petitioner filed a "Petition for Writ of Administrative Mandamus and Complaint for Damages and for Violations of Due Process, Equal Protection, and Takings," challenging the City's denial of the Project ("Lawsuit").

**K.** On February 4, 2025, the City provided to Petitioner the September 11, 2024 summary of the Pullman Ditch hydrological modeling carried out by Schaaf & Wheeler Consulting Civil Engineers).

**L.** On March 3, 2025, Petitioner submitted to the City its analysis of the Schaaf & Wheeler summary.

**M.** On April 23, 2025, the City's consultant completed additional modeling of the Pullman Ditch to analyze potential on- and off-site impacts of the Project (the "Project Modeling") to ensure (i) the Project will not cause or contribute to flooding, as required by LUP Policy 7-51, and (ii) that flood control measures will not create adverse direct and/or cumulative impacts on- or off-site, as required by LUP Policy 7-57. The additional modeling concluded the Project will not significantly impact flooding or the Pullman Ditch.

**N.** The Parties have engaged in settlement discussions and desire to settle, compromise, and resolve any and all existing issues and claims regarding the Project and development of the Property, without any party admitting or denying the truthfulness of any of the allegations or claims raised between and among the Parties and without accepting any liability arising out of such claims, on the terms and conditions set forth in this Agreement.

**O.** NOW, THEREFORE, in consideration of the above recitals, the mutual promises contained in this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

### **PART III: AGREEMENT**

**Section 1. City Review of the Project.** The City Council will hold a hearing within thirty (30) days of the Effective Date of this Agreement to consider approving the Project, with the proposed conditions of approval included in the draft resolution attached to the September 10, 2024 staff report, with the exception that Condition b.5 (Hydrological Modeling) will be deleted. The record for the Project shall include the record of proceedings leading up to and including the City Council's effective denial of the appeal on October 15, 2024, plus any new record materials submitted to the City after that date.

**Section 2. Dismissal of Lawsuit.** If the City Council approves the Project without imposing any conditions of approval that are substantially different than the conditions of

approval proposed by staff in the materials submitted to the City Council in conjunction with the October 15, 2024 appeal, then no later than ten (10) days after such approval, Petitioner shall file a request for dismissal of the Lawsuit with prejudice (“Dismissal”).

**Section 3. Effect of City Council Denial of Project.** If the City Council denies the Project, all remaining, unperformed obligations under this Agreement shall be null and void and this Agreement shall terminate.

**Section 4. Measure D Allocation.** The Measure D Allocation previously issued to Petitioner for the Project shall remain valid and in effect during the pendency of the Project application pursuant to this Agreement, as expiration of the Measure D Allocation is tolled by Petitioner’s pursuit of Project approval and the City’s reconsideration of the Project application under this Agreement. If the City Council approves the Project in accordance with Section 2, above, the Measure D Allocation shall apply to the Project and Petitioner will not be required to submit an application for a new Measure D Allocation.

**Section 5. Staff Costs and Attorneys’ Fees.**

(a) If the Parties file the Dismissal (as required by Section 2), the City shall agree to waive all outstanding staff costs incurred in connection with Project review, whether incurred prior to or following inception of the Lawsuit, and inclusive of the costs of preparing an administrative record.

(b) Petitioner shall not seek to recover from the City any of its attorneys’ fees, costs, or expenses relating to the Lawsuit or this Agreement. This section does not preclude Petitioner from seeking such attorneys’ fees, costs, or expenses, as well as additional attorneys’ fees, costs, and expenses in any future litigation involving the Property if the Agreement is terminated pursuant to Section 3.

(c) The City shall not seek to recover from Petitioner any of its attorneys’ fees, costs, or expenses relating to the Lawsuit or this Agreement.

**Section 6. Mutual Releases**

(a) **Release by Petitioner.** Upon dismissal of the Lawsuit, Petitioner shall be conclusively deemed to have released and forever discharged the City and its agents, employees, officers, or officials from any and all actions, causes of action, claims, complaints, obligations, costs, expenses, damages, losses, liabilities, judgments, and demands that Petitioner ever had or now has, or may have in the future, whether known or unknown, arising from or related to the facts pleaded in the Lawsuit. This release shall not be construed to limit the rights of Petitioner (1) to enforce the rights, claims, or obligations created by this Agreement or the Notice of Limitations, or (2) to pursue challenge relating to any future development proposal.

