

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement (“Agreement”) is entered into as of March 8, 2017 (“Effective Date”) by and between the Richard Lauckhart (“Plaintiff”), and the County of Yolo (“County”).

RECITALS

A. WHEREAS, the County oversees and operates a Community Service Area for the El Macero community near Davis, California (“El Macero CSA”);

B. WHEREAS, from at least 1985 until 2006, the El Macero CSA has imposed a flat annual charge for services (“CSA Charge”), which was collected by the County on behalf of the El Macero CSA;

C. WHEREAS, in 1992, the El Macero CSA increased the CSA Charge by \$60 per parcel for CSA services, which was used at times in order to replenish the El Macero CSA reserves for the purposes of collecting funds necessary to drill a well to serve El Macero residents and other CSA services (“\$60 Reserve Fee”); and

D. WHEREAS, in 1993, the El Macero CSA increased the CSA Charge by \$180 per parcel in order to help finance street improvements (“\$180 Street Fee”); and

E. WHEREAS, the \$60 Reserve Fee and \$180 Street Fee predated Proposition 218 and were not subject to Proposition 218’s procedures and approval process pursuant to Cal. Const. Art. XIII D, § 5(a);

F. WHEREAS, in 1997, after the passage of Proposition 218, the El Macero CSA increased the CSA Charge by \$50 per parcel through Proposition 218 proceedings to fund water services (“\$50 Water Fee”); and

G. WHEREAS, in 2006, the El Macero CSA repealed the \$60 Reserve Fee as part of a restructuring of the CSA Charge, after which time residents in El Macero were billed for their water and sewer services based on their variable usage; and

H. WHEREAS, the County has continued to collect the \$180 Street Fee and the \$50 Water Fee since 2006; and

I. WHEREAS, on February 3, 2016, Plaintiff filed a Complaint in Yolo County Superior Court for declaratory judgment and injunctive relief against the County, Case No. CV-16-170 (“Complaint”); and

J. WHEREAS, the Complaint, as amended on or around March 7, 2016, challenges the balances for the \$60 Reserve Fee, the \$180 Street Fee, and the \$50 Water Fee, and alleges that the fees are not presently being used or applied in compliance with Proposition 218;

K. WHEREAS, the Parties wish to settle the pending lawsuit and agree on reserve balances for funds collected on behalf of the El Macero CSA.

NOW THEREFORE, in consideration of the execution of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, and subject to the terms and conditions hereof, Plaintiff and County hereby agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. **Balances and Uses of Reserve Funds.**

a) The Parties have reviewed historical documentation and agree that the El Macero CSA should have three restricted funds for the fees discussed above, and that the most accurate balance for the funds, as of July 1, 2016, are as provided in Attachment A:

1) **The Water Fund.** The Water Fund represents the accumulated fees of the \$50 Water Fee. The balance in the Water Fund is the aggregate of charges collected from 1997 to June 30, 2016, with interest. While the El Macero CSA incurred costs related to water services after that date, the Parties agree that determining the amounts to be paid from the \$50 Water Fee is infeasible. The balance in the Water Fund will be kept in the Water Fund and only used for the purpose of providing water services, as authorized by the Proposition 218 proceedings when the \$50 Water Fee was implemented.

2) **The Street Fund.** The Street Fund represents the accumulated fees collected from the \$180 Street Fee, plus interest, less expenses. The expenses deducted from the \$180 Street Fee represent expenses for which the funds were properly utilized. The moneys in the Street Fund may only be used for capital costs or maintenance and operation expenses for streets.

3) **The \$60 Reserve Fund.** The \$60 Reserve Fund represents the accumulated fees of the \$60 Reserve fee. The balance in the \$60 Reserve Fund is the aggregate of charges collected from 1992 through 2006, plus interest. This balance shall be used for water services or to credit future charges to El Macero homeowners.

b) The calculations for each fund are reflected in Attachment B. The Parties agree that the balances and calculations provided for in Attachments A and B represent the best possible calculation based on the available historical documentation and annual interests rates earned by the County Treasury, and that calculating more precise balances is infeasible, given the passage of time.

