City Council Meeting
09-14-26
Item 7.A.

Council Agenda Report

To: Mayor Silverstein and the Honorable Members of the City Council

Prepared by: Tyler Eaton, Assistant Community Development Director

Reviewed by: Yolanda Bundy, Community Development Director

Approved by: Joseph D. Irvin, City Manager
Trevor Rusin, Interim City Attorney

Date prepared: September 4, 2026 Meeting date: September 14, 2026

Subject: Amend LCP and Zoning Code Interpretation LCP 24/Zoning Code No. 15 to remove Issue No. PF4 (which prohibits processing of SB9 applications within the VHFHSZ of the boundaries of the Palisades Fire)

RECOMMENDED ACTION: Adopt amended Zoning / Local Coastal Program (LCP) Interpretation Nos. 15 and 24 respectively (Rebuild Policies) (attached hereto as Attachment 1) removing Issue No. PF4 with an effective date of September 14, 2026.

FISCAL IMPACT: There is no direct fiscal impact associated with the recommended action. This item was funded by the general fund as a part of regular City operations associated with fire recovery activities.

STRATEGIC PLAN IMPLEMENTATION: This item is associated with Goal 1 of the City's Strategic Plan which aims at supporting community rebuilding and long-term recovery following the Palisades Fire.

DISCUSSION: On December 10, 2025, YIMBY Law filed suit (Case No. 25STCP04761) against Governor Newsom, the State of California, and four jurisdictions (the City of Los Angeles, Pasadena, Malibu, and Los Angeles County) challenging the Governor's Executive Order (EO) N-32-25 and the local policies adopted under it (in Malibu, this was implemented through Issue No. PF4 in Malibu's Rebuild Policies). Specifically, the lawsuit claims the Order exceeds the scope of the Governor's emergency authority and is inconsistent with SB 9.

Malibu has reached a conditional settlement (Attachment 2) that would result in the City being dismissed from the pending lawsuit if the Council elects to rescind Issue No. PF4. In such case, the parties have agreed that the City would not be liable for any potential attorney's fees award in the lawsuit, should YIMBY be successful and be awarded such fees by the Court. The conditional settlement agreement does not require the City to take any action. However, should the City fail to rescind Issue No. PF4 by September 29, 2026, the conditional settlement agreement will be null and void and the City will remain in the lawsuit.

Background

On March 12, 2025, the City Council adopted Ordinance No. 524, the Disaster Rebuild Ordinance, establishing development standards to facilitate the rebuilding of structures destroyed or damaged by the 2024 Broad Fire, 2024 Franklin Fire, and 2025 Palisades Fire, or in future disasters. The associated LCP Amendment was certified by the California Coastal Commission on April 10, 2025. Generally, property owners may replace a destroyed structure "like-for-like" with up to 10 percent additional height, bulk, or square footage under LIP Section 13.4.6 and MMC Section 17.60.020(C). Through March and April 2025, staff held a series of neighborhood meetings related to the ordinance, which surfaced a number of implementation questions. Staff compiled those questions and the corresponding staff-level policy answers into a single interpretation document for Council consideration entitled as "Rebuild Policies".

On July 30, 2025, the Governor issued EO N-32-25 which temporarily suspended the provisions of Senate Bill (SB) 9 in Very High Fire Hazard Severity Zone (VHFHSZ) located within the boundaries of the Palisades and Eaton Fires through August 6, 2025. It also authorized local agencies to thereafter elect to use SB 9 review in such areas in whole, in part, or not at all. The Governor issued the order due to

> *"[C]oncern about the potential for widespread SB 9 development concentrated in neighborhoods rebuilding from destructive fires in very high fire hazard severity zones to crowd evacuation routes, and while SB 9 already requires development in these zones to meet updated ingress and egress standards, and allows local governments discretion to deny a project that would have a specific, adverse impact on public health and safety that cannot be mitigated, the unprecedented scale of this disaster calls for affording local governments increased discretion to ensure that SB 9 development in the rebuilding areas appropriately accounts for fire safety concerns."*

SB 9, codified in Government Code Sections 65852.21 and 66411, allows (subject to its provisions) property owners in single family residential zones to split their lots and build up to two residential units on each resulting parcel pursuant to a ministerial process.

