

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

Magan L. Natha and Sarla M. Natha v. City of Crescent City (CVPT-2021-1184)
Superior Court of California, County of Del Norte

WHEREAS, in July 1998, Magan and Sarla Natha ("Nathas") sued the City of Crescent City ("City") claiming that the City was required to allow the Nathas to connect their hotel (Anchor Beach Inn) to the City water main; and

WHEREAS, in August of 1999, the City and the Nathas entered into a settlement agreement whereby the City did allow the Nathas to connect their hotel to the City's water main in exchange for certain consideration, including payment to the City a fee in an amount equal to 2% of gross income in lieu of TOT (the "Fee") for 60 years or until the hotel was annexed into the City; and

WHEREAS, as part of the settlement, the parties executed and caused to be recorded on August 23, 1999 an Annexation, Subordination, Easement and Secondary Easement Agreement in the Official Records of the County of Del Norte at Book 511 Page 387, which includes the obligation to pay the Fee at paragraph 3.2; and

WHEREAS, the Nathas paid the Fee for twenty-one years and the City provided sewer service to the hotel; and

WHEREAS, on July 1, 2021, the Nathas filed the above-referenced lawsuit arguing, among other things, that the Fee is illegal under Health & Safety Code Section 5471.

NOW, THEREFORE, the parties agree as follows:

This Settlement Agreement and Mutual Release ("Agreement") is entered into by and between the undersigned parties to the above-referenced legal claims or action (the "Action") for the purpose of full and final settlement of the Action.

1. Refund and Release. Upon full execution of this Agreement, the City will pay to the Nathas the sum of \$16,646.11, representing a refund of the FY 21-22 first quarter Fee paid by Nathas. In addition, the City hereby forever releases and discharges the Nathas, and any successor in interest, from any obligation to pay the Fee as of July 1, 2021.
2. Recordable Release. Also, upon full execution of this Agreement, the City will execute a recordable Release in the form provided in Attachment A and have it recorded with the Del Norte County Recorder.
3. No Admission of Liability. This settlement does not constitute an admission of liability by any party to this Action.
4. Enforcement. This Agreement is binding and enforceable and represents the full and final agreement of the parties to this Action. This Agreement is admissible in evidence pursuant to California Evidence Code Section 1123 and is enforceable pursuant to California Code of Civil Procedure Section 664.6.

5. Sewer Service Connection. City agrees to allow Nathas, and their successors in interest, and their motel, Anchor Beach Inn, and its successors in interest, to continue their sewer service connection with the City at all standard service rates and in accordance with all standard terms of service.
6. Mutual Release. In consideration of the terms and conditions set forth herein, the parties hereto fully and forever mutually release and discharge one another from any and all claims, demands, liabilities, rights, and causes of action, of every kind and nature, in law or equity whether known or unknown, suspected, disclosed, asserted in or that could have been asserted in the Action. These mutual releases apply to all past, present and future principals, officers, directors, partners employees, agents, shareholders, attorneys, insurers, predecessors, successor or assigns of the parties to this Agreement. The parties further agree and acknowledge that these mutual releases are general releases, and expressly waive and assume the risk as to any and all claims that exists as of this date but that they do not know or expect to exist, whether through ignorance, oversight, error, negligence or otherwise, and that, if known, could materially affect their decision to enter into this Agreement. Furthermore, the parties expressly waive the benefits of the provisions of California Civil Code 1542, 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 settlement with the debtor.
7. Dismissal. The Nathas will file a Request for Dismissal with Prejudice of the entire Action within seven (7) days of the receipt of payment called for in Paragraph 1 of this Agreement.
8. Complete Authority to Settle; Indemnification. The parties agree and warrant that no other person or entity has any interest in the claims, demands, obligations, liabilities, rights, actions or causes of action which are subject of this Agreement, that they have the sole right and authority to enter into this Agreement, and they have not sold, assigned, transferred, conveyed, encumbered any such claims, demands, obligations, liabilities, rights, actions or causes of action. This Agreement will bind and inure to the benefit of the heirs, beneficiaries, personal representatives, successors and assigns of the parties hereto. The parties further agree to indemnify, defend and hold harmless any other party hereto against any and all claims, demands, liabilities, obligations, damages, losses, attorneys' fees, costs and expenses, made or incurred by any of the parties as a result of any false or inaccurate warranties, representations, and covenants relating to the parties' sole ownership of the claims that are the subject of this Agreement.
9. Final Agreement. This Agreement reflects the final and complete agreement of the parties, and supersedes and replaces all other agreements, negotiations, understandings, and representations made by and between the parties. Any amendment or modification to this Agreement must be in writing and signed by all parties hereto. The parties have both been represented by legal counsel of their choice in the drafting of this Agreement. The terms of this Agreement have been explained to the parties by their attorneys and are fully understood and voluntarily accepted by the parties.

