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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**02/04/2015** at 09:20:00 AM  
Clerk of the Superior Court  
By Lee McAlister, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO – CENTRAL DIVISION

SAN DIEGANS FOR OPEN GOVERNMENT, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> CITY OF SAN DIEGO and DOES 1 through 100, <p style="text-align: center;">Defendants.</p>	) ) ) ) ) ) ) ) )	CASE NO. 37-2013-00048878-CU-MC-CTL  <p style="text-align: center;">E-FILE</p> <p><del>Proposed</del> <b>JUDGMENT ON COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR WRIT OF MANDATE ETC.</b></p> <p>Action Filed: May 16, 2013          Department: C-73 (Wohlfeil)</p>
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On motion by the Parties, based on the Settlement Agreement attached hereto as Attachment 1, and for good cause appearing, IT IS NOW ORDERED, ADJUDGED, AND DECREED THAT:

1. Plaintiff and Petitioner San Diegans for Open Government is the prevailing party for all purposes of this lawsuit. No writ of mandate is being issued solely because responsive public records have already been turned over by Defendant and Respondent City of San Diego to Plaintiff.

2. Plaintiff and Petitioner San Diegans for Open Government is entitled to and shall recover \$ \_\_\_\_\_ from Defendant and Respondent City of San Diego for Plaintiff’s attorney’s fees incurred in connection with this proceeding [to be filled in by the Clerk of the Court if and when Plaintiff files a successful motion for an award of attorney fees, or through an amended judgment specifying the amount of the award].

1 3. Plaintiff and Petitioner San Diegans for Open Government is entitled and shall  
2 recover \$ \_\_\_\_\_ from Defendant and Respondent City of San Diego for Plaintiff's  
3 costs incurred in connection with this proceeding [to be filled in by the Clerk of the Court if and  
4 when Plaintiff files a timely memorandum of costs, in accordance with the ruling on any order  
5 striking the memorandum or taxing any costs, or through an amended judgment specifying the  
6 amount of costs].

7 FOR GOOD CAUSE SHOWING, IT IS SO ORDERED.

8 02/04/2015  
9 Date: ~~January \_\_\_\_\_~~, 2015.

Joel R. Wenzel  
Judge of the Superior Court

11 APPROVED AS TO FORM:

12 Date: January 26, 2015.

13 Respectfully submitted,  
14 BRIGGS LAW CORPORATION

15 By: Cory J. Briggs  
16 Cory J. Briggs

17 Attorneys for Plaintiff and Petitioner San Diegans  
for Open Government

18 OFFICE OF THE CITY ATTORNEY

19 Date: January 26, 2015.

20 By: David J. Karlin  
21 David J. Karlin, Deputy City Attorney

22 Attorneys for Defendant and Respondent City of  
23 San Diego

**JUDGMENT ON COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF  
AND PETITION FOR WRIT OF MANDATE ETC.**

Attachment 1

## SETTLEMENT AGREEMENT

*San Diegans for Open Government v. City of San Diego*  
*San Diego Superior Court Case No. 37-2013-00048878-CU-MC-CTL*

This settlement agreement is made by and between Plaintiff/Petitioner San Diegans for Open Government ("Plaintiff") and Defendant/Respondent City of San Diego ("City" or "Defendant"), who may be referred to hereafter collectively as the "parties."

### RECITALS

A. WHEREAS, on April 24, 2013, Plaintiff submitted a request under the California Public Records Act ("CPRA") to the City, seeking copies of any emails, text-messages and voice-mail communications "regardless of whether the account used was public or private" between former-Council President Todd Gloria and his staff with any other person, pertaining to docket items appearing on the City Council's agenda between January 1, 2013 and April 24, 2013;

B. WHEREAS, the City issued a written determination to Plaintiff on April 26, 2013, that the CPRA request was overly broad and invited Plaintiff to either narrow or clarify the request;

C. WHEREAS, on May 2 & 3, 2013, Plaintiff submitted two additional CPRA requests to the City seeking substantially the same materials as the April 23, 2013, request;