As the entire City of Malibu is located in a VHFHSZ, pursuant to the EO, staff brought forward a new item to add to the Rebuild Policies: Issue No. PF4. The policy states:

> *The City of Malibu will not accept or process applications under Government Code Sections 65852.21 and 66411.7 for any project within a Very High Fire Hazard Severity Zone within the boundaries of the Palisades areas.*

Staff presented the revised draft, including Issue No. PF4 (amongst others) to the Council at a Special City Council meeting on August 27, 2025. The City Council reviewed each issue in the policy document over a series of public meetings and formally adopted the Rebuild Policies (including Issue no. PF4) on October 15, 2025.

It should be noted that the EO does not have an expiration date, but the Governor (or a new Governor) could rescind the EO at any time. Given the State's current defense in the lawsuit, it is unlikely that the EO will be rescinded by Governor Newsom.

Continued applicability of the Coastal Act and the Malibu LCP

SB 9 includes a savings clause that is codified in Government Code sections 65852.21(l) and 66411.7(o) which provides that nothing in the statute supersedes or in any way alters or lessens the effect or application of the California Coastal Act of 1976. Malibu's Local Coastal Program is the City's certified implementation of the Coastal Act, a State Law. This means that a Coastal Development Permit (CDP) remains required for all SB 9 projects in the Coastal Zone under the LCP whether in the Palisades Fire area or not. Should the Council rescind Issue No. PF4, a CDP will still be required for any SB 9 project in the Palisades Fire area, as that area lies entirely within the Coastal Zone.

SUMMARY: If the City Council adopts the proposed changes to the Rebuild Policies, removing Issue No. PF4, City Staff will accept, and process, SB 9 applications for projects located within the boundaries of the Palisades Fire. Such projects still require a Coastal Development Permit and must be complaint with the City's LCP. Upon such action by the Council, the City and YIMBY will file a stipulated request to dismiss the lawsuit with prejudice as to the City within 10 days.

Note the changes to the Rebuild Policies are provided in red text within Attachment 1. All language within Attachment 1 that is not in red text has been approved previously by the Council and will remain in place.

ATTACHMENT:

1. Redlines of Council Rebuild Policies Removing Issue No. PF4
2. Settlement Agreement

LCP and Zoning Code Interpretation

(Interpretation of the provisions of the Malibu Local Coastal Program and local Zoning Ordinance as approved by the City Council)

LCP Number: 24 **Dated**: October 15, 2025

Zoning Code Number: 15 **Amended**: September 14, 2026

Community Development Director: Yolanda Bundy
Planning Manager: Tyler Eaton, Assistant Community Development Director
Interpreting Body: City Council

MMC and LCP Sections: Various Sections within Title 17 of the MMC and the LCP

Title: Rebuild Policies

The City of Malibu has historically been subject to wildfires and other natural disasters that have destroyed property. The City has established a series of ordinances to guide the rebuild process following those disasters. In March of 2025, the City Council adopted Ordinance No. 524, the "Disaster Rebuild Ordinance", which provided relief to those impacted by the 2025 Palisades Fire, 2024 Franklin Fire, and 2024 Broad Fire, but also set new regulations for the rebuilding of structures lost in past and future disasters. Generally, property owners are allowed to replace structures destroyed by a natural disaster with an additional 10 percent height, bulk, or floor area per the Malibu Local Coastal Program's (LCP) Local Implementation Plan (LIP) Section 13.4.6. Additionally, Malibu Municipal Code (MMC) Section 17.60.020(C) allows for structures destroyed in a natural disaster to be replaced with an additional 10 percent height, bulk, or square footage. In implementing the regulations set forth in Ordinance No. 524 that provide relief from the regular development standards, questions have arisen regarding issues related to the ordinance and rebuilding after disasters. To provide additional clarity, the following interpretations are hereby adopted to provide consistent guidance and application of these provisions:

Issue No. 1: What is "like-for-like"? Property owners are allowed to replace their previous structures that were destroyed "like-for-like" plus 10 percent additional square footage, height, or bulk.

