

## Settlement Agreement

The parties have mediated this matter on November 8, 2012 before mediator Leslie C. Smith, retired federal magistrate judge. As a result of this mediation, the parties agree to resolve OCentro Espirita Beneficente Uniao Do Vegetal, U.S.A., Nucleo Santa Fe and the Aurora Foundation (PLAINTIFFS), v. Board of County Commissioners of Santa Fe County, United States District Court for the District of New Mexico, Case No. 12-CV-00105 JB/LFG, as follows:

1. PLAINTIFFS shall be permitted to build a temple at 5 Brass Horse Road, Santa Fe NM as described in their master plan and preliminary development plan submitted to the County of Santa Fe Land Use Department and presented to the Board of County Commissioners, subject to the following conditions:
  - a. All services shall be conducted inside the proposed temple. PLAINTIFFS shall be permitted on occasion to conduct services in the proposed courtyard provided the proposed courtyard is walled in.
  - b. Services and number of attendees at the property shall be limited to those described in attached Exhibit 1. In addition to routine, local church business meetings, Plaintiffs shall be permitted no more than 3 administrative meetings a year which shall precede one of the regular services described in Exhibit 1. Attendance at these administrative meetings shall be limited to no more than 81 persons.
  - c. All conditions of approval previously recommended by County land use staff to the Board of County Commissioners that are not inconsistent with this document shall apply.
  - d. This agreement shall be subject to approval by the Board of County Commissioners prior to becoming effective, and shall provide appropriate notice of the meeting during which this agreement is considered. If approved by the Board of County Commissioners, Plaintiffs' Master Plan and Preliminary Development Plan shall be approved, and UDV shall be issued a final development permit administratively upon request.
  - e. The County shall bring county water to the property line of the proposed temple and PLAINTIFFS shall hook up to county water and will not use the well on the property. County will install a fire hydrant for fire protection for the proposed temple. PLAINTIFFS shall become a County water customer.
  - f. The County shall install a package sewage treatment plant on the premises with the design to be approved by UDV with approval not being unreasonably withheld. Maintenance of the plant shall be conducted by a licensed contractor as selected and paid for by PLAINTIFFS.
  - g. PLAINTIFFS agree it will not erect a yurt or greenhouse on the property.
  - h. PLAINTIFFS agree that for the next 5 years it will not erect any additional structures on the premises. At the expiration of 5 years PLAINTIFFS shall be authorized to erect a caretaker's residence on the property as described in their original master plan and preliminary development plan submitted to Santa Fe County.

- i. PLAINTIFFS shall construct a wall to shield the parking area. Location, type and height of the wall shall be subject to the approval of the County, with approval not to be reasonably withheld. Approval to be made administratively through County Land Use staff.
- j. Ingress and egress to the property shall be as described in the master plan and preliminary development plan submitted to Santa Fe County, except that PLAINTIFFS agrees, if it locks the premises during services that a means of egress is provided and that a Knox lock is provided so emergency services have access to the property.
- k. An order rescinding the October 26, 2011, order shall be adopted by the Board of County of Commissioners; the form and content of the order is attached hereto as Exhibit 2.
- l. The Board of County Commissioners shall pay Plaintiffs' attorneys fees in an amount to be agreed to by the parties. Failing an agreement on the amount of fees to be paid, the parties agree to submit the issue of the amount of fees due to the plaintiffs to the court for determination Defendant does not question plaintiffs' prevailing party status.
- m. Upon approval of the settlement agreement, plaintiffs shall relinquish their claims for damages and dismiss with prejudice the above captioned lawsuit and shall sign a standard release of any and all claims.

Robert W. Becker  
 Robert Becker, Attorney for Defendants

Stephen C. Ross  
 Stephen C. Ross, County Attorney

Elizabeth Stefani  
 ELIZABETH STEFANICS, SF COUNTY CHAIR

Katherine Miller  
 Katherine Miller, SF County Manager

Patricia Jackson  
 PRESIDENT, NUCLEO SANTA FE

Jeffrey Bronfman  
 - Vice President UDU-USA  
 President Aurora Foundation

PLS Lawyer  
 PLS Lawyer

**HOURS OF RELIGIOUS SERVICES & ACTIVITIES**

Type of Service	Projected Services/year	Projected Max. Members/Event	Service Hours (4 hrs typical duration)	Day
Type 1	22	100	8pm	1 <sup>st</sup> & 3 <sup>rd</sup> Saturdays each month
Type 2	8	100	8pm	About 8 per year
Type 3	6	35	1pm - 10 pm	Any day of the year
Type 4	6	16	1pm - 10 pm	Any day of the year
Type 5	6	9	10am-10 pm	Any day of the year
Type 6	3	20	1pm - 8 pm	Weekend afternoons
Type 7	2	60	1pm - 8pm	Any day of the year
Type 8	5	45	Noon	Sundays no more than once every 60 days
Workdays	8	25	Daylight hours	One Saturday each month

*Exhibit 1*

~~DRAFT~~

THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY

CASE NO. MP/PDP 09-5300  
UDV TEMPLE, APPLICANT  
JAMES SIEBERT, AGENT

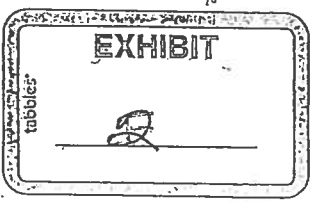
*STAFF'S  
PREVIOUS CONDITIONS TO BE  
ADDED*

*[Handwritten signatures and initials]*

ORDER

*Case* THIS MATTER, having come before the Board of County Commissioners ("Board") for public hearings on June 14, 2011 and July 12, 2011 on the application of the Centro Espirita Beneficente Uniao do Vegetal in the United States ("the Applicant"), represented by Mr. James Siebert, for approval of a Master Plan and Preliminary Development Plan of a community service facility ("the Application") pursuant to Ordinance No. 1996-10 (the Santa Fe County Land Development Code), as amended, *The Commission voted* and a written order having been issued on October 26, 2011, which denied the application, *The order judge was incorrect,* and the Applicant having subsequently filed a civil lawsuit *not supportable by competent evidence* in the federal District Court for the District of New Mexico, Cause No. CV-12-105 JB/LFG, which was resolved by settlement in the Settlement Agreement and Release of Claims ("the Settlement Agreement"), on [date], which Settlement Agreement provided for an alternative location for the subject community service facility and renders the application and order in the present case moot,

And the Board of County Commissioners, having reviewed the Settlement Agreement, Order, Application and staff reports and having previously conducted two public hearings, FINDS that the Settlement Agreement and Release of Claims renders the proceedings in this



matter moot, and that the Board's Order should be vacated in its entirety and to have no force and effect.

**IT IS THEREFORE ORDERED** that the Order in this matter, dated October 26, 2011, shall be and hereby is vacated in its entirety, including specifically the factual findings and conclusions reached, and shall have no further force and effect and shall have no value as precedent for future applications of the Applicant or any other applicant, ~~through application of the doctrine of collateral estoppel or otherwise.~~

**IT IS SO ORDERED:**

This Order is approved by the Board of County Commissioners of Santa Fe County on this \_\_\_\_ day of \_\_\_\_\_, 2011.

**THE BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By \_\_\_\_\_  
Liz Stefanics, Chair

**ATTEST:**

\_\_\_\_\_  
Valerie Espinoza, County Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Stephen C. Ross, County Attorney