3. **El Macero CSA's Discretion in Use of Funds.** The El Macero CSA, as governed by the Yolo County Board of Supervisors, retains discretion in how to use the accumulated fees subject to the limitations described above and restrictions imposed by law,

including whether to reduce or eliminate the subject fees, issue refunds of accumulated funds, and/or initiate Proposition 218 proceedings to authorize other uses, as may be allowed by law.

4. **No Wrongdoing.** The Parties acknowledge that this Agreement is not an admission of wrongdoing or negligence by any Party. The Parties enter into this settlement in light of litigation risks, expenses, and loss of public funds associated with litigating the issues raised in the Complaint, and agree that this settlement is preferable to litigation.

5. **Dismissal of Complaint.** Within 30 days of joint execution of this Agreement, Plaintiff shall file with the Court a Request for Dismissal, in substantial conformity with Judicial Council Form CIV-110, available at <http://www.courts.ca.gov/documents/civ110.pdf>. The dismissal shall be with prejudice of the entire action of all parties and all causes of action.

6. **Attorneys' Fees and Costs.** The County agrees to pay Plaintiff \$11,500, representing the attorneys' fees and filing fees Plaintiff actually incurred by Plaintiff related to the Complaint and this settlement. County shall make payment within 30 days of filing of the Request for Dismissal described in Paragraph 5. All Parties agree to bear their own costs and expenses not otherwise specified herein.

7. **Mutual Release.** Plaintiff and County, and their respective employees, representatives, agents, related entities, officers, directors, members, partners, predecessors, insurers, attorneys, administrators, successors and assigns, do hereby fully and forever completely release, acquit and discharge the other party and its respective employees, representatives, agents, related entities, officers, directors, members, partners, predecessors, insurers, attorneys, administrators, successors and assigns, from any and all damages, claims, actions, disputes, demands, losses, liens, written contracts, costs, expressed and/or implied warranty obligations, attorneys' fees, costs, actions, causes of action, and liabilities of whatever kind and nature arising from or related to the fees, taxes, and charges imposed or collected by the County or the El Macero CSA, whether known or unknown as of the date of this Agreement.

8. **Waiver of Civil Code Section 1542.** The mutual release of this Agreement is intended to be complete and final and to cover not only claims, demands, liabilities, damages, actions and causes of action that are known, but also claims, demands, liabilities, damages, actions and causes of action that are unknown or that the parties do not suspect to exist in their favor that, if known at the time of executing this Agreement, might have affected their actions, and therefore the parties expressly waive the benefit of the provisions of section 1542 of the California Civil Code, which 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.

Plaintiff and the County hereby waive and relinquish all rights and benefits that they have or may have had under section 1542 of the California Civil Code or the law of any other state,

country, or jurisdiction to the same or similar effect to the full extent that they may lawfully waive such rights.

9. **Notices.** All notices to be given to the parties to this Agreement may be given by United States mail or other means to the following addresses:

Plaintiff: Richard Lauckhart
44475 Clubhouse Drive
El Macero, CA 95618

County: Office of the County Counsel
625 Court Street, Room 201
Woodland, CA 95695

10. **Partial Invalidity.** The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision of this Agreement.

11. **Negotiated Agreement.** This Agreement was the subject of negotiation among the Parties, and no ambiguity or uncertainty in this Agreement shall be construed against any of the Parties based upon drafting/authorship of any of the provisions contained herein.

12. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13. **Subsequent Dispute.** This Agreement shall be interpreted under the laws of the State of California. In the event that a dispute arises as to the meaning or interpretation of this Settlement, including but not necessarily limited to a dispute as to whether subsequent conduct or any party conforms the term of this Settlement, the parties shall make a good effort to resolve the dispute informally. If the dispute cannot be resolved informally after good faith efforts by the parties, then such dispute shall be resolved through arbitration by a mutually-agreed arbitrator, with costs shared equally. Any court proceeding related to this Agreement shall be filed in the Yolo County Superior Court.