Current Policy: "Like-for-like" means a replacement structure that is compliant with LIP Section 13.4.6 (if applicable) and MMC Section 17.60.020(C) in that it is sited in substantially the same location and is within 110 percent the same height, bulk, or square footage of the previous structure. Bulk (volume) is the constraining factor. A replacement structure cannot exceed 110 percent the volume of the previous structure. The extra 10 percent bulk (volume) can be allocated to extra height or extra square footage so long as it does not exceed 110 percent the bulk (volume), square footage, or height of the previous structure. For example, adding 10 percent extra square footage may result in not being able to add extra height because the extra bulk was already expended on the extra square footage. Or vice versa, if the extra 10 percent bulk has already been expended on extra height, then the applicant may not get extra square footage. Previously existing bulk can be shifted around so long as the replacement structure is sited within substantially the same location as the previous structure,

and the shifting of bulk does not exceed 110 percent the height or square footage of the previous structure. For non-beachfront properties, if bulk is shifted to other parts of the structure and the bulk exceeds 18 feet in height and is outside the original building envelope, the shifted bulk will require a site plan review pursuant to MMC Section 17.62.040. The design of the structure may change. For example, a craftsman style design can be rebuilt as a modern design as long as the structure is within 110 percent the same height, bulk, and square footage of the previous structure.

Issue No. 2: What qualifies as a replacement structure being located in the same "general location" (MMC Section 17.60.020(C)) or "sited in substantially the same location" (LIP Section 13.4.6(A)). Both the MMC and LCP require that replacement structures be sited in the same general location as the previous structures.

Current Policy: Replacement structures must be sited within 50 percent of the previous structure's footprint and envelope to be considered "substantially" in the same location. Relocations beyond 50 percent of the original footprint require a De Minimis Waiver pursuant to LIP Section 13.4.11 or a Coastal Development Permit (if the findings for a De Minimis Waiver are not met).

Issue No. 3: Calculating bulk. Bulk is defined in the LIP as "the total interior cubic volume as measured from the exterior surface of the structure." The term is not defined in the MMC.

Current Policy: Property owners may rebuild their structures in line with the LIP definition of bulk; meaning the cubic volume (bulk) shall not exceed 110 percent the previous structure's volume.

Issue No. 4: What is considered a "lawfully erected" structure under MMC Section 17.60.020? MMC Section 17.60.020(C) allows for lawfully erected structures that do not conform to the current design and development standards (or lot development criteria) in the City to be reconstructed if they were destroyed or damaged in a natural disaster.

Current Policy: Unless evidence demonstrates the contrary, a structure will be considered to be "lawfully erected" if: (1) it has a building permit or the required approvals from a government agency who had jurisdiction over the subject location when the structure was erected, or (2) the evidence demonstrates the structure existed prior to the date of the City's incorporation-- except structures located on a beach, coastal bluff, within an environmentally sensitive habitat area, or other sensitive coastal resource area must be shown to have existed prior to the California Coastal Act. Evidence that may be used to demonstrate the above includes, but is not limited to, aerial and GIS imagery, photography, city records, Los Angeles County Assessor data, and California Coastal Commission records. For any structure destroyed or substantially damaged by the 2025 Palisades Fire only, "lawfully erected" shall also include any structure that physically existed immediately prior to the 2025 Palisades Fire, so long as (i) the structure was not part of an open code enforcement violation pertaining to the construction of the structure, (ii) the structure did not violate any applicable law that is beyond the authority of the City of Malibu to waive or excuse (e.g., a structure that was built entirely or partially on property belonging to someone other than the owner of the structure), and (iii) the structure has a building permit that allows the structure to exist in some form (e.g., a remodel or addition for which a building permit was not issued would not disqualify the whole structure that existed immediately prior to the fire from being considered "lawfully erected", so long as there is building permit for the structure to exist in some form).

Issue No. 5: Basements and Subterranean Garages. MMC Section 17.40.040(A)(13)(c) discounts the first 1,000 square feet of basements towards a property's total development square footage

(TDSF). Based on this language, some property owners are requesting that new basements do not count towards the 110 percent square footage allowed in a like-for-like rebuild.

Current Policy: The square footage for new basements and subterranean garages shall be included in the 110 percent square footage calculation. A replacement structure cannot exceed a 10 percent increase in size/square footage, which would occur if the square footage of new basements was not included in the calculation.

Issue No. 6: Water tanks and pools. Water tanks and pools that have a draft hydrant and which can be connected to by the Los Angeles County Fire Department may be necessary for rebuild structures to have adequate fire flow to fight fires. MMC Section 17.62.080(A)(4) allows for water tanks, pools and other water storage devices to be permitted as long as they are required or recommended by a government agency.

