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15 Attorneys for Petitioners,
16 CLIMATE RESOLVE, ENDANGERED HABITATS LEAGE,
17 BRYAN BAKER, and CLYDE THOMAS WILLIAMS

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF LOS ANGELES**

20 CLIMATE RESOLVE, a California Nonprofit Corporation, BRYAN BAKER, an individual; and
21 CLYDE THOMAS WILLIAMS, an individual;

22 Plaintiffs and Petitioners.

23 v.

24 CALIFORNIA DEPARTMENT OF TRANSPORTATION, a Public Agency; and
25 DOES 1–100.

26 Defendants, Respondents and Real
27 Parties In Interest.

) CASE NO.: BS166680

) **STIPULATION RE SETTLEMENT AND**
) **REQUEST FOR CONTINUING**
) **JURISDICTION PURSUANT TO CCP §**
) **664.6; [PROPOSED] ORDER**

) California Environmental Quality Act
) (Cal. Pub Res. Code § 21000 *et seq.*)

1 Plaintiffs and Petitioners Climate Resolve, Bryan Baker, and Clyde Thomas Williams
2 (collectively “Petitioners”) and Defendant and Respondent California Department of Transportation
3 (“Caltrans” or collectively with Petitioners as the “Parties”) through their respective undersigned
4 attorneys of record in the above-captioned proceeding hereby stipulate to the following:

5 RECITALS

6 WHEREAS, on December 16, 2016, Petitioners filed this action against Respondent under the
7 California Environmental Quality Act (“CEQA”), challenging the approval of a freeway and
8 transportation project called the High Desert Corridor Project in Los Angeles and San Bernardino
9 Counties, California (SCH #2010091084) (“Project”);

10 WHEREAS, as of September 4, 2019 the Parties have entered into an enforceable settlement
11 agreement (“Agreement”), a true and correct copy of which is attached as Exhibit 1;

12 WHEREAS, pursuant to the Agreement, the parties request that the court retain jurisdiction to
13 enforce the terms of the Agreement pursuant to Section 664.6 of the Cal. Code of Civil Procedure;

14 WHEREAS, pursuant to the Agreement, Petitioners has agreed to dismiss the above identified
15 matter with prejudice; and

16 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED BY THE PARTIES
17 THAT:

18 1. The Court dismiss the entire action of all parties and all causes of action with
19 prejudice; and

20 2. The Court retain jurisdiction to enforce the terms of the Agreement pursuant to CCP §
21 664.6.

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1 DATED: September 12, 2019

MITCHELL M. TSAI, ATTORNEY AT LAW

2 By: 
3 Mitchell M. Tsai

4 Attorneys for Petitioners and Plaintiffs CLIMATE
5 RESOLVE, ENDANGERED HABITATS LEAGUE,
6 BRYAN BAKER and CLYDE THOMAS
WILLIAMS

7 DATED: September 10, 2019

CALIFORNIA DEPARTMENT OF
TRANSPORTATION

8 By: 
9 Mark Berkebile

10 Attorneys for Defendant and Respondent
11 CALIFORNIA DEPARTMENT OF
12 TRANSPORTATION

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~~PROPOSED~~ ORDER

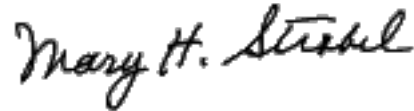
1 1. The Joint Stipulation re Settlement and Request for Continuing Jurisdiction Pursuant to
2 CCP § 664.6 is GRANTED.

3 2. This entire action is dismissed of all parties and all causes of action with prejudice.

4 3. The Court will retain jurisdiction to enforce the terms of the Agreement, a true and
5 correct copy of which is attached as Exhibit 1, pursuant to CCP § 664.6.

6 IT IS SO ORDERED.

7
8 DATED: 09/19/2019 _____



THE HONORABLE MARY H. STROBEL
Judge of the Superior Court

EXHIBIT 1

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into this ____ day of July, 2019 ("Effective Date"), by and among Climate Resolve, a California Nonprofit Corporation, Endangered Habitats League, a California Nonprofit Corporation, Bryan Baker, an individual and Clyde Thomas Williams, an individual (collectively, "Climate Resolve") on the one hand and California Department of Transportation, a public agency ("CalTrans") on the other hand. Each of Climate Resolve and CalTrans is sometimes referred to herein as a "Party," and collectively as the "Parties."

