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December 13, 2016

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Marin County Board of Supervisors  
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**SUBJECT:** Settlement Agreement and Implementing Actions for  
*Strawberry Advocates v. County of Marin*

Dear Supervisors:

**RECOMMENDATION:** Authorize President to execute Settlement Agreement and adopt and pass Ordinance and Resolution rescinding the prior approvals for the Bentley Holdings Master Plan Amendment and Precise Development Plan Amendment and Use Permit.

**SUMMARY:** As your Board will recall, this project involved an application to amend a Master Plan and Precise Development Plan to allow for medical office uses in an office building where such use had previously been prohibited. After several contentious hearings and continuances to allow for additional information to be obtained, especially regarding traffic impacts, your Board ultimately conditionally approved the requested amendments and use permit.

However, following the approvals, a local citizen advocacy organization challenged the approvals in the Marin County Superior Court. Since these approvals involved purely private economic interests, the County relied upon the indemnification condition in the approvals to require the Real Party in Interest to defend the matter and did not participate in the lawsuit. It now turns out that the Real Party in Interest is selling the property, and the new owner does not want the benefit of the permit amendments. Therefore the parties have agreed to dismiss the lawsuit contingent upon the County rescinding the approvals.

Attached is the proposed Settlement Agreement, as well as an ordinance and resolution rescinding the prior approvals. Upon execution of the agreement and adoption of the ordinance and resolution, it is our understanding that the lawsuit will be dismissed

**FISCAL/STAFFING IMPACT:** None

DEPUTIES

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**REVIEWED BY:**

<input type="checkbox"/>	Auditor-Controller	X	N/A
X	County Counsel	<input type="checkbox"/>	N/A
<input type="checkbox"/>	Human Resources	X	N/A

Respectfully submitted,



DAVID L. ZALTSMAN

Deputy County Counsel

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cc: Community Development Agency

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