D. WHEREAS, the City responded to these CPRA requests via letter dated May 14, 2013, that was postmarked May 16, 2013. The letter stated that the requests were "not sufficiently specific to allow the City to locate responsive records with reasonable effort," and that "some of the records [being sought] may be exempt from disclosure under the Public Records Act;"

E. WHEREAS, on May 16, 2013, Plaintiff filed the above-entitled lawsuit (i.e., *San Diegans for Open Government v. City of San Diego*, San Diego Superior Court Case No. 37-2013-00048878-CU-MC-CTL) against the City seeking declaratory and injunctive relief under the CPRA ("CPRA Lawsuit");

F. WHEREAS, on June 18, 2013, representatives for Plaintiff and the City met and discussed the CPRA requests of May 2 & 3, 2013. Afterwards, Plaintiff identified a narrowed list of City Council docket items and electronic communications to or from Todd Gloria to be subject to the requests;

G. WHEREAS, between July and September 2013, Defendant provided Plaintiff with 1,580 pages of records that were responsive to the CPRA requests of May 2 & 3, 2013;

H. WHEREAS, the parties understand that, if litigated further, the above-entitled lawsuit would require the resolution of numerous issues of law, fact, and procedure, with the

possibility of appeals;

I. WHEREAS, the parties desire to settle the above-entitled lawsuit on the terms and conditions set forth herein and to avoid the burden, expense, and uncertainty of continued litigation;

Accordingly, in consideration of the promises of each of the parties as set forth below, it is thereby agreed as follows:

### AGREEMENT

NOW, THEREFORE, as a compromised settlement of the above-entitled lawsuit and in consideration of the promises and mutual covenants and agreements set out herein, the parties hereto agree as follows:

1. Settlement of Litigation. The parties acknowledge that they wish to avoid the burden, expense, and uncertainty of continued litigation. The parties desire to settle the above-entitled lawsuit on the terms and conditions set forth herein.
2. Request for Entry of Judgment. The parties agree to jointly request that Judgment be entered pursuant to the terms of this agreement as set forth in Exhibit A.
3. Acknowledgements. The City acknowledges that, under Government Code section 6253(b), it was required to determine within ten (10) days from receipt of the May 2 & 3, 2013 requests whether the requests, in whole or in part, sought copies of disclosable public records, as defined by Government Code section 6252(e), in the City's possession and to promptly notify Plaintiff of the determination and the reasons therefor. The City further acknowledges that the May 14, 2013, letter response, which was postmarked May 16, 2013, fell outside of the ten (10) day period set forth in Government Code section 6253(b).

The City also acknowledges that, under Government Code section 6253.1(a), it has a duty, to the extent reasonable under the circumstances: (1) to assist members of the public identify records and information that are responsive to CPRA requests; (2) to describe the information technology and physical location in which records exist; and (3) to provide suggestions for overcoming any practical basis for denying access to the records or information sought. The City further acknowledges that the May 14, 2013, letter response failed to comply with the requirements set forth in Government Code section 6253.1(a).

Lastly, the City acknowledges that, on May 2 & 3, 2013, the City had 1,580 pages of public records, as defined by Government Code section 6252(e), in its possession, custody, or control that were responsive to Plaintiff's CPRA requests. The City represents and warrants that, to the best of its knowledge and abilities, all responsive public records were turned over to Plaintiff after the CPRA Lawsuit was filed.

4. Prevailing Party. For the purposes of this agreement, Plaintiff shall be considered the prevailing party under Government Code section 6259(d).

5. Waiver of the Right to Appeal. If the proposed Judgment attached hereto as Exhibit A, is entered by the Court, then neither of the parties shall be entitled to appeal the judgment except with regard to an award of attorney fees and/or costs. Each of the parties is waiving, and now does waive, its right to appeal any and all issues or of Plaintiff's entitlement to recover attorney fees and/or costs under Government Code section 6259(d). The parties do reserve for themselves only the right to appeal issues concerning the reasonableness of (i) the number of hours spent on the above-entitled lawsuit by Plaintiffs' law firm, (ii) the reasonableness of the rates charged by Plaintiffs' law firm, and (iii) the amount of costs claimed by Plaintiff. If the proposed judgment is not entered, however, this waiver shall automatically become null and void. If the proposed judgment is entered, this waiver shall automatically take effect and become forever irrevocable.