WHEREAS, the High Desert Corridor Project is a proposed 63 mile long west east multimodal transportation facility linking SR-18 in San Bernardino County and SR-14 in Los Angeles County ("Project");

WHEREAS, the Project includes acquisition of right of way and construction of an 63-mile long freeway linking SR-18 in San Bernardino County and SR-14 in Los Angeles County ("Highway Portion");

WHEREAS, the Project also includes proposed construction of an electric-powered high speed passenger rail line between SR-18 in San Bernardino County and SR-14 in Los Angeles County ("Rail Portion").

WHEREAS, Caltrans on or about June 21, 2016 certified a Environmental Impact Report, adopted related findings including making a Statement of Overriding Considerations and purported to approve the Project ("Project Approval");

WHEREAS, on or about December 16, 2016, Climate Resolve filed a lawsuit in Los Angeles Superior Court, Case No. BS166680, alleging that CalTrans had violated the California Environmental Quality Act, Cal. Public Resources Code § 21100 *et seq* ("CEQA") in issuing the Project Approval;

WHEREAS, the Parties have engaged in settlement negotiations, and have reached terms, as set forth herein, upon which to settle their disputes, and wish to settle the Action and resolve their disputes concerning the Project on the terms set forth herein;

NOW THEREFORE, in consideration of the mutual terms, covenants, conditions, and promises contained herein, the Parties hereto fully settle, compromise, and resolve all disputes and controversies between them related in any way to the Approvals, the Parties agree as follows:

TERMS

1. **ACTIONS BY APPLICANT:**

Applicant shall undertake the following actions:

a. SUPPLEMENTAL ENVIRONMENTAL REVIEW: Prior to acquiring right of way for or beginning construction related activities related to the Highway Portion of the Project, CalTrans will prepare, circulate for public comment and certify a Supplemental Environmental Impact Report (SEIR) / Environmental Impact Statement (SEIS) as required by CEQA and the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.* The SEIR / SEIS will at a minimum include a revised greenhouse gas analysis and biological impacts analysis.

b. SETTLEMENT PAYMENT: CalTrans shall pay Climate Resolve Fifty Thousand Dollars (\$50,000.00) thirty (30) days after Climate Resolve files dismissal, with prejudice, of the Action ("Applicant Performance Date"). This payment shall be made to the Mitchell M. Tsai Attorney-Client trust account.

2. ACTIONS BY CLIMATE RESOLVE:

a. DISMISSAL OF THE ACTION. Within five (5) days after execution of this Agreement, Climate Resolve shall dismiss the Action, with prejudice.

3. ENFORCEABILITY OF AGREEMENT

The parties agree that this Agreement may be enforced pursuant to Code of Civil Procedure Section 664.6. The parties further agree that the court may retain jurisdiction over the parties to enforce the settlement. Concurrently with execution of this Agreement, the Parties shall execute and file a stipulation with the Court stating that pursuant to Code of Civil Procedure §664.6 the parties agree that the court shall retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

4. MUTUAL RELEASES

Except for the obligations provided herein, CalTrans, and each of its representatives, agents, attorneys, successors, and assigns hereby unconditionally release, acquit, and forever discharge Climate Resolve and each of their members, officers, representatives, business managers, agents, attorneys, successors, estates, trusts, and successors-in-interest from any and all claims, demands, injuries, actions, causes of action, either at law or in equity or of any kind, nature or description, known or unknown, which Applicant has had in the past or has up through the Effective Date against Climate Resolve arising out of, based upon, or relating directly to the Project.

Except for the obligations provided herein, Climate Resolve and each of their members, officers, representatives, business managers, agents, attorneys, successors, estates, trusts, and successors-in-interest hereby unconditionally release, acquit, and forever discharge CalTrans, and each of its representatives, attorneys, agents, successors, and assigns from any and all claims, demands, injuries, actions, causes of action, either at law or in equity or of any kind, nature or description, known or unknown, which Climate Resolve has had or had up through the Effective Date against Applicant, arising out of, based upon or relating directly or to the Project.

The Parties are aware that facts may be discovered later that are different from and/or in addition to those that the Parties now know or believe to be true. The Parties acknowledge that

they have been informed by their attorneys regarding, and are familiar with, California Civil Code section 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 or her settlement with the debtor.

The Parties expressly waive all rights under Civil Code section 1542 and intend that the foregoing releases and discharges extend to all claims either Party has had or has up through the Effective Date regarding the Project.

5. PROSPECTIVE CLAIMS

The releases in this Agreement apply only to claims relating directly to the Project and shall not apply to any claims, demands, obligations, responsibilities, suits, actions, or causes of action arising out of the failure of any Party to perform its obligations as set forth in this Agreement.

