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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

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18 SONOMA COUNTY ASSOCIATION OF
RETIRED EMPLOYEES,

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Plaintiff,

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v.

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SONOMA COUNTY,

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Defendant

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CASE NO. CV 09-4432 CW

SETTLEMENT AGREEMENT

Judge: Hon. Claudia Wilken

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1. Introduction.

1.1 This Settlement Agreement ("Agreement") is entered into by and between Plaintiff Sonoma County Association of Retired Employees, a California Non-Profit Mutual Benefit Corporation meeting the requirements of Internal Revenue Code section 501(c)(5) ("SCARE"), the Plaintiff Class Representatives to be named in a Third Amended Complaint ("TAC") on behalf of the Class ("Plaintiff Class Representatives"), and Defendant Sonoma County (the "County"). The County, SCARE and the Plaintiff Class Representatives shall each be referred to as a "Party" or collectively as the "Parties."

1.2 This Agreement applies to all Eligible County Retirees (as defined in Paragraph 3.12 below). The Eligible County Retirees who do not opt out of the Class and receive health benefits from the County pursuant to this Agreement will be referred to herein as the "Settling Retiree Class."

1.3 SCARE brought suit in the United States District Court for the Northern District of California (the "Court"), Civil Action No. 09-4432 CW in which it, based on its alleged associational standing, on behalf of its members, alleged that the County promised to fund all or substantially all of the cost of retiree health care benefits or at least the same level of funding provided to unrepresented management employees for the lifetime of retirees from the County and their dependents, and sought injunctive and declaratory relief, as set forth more fully in the Second Amended Complaint ("SAC").

1.4 The Parties now wish to effect a complete resolution and settlement of all claims, disputes and controversies that were alleged or that could have been alleged in or otherwise relate without limitation to the allegations in the SAC and TAC (hereafter collectively the "Lawsuit") by SCARE and/or any member of the Class concerning the medical plans offered to retirees and the monthly contribution or subsidies paid for such plans.

1.5 To effect a complete resolution and settlement of all such claims, disputes, and controversies, the Parties have agreed to stipulate to the filing of a TAC by SCARE and Plaintiff Class Representatives on behalf of the Class alleging damage claims by the Class. The Parties also have agreed to a process for approving the Parties' Agreement, Certifying and Notifying the Class, and obtaining the Court's Final Approval of the Agreement.

2. No Admission of Liability.

By agreeing to and voluntarily entering into this Agreement, the County makes no admission or concession to SCARE, the Plaintiff Class Representatives, or any member of the Class, direct or indirect, express or implied, as to any claims that were alleged or could have been alleged in the Lawsuit, that it promised, represented or agreed to provide County retirees lifetime or vested medical benefits of any kind whatsoever including without limitation under any Memorandum of Understanding ("MOU") or County Board of Supervisors Resolution or otherwise, that it promised, represented or agreed to fund any percentage or fixed dollar medical contribution, that it promised, represented or agreed to any particular medical plan structure or plan design, that it promised, represented or agreed to blend retiree groups for rate setting purposes with County employees, or otherwise violated any contract, promises, representation, obligation, or any other federal, state, or local law, constitution, code, statute or regulation of any kind. Nothing in this Agreement shall constitute or operate as an admission by the County in any context that the County is required to provide lifetime or vested medical benefits or contributions, to fund any

1 percentage or fixed dollar level of medical contribution, or to provide any particular
2 medical plan structure or plan designs under any MOU or County Board of Supervisor
3 Resolution of action or in any other manner. Nor shall any Party, or its counsel, make
4 reference to this Agreement as support for any prior or future claim against the County
5 except as provided in Section 8 and provided that SCARE may provide such information
6 to its Board and members as is needed for approval and the County may provide such
7 information to its Board, its employees, and others as necessary for the approval.

8 **3. Definitions.**

9 In addition to the terms defined elsewhere in this Agreement, the following terms shall
10 have the meanings set forth below:

11 3.1 "Agreement" or "Settlement" means this Settlement Agreement.

12 3.2 "Settlement Administrator" means Simpluris, Inc. or such other third party
13 administrator selected pursuant to the procedure set forth in this Agreement and
14 approved by the Court to provide notice to the Class and process any objections
15 and/or requests to opt out of the Settlement.

16 3.3 "Class" is defined as all Eligible County Retirees. "Class Member" means any
17 member of the Class.

18 3.4 "Class Counsel" means Jeffrey Lewis and his firm law firm, Keller Rohrback,
19 L.L.P.

20 3.5 "Class Notice" means the Court approved notice informing the Class of: (1) the
21 terms of the Agreement; and (2) their right to object to or Opt-Out of the
22 Agreement.

23 3.6 "County Offered Medical Plans" means medical plans offered by the County at any
24 point in time, including without limitation the County's self-insured medical plan.