Current Policy: If water tanks and pools are required or recommended by a government agency, the development standards for new structures within the subject zoning district shall be required except that the square footage needed for water tanks shall not be counted towards a property's TDSF.

Issue No. 7: Combining square footage between multiple structures. Some property owners are seeking to combine square footage from multiple structures into one structure. For example, a property owner may have had a home with a detached gym but is now proposing to combine the detached gym's square footage with the home. LIP Section 13.4.6 states that a replacement structure is exempt from a CDP if the replacement structure (1) is for the same use, (2) does not exceed the floor area, height, or bulk of the destroyed structure by more than 10 percent, and (3) is sited in substantially the same location. This section implies that each structure shall be placed in the same general location and rebuilt to the same general size.

Current Policy: MMC Section 17.40.050(B) sets the zoning standards for required distance between buildings. Main buildings shall be at least 10 feet apart. Main building and accessory building shall be at least six feet apart. If structures that are proposed to be replaced are 10 feet or less in distance apart, they may be combined. However, as stated in LIP Section 13.4.6, the structures must maintain the same use. If an uninhabitable structure (such as a garage) is combined with a habitable structure, the square footage of the uninhabitable area must be maintained. This policy avoids unintended consequences that could be caused through the consolidation of dispersed structures into a larger home that could have impacts on views or other sensitive resources.

Issue No. 8: No net loss. California's "No Net Loss" law (SB 166) *"prohibits a city, county, or city and county from reducing, requiring, or permitting the reduction of the residential density to a lower residential density that is below the density that was utilized by the Department of Housing and Community Development in determining compliance with housing element law, unless the city, county, or city and county makes written findings supported by substantial evidence that the reduction is consistent with the adopted general plan, including the housing element, and that the remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need. The city, county, or city and county may reduce the residential density for a parcel if it identifies sufficient sites, as prescribed, so that there is no net loss of residential unit capacity."* Some property owners, during the rebuild process, are seeking to convert multifamily structures into single-family structures if allowed by the subject zoning district.

Current Policy: In order to maintain compliance with State Law, the City is requiring that property owners who are seeking to convert their multifamily structures to single-family structures replace those lost units in the form of Accessory Dwelling Units (ADUs). For example, a triplex (three units)

that is proposed to be replaced by a single-family residence shall also include two ADUs to ensure there is no net loss. However, where State law allows flexibility, staff may allow less density on a lot than previously existing.

Issue No. 9: 10 percent increases must comply with current zoning regulations. MMC Section 17.60.020(C) allows nonconforming structures to be replaced (up to 110 percent height, bulk, and square footage) and maintain their nonconforming aspects in relation to the applicable zoning regulations.

Current Policy: The 10 percent increases must comply with current zoning regulations. As stated in MMC Section 17.60.020(C), increases to height or bulk above 18 feet shall require a site plan review (SPR) on non-beachfront properties. Similarly, 10 percent increases into required yard setbacks shall only be allowed with a SPR as listed in MMC Section 17.62.040. However, de minimis encroachments into required setbacks may be allowed at the discretion of the Community Development Director / Planning Manager. This policy allows legally established structures that do not conform to the current codes to be rebuilt but prevents their nonconformities from expanding.

Issue No. 10: Is a wave action report required for a beachfront rebuild of a residence for a Planning Verification? MMC Section 17.40.040(A)(5)(b) states that new construction on beachfront lots must have their lowest finished floors elevations be determined by a comprehensive wave action report. In contrast, additions to an existing structure measure height based on an existing finished floor elevation.

Current Policy: The LIP definition of “New Development” explicitly excludes replacement structures (destroyed in a natural disaster) from being defined as new development and thus not subject to the rigorous review of new development requirements within the LCP. Because the LCP does not include replacement structures as “New Development”, the structures shall also not be considered “new construction” for planning (zoning) purposes.

For all replacement beachfront structures, the structure’s height above sea level shall be determined by the Federal Emergency Management Agency’s (FEMA) flood plain regulations as stated in MMC section 17.60.020(C)(1) with no additional sea level rise requirements imposed by the City. Onsite wastewater treatment systems and seawalls that are being built along with the replacement beachfront structure will be required to be designed by the applicant’s coastal engineer with no additional sea level rise requirements imposed by the City. The design must be provided in either a (i) coastal engineering or wave uprush report, or (ii) letter certified and stamped by the applicant’s coastal engineer, who must be a California licensed civil engineer experienced in the practice of coastal engineering.