6. NO PRIOR ASSIGNMENTS

The Parties hereto represent and warrant that they have not heretofore assigned or transferred, or purported to assign or transfer, to any other person, entity, firm, or corporation whatsoever, any claim, debt, liability, demand, obligation, expense, action, or causes of action herein released.

7. BINDING ON SUCCESSORS

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, members or transferees, and their past or present, direct or indirect, affiliates, partners, joint venturers, subsidiaries, parents, receivers, trustees, officers, directors, employees, agents, and shareholders and each of them, as though they were Parties hereto, wherever located. Any agreement for sale, lease, or other transfer, or contribution to the Project, or an agreement for a merger or acquisition, including ownership or control of Applicant, shall include an express assumption of the obligations of this Agreement.

8. SETTLEMENT OF DISPUTED CLAIMS

The Parties hereto understand and agree that this settlement is a final, binding settlement to resolve all issues related to the Litigation, which the Parties dispute in whole or in part, and is not an admission of any wrongdoing or liability by CalTrans or Climate Resolve.

9. FACTUAL INVESTIGATION

Each Party has conducted its own factual investigation and is not relying on any other Party.

10. UNDERSTANDING OF TERMS

The Parties hereto each hereby affirm and acknowledge that they have read this Agreement, that they know and understand its terms, and have signed it voluntarily and on the advice of counsel. The Parties have had a full and unhindered opportunity to consult with their attorneys, accountants, financial advisors, and such other consultants as they may have desired prior to executing this Agreement.

11. AGREEMENT MAY BE PLEADED AS A DEFENSE

This Agreement may be pleaded as a defense by the Parties hereto and may be used as the basis for an injunction against any action challenging the Project in violation of this Agreement.

12. ENFORCEMENT

This Agreement shall be interpreted under the laws of the State of California. The agreed remedies set forth herein shall not be construed to limit or derogate from any legal or equitable remedy authorized by applicable law. In any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover its legal fees, costs, and expenses, including expert witness fees.

13. AUTHORITY TO EXECUTE AGREEMENT

Each person signing this Agreement warrants that he or she has authority to execute this Agreement and to thereby bind the Party on whose behalf he or she is signing to the terms of this Agreement.

14. 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 supported by affidavit.

15. LEGAL FEES AND COSTS

Except as may otherwise be provided for as a settlement payment, each Party shall bear its own legal fees and costs resulting from the preparation, negotiation, and execution of this Agreement, and all legal fees and costs incurred in connection with the Action.

16. MATERIALITY OF BREACH

Any breach of this Agreement, at the option of any Party, shall be treated as material and a complete failure of consideration, provided, however, that before any Party may treat any breach as a material breach, such Party must first inform the other Party in writing and give the other Party a reasonable opportunity to cure the breach.

17. WAIVER

The waiver of any provision or term of this Agreement shall not be deemed as a waiver of any other provision or term of this Agreement. The mere passage of time, or failure to act upon a breach, shall not be deemed as a waiver of any provision or term of this Agreement.

18. AMENDMENTS

No provision of this Agreement may be modified, unless in writing and signed by the Party against whom the enforcement of such modification is sought.

19. PARAGRAPH HEADINGS

Paragraph headings are provided herein for convenience only and shall not serve as a basis for interpretation or construction of this Agreement, nor as evidence of the intention of the Parties.

20. SEVERABILITY

If any portion of this Agreement as applied to either 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.

21. INTEGRATION

The undersigned, and each of them, acknowledge and represent that no promise or inducement not expressed in this Agreement has been made in connection with this Agreement. This Agreement contains the entire agreement and understanding between the Parties as to the subject matter of this Agreement and is intended to be and is a final integration thereof. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the Parties hereto relating to the terms and conditions of this Agreement that are not fully expressed herein.

22. TIME OF THE ESSENCE.

Time is of the essence in this Agreement.

23. NO THIRD PARTY BENEFICIARIES.

This Agreement and all provisions hereof is made and entered into for the sole protection and benefit of the Parties. No other person shall have right of action based upon any provision of this Agreement.

24. COUNTERPARTS

This Agreement may be signed by the Parties in different counterparts and the signature pages combined to create a document binding on the Parties.