14. **Authority to Execute.** The undersigned warrant that they are fully authorized to execute this Agreement on behalf of Plaintiff and County, respectively.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth above.

PLAINTIFF

Richard Lauckhart
Richard Lauckhart

COUNTY

By Duane Chamberlain
Duane Chamberlain, Chair
Board of Supervisors

Attest:
Julie Dachler, Deputy Clerk
Board of Supervisors

By [Signature]
Deputy Seal



Approved as to Form:

[Signature]
Michael Thomas
Counsel for Richard Lauckhart

Approved as to Form:

[Signature]
Eric May, Senior Deputy County Counsel

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth above.

PLAINTIFF

Richard Lauckhart

Approved as to Form:

Michael Thomas
Counsel for Richard Lauckhart

COUNTY

By *Duane Chamberlain*
Duane Chamberlain, Chair
Board of Supervisors

Attest:
Julie Dachtler, Deputy Clerk
Board of Supervisors

By *Julie Dachtler*
Deputy (Seal)

Approved as to Form:

E. May
Eric May, Senior Deputy County Counsel





ATTACHMENT A

Attachment A

Balances as of 7/1/2016

| Account | Current Balances | Change | Revised Balances |
|----------------------------|------------------|-----------------|------------------|
| Unrestricted | \$ 1,324,377.42 | \$ (897,141.24) | \$ 427,236.18 |
| Water Fund (\$50 charge) | \$ - | \$ 540,191.74 | \$ 540,191.74 |
| Street Fund (\$180 charge) | \$ 1,089,296.10 | \$ 121,518.20 | \$ 1,210,814.30 |
| \$60 Reserve Fund | \$ 383,714.80 | \$ 235,431.30 | \$ 619,146.10 |
| Total | \$ 2,797,388.32 | \$ (0.00) | \$ 2,797,388.32 |