Issue No. 11: Rooftop decks. Rooftop decks are referenced in LIP Section 3.6(E) as allowed, specifically for beachfront properties, and have been allowed historically in the City for non-beachfront properties. Rooftop decks are becoming more common and have been permitted on both beachfront and non-beachfront structures throughout the City’s history.

Current Policy: Rooftop decks are allowed for both beachfront and non-beachfront rebuilds. Structures that include rooftop decks shall be conditioned to prohibit furniture that exceeds the railing height and to ensure that any lighting on the deck complies with the City’s Dark Sky Ordinance. Rooftop deck railing height shall be included in the maximum height allowance for the replacement structure.

Issue No. 12: Survey requirement. Residents have expressed concerns about providing surveys in their Planning Verification applications. Staff have been able to accept other forms of evidence to verify compliance with LIP Section 13.4.6 (if applicable) and MMC Section 17.60.020(C) such as historical surveys, City approved plans, and Los Angeles County and California Coastal Commission records. However, there have been discrepancies in the available information. An example of a discrepancy is when the Los Angeles County Assessor information regarding lot area differs from what has been represented on historical plans.

Current Policy: Staff will require a survey in the Planning Verification phase to demonstrate compliance with the LIP Section 13.4.6 and MMC Section 17.60.020(C). The submitted survey in the Planning Verification phase can be used in Building Plan Check.

2025 PALISADES FIRE ONLY

The following issues are addressed only for structures destroyed in the 2025 Palisades Fire and do not apply to other structures that were destroyed in any other natural disaster as these projects are subject to special orders from the Governor.

Issue No. PF1: Projects that were deemed complete prior to the fire but never approved or permitted. There are some property owners who had projects in the system before the fire for additions and other improvements to their previously existing structures.

Current Policy: If a project was approved or the application was deemed complete before the 2025 Palisades Fire, and the structure was destroyed in the fire, the property owner is allowed to construct both the replacement structure and the deemed complete application as long as all required permits are obtained and as long as the deemed complete application does not require a variance. The owner may have to submit additional documentation for a project that has not yet received approval from the City. If the deemed complete application requires a site plan review, minor modification, or stringline modification, such approval must still be obtained. In these instances, the replacement structure and the deemed complete application will be considered the “like-for-like”. However, If the deemed complete application is for new square footage for the structure that was destroyed in the fire, and the new square footage in the deemed complete application exceeds 10 percent of the square footage of the previous structure, the applicant/owner shall not be allowed to obtain more square footage than what is authorized in the deemed complete application. In other words, the applicant/owner shall not get an additional 10 percent square footage on top of the square footage allowed under the deemed complete application if the deemed complete application was for more than 10 percent the square footage of the previous structure. The applicant in such case may only build the structure proposed in the deemed complete plans.

Issue No. PF2: Seaward projections. Governor Gavin Newsome’s Executive Order (N-20-25), states that replacement structures may not “expand farther seaward on the beach than the structure or facility” that existed immediately before the 2025 Palisades Fire.

Current Policy: A replacement structure is not allowed to expand farther seaward than the structure that existed before the fire but it may shift previously existing square footage more seaward so long as the area being shifted does not go farther seaward than the structure’s “predominate seaward projection”. MMC Section 17.40.040(A)(7)(c)(1)(b) defines a beachfront structure’s “predominate seaward projection” as “that portion of a structure closest to the ocean, which has a width (i.e., the dimension which is on a plane parallel to the ocean front) at least 30% of the maximum width of the structure.” If one floor is further seaward than another, and the floor that is further seaward meets the definition of “predominate seaward projection”, then the floor that is further landward may extend out

to a point no further seaward than the “predominant seaward projection” of the structure but shall still be limited by the stringline rule as required in MMC Section 17.40.040(A)(7)(c). Both the deck and the dwelling are viewed as separate structures.