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

CALIFORNIA DEPARTMENT OF TRANSPORTATION,
a Public Agency

By: JAM Brunell
Its: District Director

Date: 9/4/19

CLIMATE RESOLVE,
a California Nonprofit Corporation

By: Troy
Its: Executive Director

Date: 7/15/19

ENDANGERED HABITATS LEAGUE,
a California Nonprofit Corporation

By: _____

Date: _____

Its: _____

BRYAN BAKER,
an Individual

By: _____

Date: _____

CLYDE THOMAS WILLIAMS,
an Individual

By: _____

Date: _____

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

CALIFORNIA DEPARTMENT OF TRANSPORTATION,
a Public Agency

By: _____

Date: _____

Its: _____

CLIMATE RESOLVE,
a California Nonprofit Corporation

By: _____

Date: _____

Its: _____

ENDANGERED HABITATS LEAGUE,
a California Nonprofit Corporation

By: Jan Silver

Date: July 15, 2019

Its: Executive Director

BRYAN BAKER,
an Individual

By: _____

Date: _____

CLYDE THOMAS WILLIAMS,
an Individual

By: _____

Date: _____

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

CALIFORNIA DEPARTMENT OF TRANSPORTATION,
a Public Agency

By: _____

Date: _____

Its: _____

CLIMATE RESOLVE,
a California Nonprofit Corporation

By: _____

Date: _____

Its: _____

ENDANGERED HABITATS LEAGUE,
a California Nonprofit Corporation

By: _____

Date: _____

Its: _____

BRYAN BAKER,
an Individual

By: Bryan D. Baker

Date: 15 July 2019

CLYDE THOMAS WILLIAMS,
an Individual

By: _____

Date: _____

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

CALIFORNIA DEPARTMENT OF TRANSPORTATION,
a Public Agency

By: _____

Date: _____

Its: _____

CLIMATE RESOLVE,
a California Nonprofit Corporation

By: _____

Date: _____

Its: _____

ENDANGERED HABITATS LEAGUE,
a California Nonprofit Corporation

By: _____

Date: _____

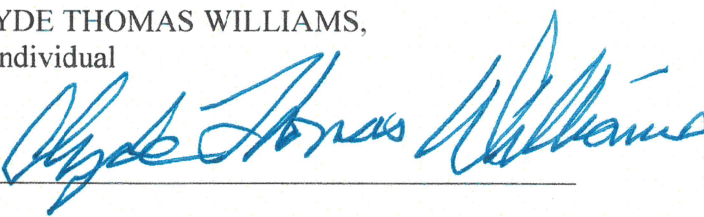
Its: _____

BRYAN BAKER,
an Individual

By: _____

Date: _____

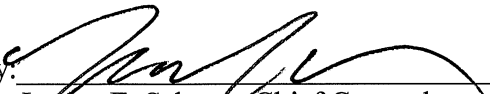
CLYDE THOMAS WILLIAMS,
an Individual

By: 

Date: 07/17/19

APPROVED AS TO FORM:

CALIFORNIA DEPARTMENT OF TRANSPORTATION

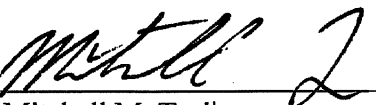
By: 

Jeanne E. Scherer, Chief Counsel
Mark Berkebile, Deputy Attorney

Date: 8/19/2019

Attorneys for California Department of
Transportation

MITCHELL M. TSAI, ATTORNEY AT LAW PC

By: 

Mitchell M. Tsai

Date: August 17, 2019

Attorneys for Climate Resolve, Bryan Baker
Endangered Habitats League and Clyde Thomas
Williams

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PROOF OF SERVICE

I, Leon Ramsey Jr., being duly sworn, deposes and says:

I am a citizen of the United States and work in Los Angeles County, California. I am over the age of eighteen years and am not a party to the within entitled action. My business address is: 155 South El Molino Avenue, Pasadena, California 91101. I served this list of persons with the following document(s) on September 11, 2018:

**STIPULATION RE SETTLEMENT AND REQUEST FOR CONTINUING JURISDICTION
PURSUANT TO CCP § 664.6; [PROPOSED] ORDER**


The document(s) was served on:

Mark Berkebile, Deputy Attorney
CALIFORNIA DEPARTMENT OF TRANSPORTATION
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702
E: mark.berkebile@dot.ca.gov

X by electronic service, via either electronic transmission or notification consistent with California Code of Civil Procedure 1010.6.

I declare under penalty of perjury, according to the laws of the State of California, that the foregoing is true and correct.

Executed this September 12, 2019 at Pasadena, California.


Leon Ramsey Jr.