ATTACHMENT B

ATTACHMENT B

Attachment B - Street Fund

| Interest Rt | Year | Ave Int rate | Cost | | | Beg Bal | Net for year | Interest | End Bal with interest |
|-------------|----------------------------|--------------|---------|----------|-------|-------------|--------------|-------------|-----------------------|
| | | | Cash In | Cash Out | Admin | | | | |
| 4.28 | 1992-1993 | 0.0428 | 0 | 0 | 0 | 0 | 0 | \$0 | |
| Interest | Full Year Begin Bal | | | | | | | \$0 | |
| | 6.7 months on current year | | | | | | | \$0 | |
| | 2.7 months on current year | | | | | | | \$0 | |
| 3.46 | 1993-1994 | 0.0346 | 0 | 0 | 0 | \$0 | 0 | \$0 | |
| Interest | Full Year Begin Bal | | | | | | | \$0 | |
| | 6.7 months on current year | | | | | | | \$0 | |
| | 2.7 months on current year | | | | | | | \$0 | |
| 4.34 | 1994-1995 | 0.0434 | 84060 | 72861 | 30349 | \$0 | -19150 | -\$19,476 | |
| Interest | Full Year Begin Bal | | | | | | | \$0 | |
| | 6.7 months on current year | | | | | | | -\$232 | |
| | 2.7 months on current year | | | | | | | -\$93 | |
| 5.07 | 1995-1996 | 0.0507 | 84060 | 72861 | 20725 | -\$19,476 | -9526 | -\$30,178 | |
| Interest | Full Year Begin Bal | | | | | | | -\$987 | |
| | 6.7 months on current year | | | | | | | -\$135 | |
| | 2.7 months on current year | | | | | | | -\$54 | |
| 5.14 | 1996-1997 | 0.0514 | 84060 | 72861 | 37332 | -\$30,178 | -26133 | -\$58,388 | |
| Interest | Full Year Begin Bal | | | | | | | -\$1,551 | |
| | 6.7 months on current year | | | | | | | -\$375 | |
| | 2.7 months on current year | | | | | | | -\$151 | |
| 6.09 | 1997-1998 | 0.0609 | 84060 | 72861 | 28481 | -\$58,388 | -17282 | -\$79,638 | |
| Interest | Full Year Begin Bal | | | | | | | -\$3,556 | |
| | 6.7 months on current year | | | | | | | -\$294 | |
| | 2.7 months on current year | | | | | | | -\$118 | |
| 4.65 | 1998-1999 | 0.0465 | 84060 | 72861 | 4872 | -\$79,638 | 6327 | -\$76,899 | |
| Interest | Full Year Begin Bal | | | | | | | -\$3,703 | |
| | 6.7 months on current year | | | | | | | \$82 | |
| | 2.7 months on current year | | | | | | | \$33 | |
| 4.79 | 1999-2000 | 0.0479 | 84060 | | | -\$76,899 | 84060 | \$5,054 | |
| Interest | Full Year Begin Bal | | | | | | | -\$3,683 | |
| | 6.7 months on current year | | | | | | | \$1,124 | |
| | 2.7 months on current year | | | | | | | \$453 | |
| 6.91 | 2000-2001 | 0.0691 | 84060 | | | \$5,054 | 84060 | \$91,738 | |
| Interest | Full Year Begin Bal | | | | | | | \$349 | |
| | 6.7 months on current year | | | | | | | \$1,622 | |
| | 2.7 months on current year | | | | | | | \$653 | |
| 5.33 | 2001-2002 | 0.0533 | 84060 | 8175 | | \$91,738 | 75885 | \$174,097 | |
| Interest | Full Year Begin Bal | | | | | | | \$4,890 | |
| | 6.7 months on current year | | | | | | | \$1,129 | |
| | 2.7 months on current year | | | | | | | \$455 | |
| 3.43 | 2002-2003 | 0.0343 | 84060 | | | \$174,097 | 84060 | \$265,258 | |
| Interest | Full Year Begin Bal | | | | | | | \$5,972 | |
| | 6.7 months on current year | | | | | | | \$805 | |
| | 2.7 months on current year | | | | | | | \$324 | |
| 0.96 | 2003-2004 | 0.0096 | 84060 | 78064 | | \$265,258 | 5996 | \$273,823 | |
| Interest | Full Year Begin Bal | | | | | | | \$2,546 | |
| | 6.7 months on current year | | | | | | | \$16 | |
| | 2.7 months on current year | | | | | | | \$6 | |
| 2.05 | 2004-2005 | 0.0205 | 84060 | | | \$273,823 | 84060 | \$364,202 | |
| Interest | Full Year Begin Bal | | | | | | | \$5,641 | |
| | 6.7 months on current year | | | | | | | \$483 | |
| | 2.7 months on current year | | | | | | | \$195 | |
| 3.26 | 2005-2006 | 0.0326 | 84060 | 50275.97 | | \$364,202 | 33784.03 | \$410,290 | |
| Interest | Full Year Begin Bal | | | | | | | \$11,873 | |
| | 6.7 months on current year | | | | | | | \$307 | |
| | 2.7 months on current year | | | | | | | \$124 | |
| 5.01 | 2006-2007 | 0.0501 | 84060 | 35076.94 | | \$410,290 | 48983.06 | \$480,790 | |
| Interest | Full Year Begin Bal | | | | | | | \$20,556 | |
| | 6.7 months on current year | | | | | | | \$685 | |
| | 2.7 months on current year | | | | | | | \$276 | |
| 5.16 | 2007-2008 | 0.0516 | 84060 | 104773 | | \$480,790 | -20713 | \$484,467 | |
| Interest | Full Year Begin Bal | | | | | | | \$24,809 | |
| | 6.7 months on current year | | | | | | | -\$238 | |
| | 2.7 months on current year | | | | | | | -\$120 | |
| 3.21 | 2008-2009 | 0.0321 | 84060 | | | \$484,467 | 84060 | \$585,136 | |
| Interest | Full Year Begin Bal | | | | | | | \$15,551 | |
| | 6.7 months on current year | | | | | | | \$753 | |
| | 2.7 months on current year | | | | | | | \$304 | |
| 1.17 | 2009-2010 | 0.0117 | 84060 | | | \$585,136 | 84060 | \$676,427 | |
| Interest | Full Year Begin Bal | | | | | | | \$6,846 | |
| | 6.7 months on current year | | | | | | | \$275 | |
| | 2.7 months on current year | | | | | | | \$111 | |
| 0.91 | 2010-2011 | 0.0091 | 84060 | | | \$676,427 | 84060 | \$766,942 | |
| Interest | Full Year Begin Bal | | | | | | | \$6,155 | |
| | 6.7 months on current year | | | | | | | \$214 | |
| | 2.7 months on current year | | | | | | | \$86 | |
| 0.6 | 2011-2012 | 0.006 | 84060 | | | \$766,942 | 84060 | \$855,801 | |
| Interest | Full Year Begin Bal | | | | | | | \$4,602 | |
| | 6.7 months on current year | | | | | | | \$141 | |
| | 2.7 months on current year | | | | | | | \$57 | |
| 0.29 | 2012-2013 | 0.0029 | 84060 | | | \$855,801 | 84060 | \$942,439 | |
| Interest | Full Year Begin Bal | | | | | | | \$2,482 | |
| | 6.7 months on current year | | | | | | | \$68 | |
| | 2.7 months on current year | | | | | | | \$27 | |
| 0.25 | 2013-2014 | 0.0025 | 84060 | | | \$942,439 | 84060 | \$1,028,937 | |
| Interest | Full Year Begin Bal | | | | | | | \$2,356 | |
| | 6.7 months on current year | | | | | | | \$59 | |
| | 2.7 months on current year | | | | | | | \$24 | |
| 0.3 | 2014-2015 | 0.003 | 84060 | | | \$1,028,937 | 84060 | \$1,116,183 | |
| Interest | Full Year Begin Bal | | | | | | | \$3,087 | |
| | 6.7 months on current year | | | | | | | \$70 | |
| | 2.7 months on current year | | | | | | | \$28 | |
| 0.92 | 2015-2016 | 0.0092 | 84060 | | | \$1,116,183 | 84060 | \$1,210,814 | |
| Interest | Full Year Begin Bal | | | | | | | \$10,269 | |
| | 6.7 months on current year | | | | | | | \$216 | |
| | 2.7 months on current year | | | | | | | \$87 | |