Issue No. PF3: Are building code required interior accesses on beachfront lots counted towards the 10 percent increase in square footage allowed? With the new FEMA regulations shifting beachfront properties to higher elevations, some property owners may have homes that extend significantly above PCH than before and thus require new interior access staircases to access the home from ground level (Pacific Coast Highway).

Current Policy: An interior access that is required by the building code and is necessitated by the new finished floor requirements based on the FEMA flood elevations will not be counted towards the 10 percent additional square footage allowed for rebuilds.

~~**Issue No. PF4:** Governor Gavin Newsom’s Executive Order (N-32-25) states that local jurisdictions within the boundaries of the 2025 Palisades Fire may prohibit or restrict the acceptance and processing of applications under Government Code Sections 65852.21 and 66411.7 for projects located in Very High Fire Hazard Severity Zones.~~

~~**Current Policy:** The City of Malibu will not accept or process applications under Government Code Sections 65852.21 and 66411.7 for any project within a Very High Fire Hazard Severity Zone within the boundaries of the Palisades areas.~~

Legislative Record: On October 15, 2025, the City Council reviewed every issue and adopted the corresponding policies. On September 14, 2026, the City Council rescinded Issue No. PF4 related to Government Code Sections 65852.21 and 66411.7 from this policy and upheld all the remaining policies.

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CONDITIONAL SETTLEMENT AGREEMENT AND RELEASE

This Conditional Settlement and Release Agreement ("Agreement") is entered into by and between Plaintiffs Yes In My Back Yard, Sonja Trauss and Andrew Slocum ("Plaintiffs") and Defendants City of Malibu ("City") and City Council of Malibu (collectively "Defendants"). Plaintiffs and Defendants are referred to sometimes individually as "Party" and collectively as the "Parties."

RECITALS

This Conditional Settlement Agreement is made with reference to the following facts:

A. Whereas, on July 30, 2025, the State of California's Governor, Gavin Newsom signed Executive Order N-32-25 following Governor Newsom's proclaimed State of Emergency in Los Angeles and Ventura Counties, due to fire and windstorm conditions that caused multiple fires in those counties in January 2025. Executive Order N-32-25 ordered/purported to order Government Code sections 65852.21 and 66411.7 suspended in very high fire hazard severity zones, which included areas within the City of Malibu.

B. Whereas, the City Council of Malibu adopted a policy declaring that the City of Malibu would not accept or process applications under Government Code sections 65852.21 and 66411.7, for any project within a very high fire hazard severity zone within the boundaries of the Palisades Fire areas. The policy was adopted as part of a LCP and Zoning Code Interpretation (LPC No. 24, Zoning Code No. 15) of the City's Ordinance No. 524, on October 15, 2025 and specifically it consists of the City's policy for Issue No. PF4 (the "Policy").

C. Whereas, on or about December 11, 2025, Plaintiffs filed a Verified Petition for Writ of Mandate and Complaint in the Los Angeles County Superior Court, Case No. 25STCP04761 (the "Subject Action"). The Petition for Writ of Mandate and Complaint (collectively "Complaint") are the operative pleadings at this time. The Complaint specifically as to these Defendants sought to have the City's Policy rescinded and to have applications under Government Code sections 65852.21 and 66411.7 and applicable California law processed.

D. Whereas, on or about March 20, 2026, the Parties reached an agreement to settle and resolve the Subject Action in its entirety subject to certain conditions detailed in this Settlement Agreement.

E. Whereas, Plaintiffs and Defendants now desire to fully and finally settle and resolve any and all rights, claims, disputes, causes of action and alleged claims which currently arise out of and as set forth in the Subject Action and Complaint. The Parties expressly intend that this settlement shall further pertain to any claims for attorneys' fees, witness fees, and/or other costs.

NOW, THEREFORE, in consideration of the foregoing recitals and promises, mutual covenants and warranties set forth herein, and for other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties agree as follows:

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CONDITIONAL SETTLEMENT AGREEMENT AND RELEASE

In consideration of the matters recited above, which are incorporated by reference here, and in consideration of the mutual covenants and representations set forth below, the Parties agree as follows:

1. Recitals. The Recitals are incorporated into and are a part of this Conditional Settlement Agreement.

2. In consideration of this Conditional Settlement Agreement, and the promises set forth herein, Defendants agree the City Council of Malibu will bring an agenda item in public session within the next three months to consider rescinding the Policy. Should the Council act, in its discretion, to rescind the Policy with an effective date on or before September 29 , 2026, this Settlement Agreement shall be valid and all of its terms shall apply. Should the Council fail to rescind the Policy within this period of time this Settlement Agreement shall be null and void. In addition, should the Council act to rescind the Policy, the City shall process, in accordance with the requirements of State law, any application the City has already received pursuant to Government Code sections 65852.21 and 66411.7, since the adoption of the Policy within 60 days of the Policy being rescinded. Upon the City Council's action to rescind the Policy, Defendants agree that Executive Order N-32-25 and the Policy will not apply to the processing of SB 9 applications or SB 9 projects within the City's control. The Settlement Agreement will become "Effective" on the date that all Parties have signed this Settlement Agreement.

3. Upon execution of this Agreement, Plaintiffs shall file a notice of conditional settlement in the Subject Action. In consideration for Defendants' agreements set forth herein, and expressly conditioned upon Defendants' rescission of the Policy with an effective date on or before September 29, 2026, the Parties shall file a stipulated request to dismiss the Subject Action with prejudice as to Defendants and to retain jurisdiction pursuant to Code of Civil Procedure section 664.6 within 10 days of City Council's action to rescind the Policy.

4. Release and Waiver of Claims. Except for the obligations of this Agreement, and conditioned on the rescission of the Policy on or before September 29, 2026, Plaintiffs and Defendants, on behalf of themselves and their members, successors, assignees, agents, insurers, attorneys, and other representatives, hereby waives and releases any and all demands, causes of action, claims for relief, obligations, damages, losses, costs, expenses and/or liabilities of any kind or nature whatsoever, known or unknown, anticipated or unanticipated, fixed or contingent, which they may now have, claims to have, or may hereafter have or claim to have against each other and their successors, assignees, elected officials, agents, insurers, employees, directors, attorneys or officers (the "Released Parties"), including but not limited to claims relating to or arising out of or alleged in the Lawsuit, or issues of fact or law alleged, or that could have been alleged, in the Lawsuit. The claims released in this paragraph are collectively referred to below as the "Released Claims."

5. Attorneys' Fees and Costs. The Parties to this Agreement will bear their own attorneys' fees and all costs in the Lawsuit, including all attorneys' fees and costs arising from this Agreement. Each Party waives the right, if any, to otherwise recover attorneys' fees and costs from the other Party or Parties.

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6. Civil Code § 1542 Release. New Facts and Law. Plaintiffs understand that if the facts giving rise to this Agreement are found later to be other than or different from the facts now believed by it to be true, or if new facts or law come to the attention of the Parties, or any of them, they accept and assume the risk of such possible difference in the facts or law, and Plaintiffs agree that the release above shall be and remain effective, notwithstanding such different or new facts or law. Therefore, Plaintiffs acknowledge that they have been informed of and are familiar with the provisions of California *Civil Code* § 1542, which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT 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.

Plaintiffs expressly assume the risk that, after the execution of the Settlement Agreement, additional or further damages, which are currently unknown or undiscovered, may manifest in relation to the Incident. This Settlement Agreement specifically releases and extinguishes forever all claims against the Defendants of every kind, nature and description whatsoever, known or unknown, suspected or unsuspected, and any and all rights of the Plaintiffs which might otherwise accrue pursuant to California *Civil Code* § 1542 and any comparable state or federal statute or rule of law. By this Settlement Agreement, Plaintiffs expressly acknowledge that they are familiar with and expressly waives and relinquishes the benefits and protections afforded by *Civil Code* § 1542 and any comparable state or federal statute or rule as to the claims described herein.

7. Negotiated Agreement. The Parties acknowledge that the terms of this Agreement, including the waiver and release described in Section 4, was negotiated and drafted by the Parties with the assistance of counsel. Accordingly, any rule of construction to the effect that any ambiguity is to be construed against the drafting party shall not apply to the interpretation of this Agreement

8. City Reservation of Discretion. The Parties recognize and acknowledge that the City is under no obligation to rescind the Policy, and that the City reserves all of its discretion and the full measure of its police powers to evaluate the proposal to rescind the Policy in accordance with applicable procedures, standards and requirements. It is understood and agreed by the Parties that this Agreement shall not be construed in any fashion as an advance determination and does not provide the Parties with any expectation as to the outcome of the legislative review process. Failure of City to rescind the Policy as above described will not constitute a default of this Agreement, but instead will constitute a terminating event for this Agreement.