(b) **Civil Code Section 1542 Release.** The release agreed to by the Parties in Section 6(a) of this Agreement is intended to be a full settlement of each and every claim of every kind and nature, known or unknown, as between those parties for whom a release has been exchanged arising from the circumstances described in the Lawsuit. The City and Petitioner each certify that they have read Section 1542 of the California Civil Code, set out below:

A general release does not extend to claims which 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.

**Section 7. Termination Upon Issuance of CDP.** Upon the City's issuance of a CDP and approval of Architectural Review for the Project, the Parties, including successors in interest, shall have no further rights or obligations under this Agreement. Notwithstanding the foregoing, Sections 4 and 5 of this Agreement shall survive and continue in full force and effect after termination.

**Section 8. Miscellaneous Provisions**

(a) **Entire Agreement.** This Agreement, including its exhibits, contains the entire understanding and agreement of the Parties. There are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to in this Agreement.

(b) **Captions.** The headings used in this Agreement are for convenience only and will not affect the interpretation of this Agreement.

(c) **Construction.** The provisions of this Agreement will be construed as a whole according to their common meaning and not strictly for or against any party, and in a manner that will achieve the purpose and objectives of this Agreement.

(d) **Effectiveness.** This Agreement will be effective as of the Effective Date.

(e) **Modifications.** This Agreement may be modified only by express written consent of all Parties to this Agreement.

(f) **Applicable Law.** This Agreement shall be governed by the laws of the State of California.

(g) **Warranties of Authority.** The signatories to this Agreement hereby represent and warrant that they are duly authorized to execute this Agreement on behalf of the Parties for which they have signed and that they have all necessary lawful authority, and have taken all necessary actions, to execute this Agreement.

(h) **Binding on Successors and Assigns.** This Agreement and its terms shall inure to the benefit of and be binding upon each of the Parties hereto and each and all of their respective successors, assignees, buyers, grantees, vendees, or transferees, and shall survive the transfer of the Property, or any portion thereof, to any entity that acquires title to such Property whether by sale, lease or other transfer, or contribution to partnership, joint venture or any other entity.

(i) **Documents to be Filed or Executed.** The Parties agree to cooperate to execute any other documents reasonably required to effectuate the intent of this Agreement and,

if a party does not so cooperate, any party to this Agreement may obtain judicial intervention to obtain judicial signature in lieu of party signature, upon noticed motion and supporting affidavit.

**(j) Severability.** If any portion of this Agreement as applied to any party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in another circumstance, or the validity or enforceability of this Agreement as a whole.

**(k) No Admission of Liability.** This Agreement is a compromise of disputed claims and shall not in any way be construed as an admission by the City that it has acted wrongfully or unlawfully or as an admission by Petitioner that any of the City's defenses have merit.

**(l) Effectiveness.** This Agreement will be effective as of the Effective Date.

**(m) Notices.** All notices and other communications which one party may give to the other required by or in connection with this Agreement, shall be confirmed in writing and shall be hand-delivered, sent by certified mail, return receipt requested, or sent by overnight delivery to the following addresses:

If to City:  
Catherine Engberg  
Shute, Mihaly & Weinberger LLP  
396 Hayes Street  
San Francisco, CA 94102

If to Petitioner:  
Kristen Ditlevsen Renfro  
Desmond, Nolan, Livaich & Cunningham  
1830 15th Street  
Sacramento CA 95811

IN WITNESS WHEREOF, the Parties hereto have executed one or more copies of this Agreement as of the Effective Date.

Petitioner

By:

Its:

John Vidovich  
John Vidovich, an individual

City of Half Moon Bay

By:

Its:

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IN WITNESS WHEREOF, the Parties hereto have executed one or more copies of this Agreement as of the Effective Date.

Petitioner

\_\_\_\_\_  
By:

Its:

City of Half Moon Bay



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By.

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er

Its: City Manager

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