| | | | | | | | | |
|----------|----------------------------|--------|---|--|--|-----------|---|-----------|
| 0.6 | 2011-2012 | 0.006 | 0 | | | \$604,749 | 0 | \$608,377 |
| Interest | Full Year Begin Bal | | | | | | | \$3,628 |
| | 6.7 months on current year | | | | | | | \$0 |
| | 2.7 months on current year | | | | | | | \$0 |
| 0.29 | 2012-2013 | 0.0029 | 0 | | | \$608,377 | 0 | \$610,142 |
| Interest | Full Year Begin Bal | | | | | | | \$1,764 |
| | 6.7 months on current year | | | | | | | \$0 |
| | 2.7 months on current year | | | | | | | \$0 |
| 0.25 | 2013-2014 | 0.0025 | 0 | | | \$610,142 | 0 | \$611,667 |
| Interest | Full Year Begin Bal | | | | | | | \$1,525 |
| | 6.7 months on current year | | | | | | | \$0 |
| | 2.7 months on current year | | | | | | | \$0 |
| 0.3 | 2014-2015 | 0.003 | 0 | | | \$611,667 | 0 | \$613,502 |
| Interest | Full Year Begin Bal | | | | | | | \$1,835 |
| | 6.7 months on current year | | | | | | | \$0 |
| | 2.7 months on current year | | | | | | | \$0 |
| 0.92 | 2015-2016 | 0.0092 | 0 | | | \$613,502 | 0 | \$619,146 |
| Interest | Full Year Begin Bal | | | | | | | \$5,644 |
| | 6.7 months on current year | | | | | | | \$0 |
| | 2.7 months on current year | | | | | | | \$0 |