9. Entire Agreement. Each Party warrants that no promise, inducement, or agreement not expressed herein has been made to it in connection with this Agreement, and that this Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings of the Parties relating to the subject matter hereof.

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10. Written Modification. It is expressly understood and agreed that this Agreement may not be altered, amended, modified or otherwise changed in any respect whatsoever except by an executed written agreement signed by all Parties. The Parties hereto agree that they will make no claim at any time or place that this Agreement has been orally altered or modified or otherwise changed by oral communication of any kind or character.

11. Severability. If for any reason any provision of this Agreement is determined to be invalid, unenforceable or contrary to any existing or future law to any extent, such provision shall be enforced to the extent permissible under the law and such invalidity, unenforceability or illegality shall not impair the operation of or otherwise affect those portions of this Agreement which are valid, enforceable and legal.

12. Binding Effect. This Agreement is and shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, affiliates, predecessors, successors and assigns. Each person executing this Agreement represents and warrants for the benefit of the Parties that it, he or she is authorized to enter into this Agreement and to bind itself, his or her principal(s) to this Agreement.

13. Titles and Captions. Paragraph titles or captions contained in this Agreement are stated only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or any provision within it.

14. Choice of Law. This Agreement shall be construed and enforced pursuant to the laws of the State of California.

15. Venue. The Parties stipulate that the Superior Court in the County of Los Angeles shall continue to have jurisdiction over this matter to enforce this Settlement Agreement and the terms herein pursuant to California *Code of Civil Procedure* § 664.6.

16. Assistance of Counsel. Each of the Parties warrants and represents to the others that it has read and understands this Agreement, and has been represented by counsel of its choice in the negotiation and preparation of this Agreement and that this Agreement is executed voluntarily and without duress or undue influence on the part of, or on behalf of, any of the Parties.

17. Cooperation. The Parties to this Agreement agree to cooperate with each other and to execute such additional documents, papers and pleadings as may be necessary to give effect to the Agreement.

18. Counterparts; Electronic Signatures. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The Parties further agree that this Agreement may be transmitted by facsimile or other electronic means and that the reproduction of signatures by facsimile, PDF or other electronic means will be treated as binding as if originals.

WHEREFORE, EACH OF THE UNDERSIGNED HEREBY DECLARES THAT THE TERMS OF THIS SETTLEMENT AND RELEASE AGREEMENT HAVE BEEN COMPLETELY READ AND ARE FULLY UNDERSTOOD, AND BY EXECUTION

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HEREOF VOLUNTARILY ACCEPTS THE TERMS WITH THE INTENT TO BE LEGALLY BOUND THEREBY.

I HEREBY DECLARE THAT THIS SETTLEMENT AGREEMENT AND RELEASE HAS BEEN CAREFULLY READ AND IS FULLY UNDERSTOOD.

Dated: 7/17/2026

PLAINTIFF, Yes In My Back Yard

Signed by:
26D02161C640430...
By: Sonja Trauss
Its: Executive Director

Dated: 7/19/2026

PLAINTIFF, Sonja Trauss

Signed by:
26D02161C640430...
Sonja Trauss

Dated: 7/19/2026

PLAINTIFF, Andrew Slocum

Signed by:
ANDREW SLOCUM
1F2DFD9B2E624B2...
Andrew Slocum

Dated: 7/28/2026

DEFENDANTS, CITY OF MALIBU and CITY COUNCIL OF MALIBU

Signed by:
By: Bruce Silverstein
7F6374271E434D8...
Bruce Silverstein, Mayor

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APPROVED AS TO FORM:

Dated: 7/19/2026

PATTERSON & O'NEILL, PC

Signed by:
By: Ryan Patterson
80999E2CE01F4A3...

RYAN J. PATTERSON
Attorneys for Plaintiffs
YES IN MY BACK YARD, SONJA TRAUSS and ANDREW SLOCUM

Dated: 7/23/2026

BEST, BEST & KRIEGER, LLP

Signed by:
By: Trevor L. Rusin
07B770AC32A2423...

TREVOR RUSIN
Attorneys for Defendants
CITY OF MALIBU and CITY COUNCIL OF MALIBU