10. Governing Law and Enforcement of Agreement. California law governs this Agreement. In the event of any legal proceeding of any type arising from the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs incurred therein. Any legal proceeding filed related in any way to this Agreement must be filed in Del Norte County Superior Court or the United States District Court for the Northern District of California, if applicable.
11. Costs and Attorneys' Fees. Except as provided in Paragraph 8 above, each party shall bear their own costs and attorneys' fees in connection with the Action and the settlement of this Action.
12. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which will be deemed an original and will become effective and binding upon the parties once all the signatories hereto have signed a counterpart of this Agreement. All counterparts so executed shall constitute one agreement binding on all parties hereto.

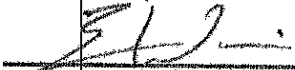
Executed as of the last date written below.


CITY OF CRESCENT CITY

MAGAN L. NATHA & SARLA M. NATHA

Dated: 2/18/22

Dated: 2/23/22





By: Eric Wier, City Manager

Magan L. Natha

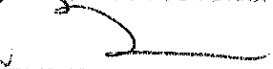


Sarla M. Natha

APPROVED AS TO FORM:

APPROVED AS TO FORM:





Martha D. Rice, City Attorney

Bradford C. Floyd, Attorney for Nathas

ATTACHMENT A:

RELEASE OF CERTAIN OBLIGATION UNDER ANNEXATION, SUBORDINATION, EASEMENT AND
SECONDARY EASEMENT AGREEMENT RECORDED AUGUST 23, 1999 AT BOOK 511 PAGE 387, DEL NORTE
COUNTY RECORDS

Recording requested by and
When recorded return to:

City of Crescent City
377 J Street
Crescent City, CA 95531

Tax Statements: No Change

APN 117-180-020-000

Exempt from recording fees per Gov. Code §§ 27383, 27388.1(a)(2)(D)

Documentary Transfer Tax Statement:

The undersigned declares:

This transaction is exempt per

Rev & Tax Code § 11922.

RELEASE OF CERTAIN OBLIGATION UNDER ANNEXATION, SUBORDINATION, EASEMENT AND
SECONDARY EASEMENT AGREEMENT RECORDED AUGUST 23, 1999 AT BOOK 511 PAGE 387

This Release of Certain Obligation Under Annexation, Subordination, Easement and Secondary Easement Agreement entered into by and between (a) the City of Crescent City, a municipal corporation of the State of California ("City") and (b) Sacramento Commercial Bank ("Lender") and (c) Magan L. Natha and Sarla M. Natha, husband and wife ("Owner"), and recorded on August 23, 1999 at Book 511 Page 387 of Del Norte County Official Records ("Release") is hereby issued by the City of Crescent City.

WHEREAS, Owner owns the real property and motel improvements thereon ("Motel Property") commonly referred to as 880 Highway 101 South, Crescent City, located in the unincorporated area of Del Norte County, State of California, more particularly described as follows:

lots 1 through 16 in Block 2 of Walton docks according to map thereof filed in the Office of the County Recorder of Del Norte County, California on July 13, 1915, in Book 2 of Maps, Page 35.

EXCEPTING therefrom that portion thereof conveyed to the State of California in deed recorded July 29, 1959, in Book 58 of Official Records, Page 275, Del Norte County Records.

WHEREAS, City and Owners entered into a Settlement Agreement and General Release of Litigation Claims effective August 17, 1999, under which the City agreed to provide wastewater collection services directly to the Motel Property in exchange for certain consideration; and

WHEREAS, one of the considerations included in the 1999 Settlement Agreement was that Owner would pay an annual fee (in lieu of TOT) of 2% of its gross profits every for 60 years or until the Motel Property was annexed into the City; and

WHEREAS, Owner has recently challenged the legality of that provision of the Settlement Agreement with a lawsuit and the parties have come to an agreement on the settlement of the instant litigation ("2022 Settlement Agreement"); and

WHEREAS, under the 2022 Settlement Agreement, the City has agreed to forever discharge and release Owner and Owner's successors, heirs, or assigns from any obligation to pay the 2% fee ("Fee") to the City as of July 1, 2021; and

WHEREAS, the Annexation, Subordination, Easement and Secondary Easement Agreement contains and recites the obligation of the Owner and any subsequent owner of the property to pay the Fee at subparagraph 3.2.

NOW, THEREFORE, the City of Crescent City, State of California does hereby forever discharge and release Owner, Lender and any subsequent owner or lender of the Motel Property from the obligation to pay the Fee as set forth in subparagraph 3.2 of the Annexation, Subordination, Easement and Secondary Easement Agreement recorded August 23, 1999 at Book 511 Page 387 in the Official Records of Del Norte County. Said obligation is discharged as of July 1, 2021.

Executed this ____ day of February 2022 at Crescent City, California.

By: Eric Wier, City Manager

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Del Norte

On _____, 2022 before me, _____, Notary Public
personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)