6. Further Assurance. Each of the parties hereto represents, warrants, and agrees as follows:

- (a) No party entering into or executing this agreement has relied upon any representations or promise other than as set forth herein;
- (b) Each of the persons and entities executing this agreement is empowered to do so; and
- (c) Each of the parties agrees to execute any additional documents and to take any further action which reasonably may be required in order to consummate this agreement or otherwise to fulfill the intent of the parties hereunder.

7. California Law, Construction, and Venue. This agreement shall be construed and enforced in accordance with the laws of the State of California where it is to be executed and delivered. The parties hereto agree that this agreement shall be construed as a whole according to its plain and fair meaning, and is not to be strictly construed for or against any party hereto.

8. Integration. This agreement constitutes an integration of the entire understanding and agreement of the parties. Any representation, warranty, promise or condition, whether written or oral not specifically incorporated herein, shall not be binding upon any of the parties hereto. Each party acknowledges that in entering into this agreement it has not relied upon any representation, promise or condition not specifically set forth herein.

9. No Third Party Beneficiaries. This agreement is not for the benefit of any person or entity not a party hereto or specifically identified as a beneficiary herein.

10. Modification. This agreement cannot be modified or amended in any way except by a writing signed by the party to be charged therewith.

11. Captions and Interpretations. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend or

describe the scope of this agreement or any provision thereof.

12. Counterparts. This agreement may be executed in one or more counterparts which when taken together shall constitute one agreement. Fax signatures are binding as though signed in the original.

13. Severability. If any provision or any part of a provision of the agreement is for any reason held to be invalid, unenforceable or contrary to public policy, law, statute and/or ordinance, then the remainder of this agreement shall not be affected thereby and shall remain valid and fully enforceable.

14. Admissibility. Pursuant to California Evidence Code section 1123, the parties intend and agree that this agreement shall be binding and enforceable at law and shall be admissible and subject to disclosure for such purpose.

15. Conditions of Agreement. This agreement is conditioned upon the Court entering the proposed judgment attached hereto as Exhibit A. If the proposed judgment is not entered, this agreement shall be null and void and have no further effect.

WHEREFORE, the parties have executed this agreement on the dates shown below.

Dated: January 26, 2015

San Diegans for Open Government

By:

  
PEDRO QUIROZ JR

City of San Diego

By:

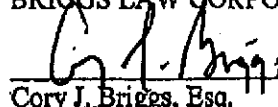
  
SCOTT HANDICK

Dated: 26 JAN 15

APPROVED AS TO FORM:

Dated: January 26, 2015

BRIGGS LAW CORPORATION



Cory J. Briggs, Esq.  
Attorney for Plaintiff/Petitioner San Diegans for  
Open Government

OFFICE OF THE SAN DIEGO CITY ATTORNEY

Dated: Jan. 26, 2015



David J. Karlin, Deputy City Attorney  
Attorneys for Defendant/Respondent City of San  
Diego



Exhibit A

[Proposed Judgment]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO – CENTRAL DIVISION

SAN DIEGANS FOR OPEN GOVERNMENT, Plaintiff, v. CITY OF SAN DIEGO and DOES 1 through 100, Defendants.	}	CASE NO. 37-2013-00048878-CU-MC-CTL  E-FILE  <b>[Proposed] JUDGMENT ON COMPLAINT          FOR DECLARATORY AND INJUNCTIVE          RELIEF AND PETITION FOR WRIT OF          MANDATE ETC.</b>  Action Filed: May 16, 2013 Department: C-73 (Wohlfeil)
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On motion by the Parties, based on the Settlement Agreement attached hereto as Attachment 1, and for good cause appearing, IT IS NOW ORDERED, ADJUDGED, AND DECREED THAT:

1. Plaintiff and Petitioner San Diegans for Open Government is the prevailing party for all purposes of this lawsuit. No writ of mandate is being issued solely because responsive public records have already been turned over by Defendant and Respondent City of San Diego to Plaintiff.
2. Plaintiff and Petitioner San Diegans for Open Government is entitled to and shall recover \$ \_\_\_\_\_ from Defendant and Respondent City of San Diego for Plaintiff's attorney's fees incurred in connection with this proceeding [to be filled in by the Clerk of the Court if and when Plaintiff files a successful motion for an award of attorney fees, or through an amended judgment specifying the amount of the award].

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3. Plaintiff and Petitioner San Diegans for Open Government is entitled and shall recover \$ \_\_\_\_\_ from Defendant and Respondent City of San Diego for Plaintiff's costs incurred in connection with this proceeding [to be filled in by the Clerk of the Court if and when Plaintiff files a timely memorandum of costs, in accordance with the ruling on any order striking the memorandum or taxing any costs, or through an amended judgment specifying the amount of costs].

FOR GOOD CAUSE SHOWING, IT IS SO ORDERED.

Date: January \_\_\_\_\_, 2015.

\_\_\_\_\_  
Judge of the Superior Court

APPROVED AS TO FORM:

Date: January \_\_\_\_\_, 2015.

Respectfully submitted,

BRIGGS LAW CORPORATION

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

Cory J. Briggs

Attorneys for Plaintiff and Petitioner San Diegans  
for Open Government

OFFICE OF THE CITY ATTORNEY

Date: January \_\_\_\_\_, 2015.

By: \_\_\_\_\_  
David J. Karlin, Deputy City Attorney

Attorneys for Defendant and Respondent City of  
San Diego

PROOF OF SERVICE

1. My name is Janna Ferraro. I am over the age of eighteen. I am employed in the State of California, County of San Diego.

2. My  business \_\_\_\_\_ residence address is Briggs Law Corporation  
814 Morena Blvd., Suite 107, San Diego, CA 92110

3. On January 27, 2015, I served \_\_\_\_\_ an original copy  a true and correct copy of the following documents: [Proposed] Judgment on Complaint for Declaratory and Injunctive Relief and Petition for Writ of Mandate, etc.

4. I served the documents on the person(s) identified on the attached mailing/service list as follows:

\_\_\_\_\_ *by personal service.* I personally delivered the documents to the person(s) at the address(es) indicated on the list.

*by U.S. mail.* I sealed the documents in an envelope or package addressed to the person(s) at the address(es) indicated on the list, with first-class postage fully prepaid, and then I

\_\_\_\_\_ deposited the envelope/package with the U.S. Postal Service

placed the envelope/package in a box for outgoing mail in accordance with my office's ordinary practices for collecting and processing outgoing mail, with which I am readily familiar. On the same day that mail is placed in the box for outgoing mail, it is deposited in the ordinary course of business with the U.S. Postal Service.

I am a resident of or employed in the county where the mailing occurred. The mailing occurred in the city of San Diego, California.

\_\_\_\_\_ *by overnight delivery.* I sealed the documents in an envelope/package provided by an overnight-delivery service and addressed to the person(s) at the address(es) indicated on the list, and then I placed the envelope/package for collection and overnight delivery in the service's box regularly utilized for receiving items for overnight delivery or at the service's office where such items are accepted for overnight delivery.

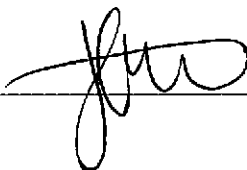
\_\_\_\_\_ *by facsimile transmission.* Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the fax number(s) shown on the list. Afterward, the fax machine from which the documents were sent reported that they were sent successfully.

\_\_\_\_\_ *by e-mail delivery.* Based on the parties' agreement or a court order or rule, I sent the documents to the person(s) at the e-mail address(es) shown on the list. I did not receive, within a reasonable period of time afterward, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws \_\_\_\_\_ of the United States  of the State of California that the foregoing is true and correct.

Date: January 27, 2015

Signature: \_\_\_\_\_



**SERVICE LIST**

*San Diegans for Open Government v. City of San Diego, et al.*  
San Diego County Superior Court Case No. 37-2013-00048878-CU-MC-CTL

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Jan I. Goldsmith,  
Daniel F. Bamberg  
David J. Karlin  
Office of the City Attorney  
1200 Third Avenue, Suite 1100  
San Diego, California 92101-4100

Attorneys for Defendant City of San  
Diego