25 3.7 "County" means Defendant Sonoma County, and includes each County Special
26 District which is a participating employer in County Offered Medical Plans.

27 3.8 "County Special District" means all special districts or agencies governed by the
28 same five (5) individuals that sit as the County Board of Supervisors whose retirees
are eligible to enroll in a County Offered Medical Plan and receive a County
Medical Contribution including without limitation the Sonoma County Water
Agency, the Community Development Commission, the Northern Sonoma Air
Pollution Control District, the Sonoma County Agricultural Preservation and Open
Space District, and other related agencies including without limitation Sonoma
County Transportation Authority, In Home Support Services Public Authority, or
the Sonoma County Law Library.

"Costs" means all out-of-pocket expenses in this Lawsuit and shall include (but not
be limited to) amounts paid and payable to the Court, experts and mediators.

3.10 "County's Counsel" means Bruce Goldstein, County Counsel, and the Office of
County Counsel of Sonoma County, and Raymond F. Lynch and his firm, Hanson
Bridgett LLP.

3.11 "Court" means the United States District Court for the Northern District of
California.

1 3.12 "Eligible County Retiree" means retired former employees of the County or County
2 Special Districts who meet the following criteria:

3 3.12.1 Retired from the County or County Special District on or before June 30,
4 2016; and

5 3.12.2 Were hired by the County or County Special District on or before
6 December 31, 1989, and had been a contributing member of the Sonoma County
7 Employees Retirement Association ("SCERA") and retired directly from the
8 County or County Special District service; OR

9 3.12.3 Were hired on or after January 1, 1990 through December 31, 2008, had at
10 least 10 consecutive years of full time paid County service, and had been a
11 contributing member of the Sonoma County Employees Retirement Association
12 ("SCERA") and retired directly from the County or County Special District service.

13 3.12.4 "Eligible County Retirees" also includes Eligible County Retirees of the
14 Sonoma County Superior Court who were County employees at the time of
15 retirement before January 1, 2001 and who upon retirement, enrolled in a County
16 Offered Medical Plan, were eligible to receive a monthly medical contribution, and
17 met the eligibility criteria in Paragraph 3.12.2 or 3.12.3 above.

18 3.12.5 "Eligible County Retirees" also includes County or County Special District
19 employees who retired on or before June 30, 2016 and upon retirement were
20 eligible to receive a monthly medical contribution and upon retirement or thereafter
21 waived coverage for themselves and the Eligible County Retiree's Eligible
22 Dependent(s) (as defined in 3.13 below) and have a signed "Waiver of Medical
23 Plan Acknowledgement" on file. County employees who cancelled or dropped
24 coverage in writing at the time of retirement, or at a later date, without a right to re-
25 enroll are not Eligible County Retirees.

26 3.12.6 "Eligible County Retirees" also includes any retired employee of a County
27 Special District currently receiving a \$500 monthly medical contribution from the
28 County as of June 30, 2016, including without limitation such retired employees of
Sonoma County Transportation Authority, In Home Support Services Public
Authority, or the Sonoma County Law Library.

3.12.7 "Eligible County Retirees" also includes any surviving spouse of a deceased
Settling County Retiree who is enrolled in a County Offered Medical Plan and was
receiving a \$500 or less County Medical Contribution as of June 30, 2016.

3.13 "Eligible Dependent" means:

3.13.1 Either a spouse or domestic partner (with a Declaration of Domestic
Partnership filed with California Secretary of State complying with Family Code
section 297 et.seq.) of a Settling Retiree Class Member as defined in each medical
plan document who is eligible to receive medical coverage under a County Offered
Medical Plan based on County eligibility criteria under such County Offered
Medical Plan; OR,

3.13.2 The unmarried child of a Settling Retiree Class Member as defined in each
medical plan document who is eligible to receive medical coverage under a County
Offered Medical Plan's age limits or is a disabled dependent child regardless of age
based on County eligibility criteria under any such applicable County Offered
Medical Plan.

- 1 3.14 "Fairness Hearing" is the hearing held under Federal Rules of Civil Procedure Rule
- 2 23(e)(2) to determine whether the Agreement is "fair, reasonable, and adequate."
- 3 3.15 "Final Approval Order" means the Order approving this Agreement by a United
- 4 States District Judge after the Fairness Hearing by signature of a Court Order in a
- 5 form substantially similar to that submitted by the Parties that, among other things,
- 6 finally resolves all claims and causes of action alleged or that could have been
- 7 alleged in the Lawsuit, attaches this Agreement as an exhibit, and has become final
- 8 and for which the appeal period has expired.
- 9 3.16 "Lawsuit" means Northern District of California Case No. 09-4432 CW entitled
- 10 Sonoma County Association of Retired Employees v. Sonoma County, including
- 11 without limitation the claims alleged or which could have been alleged in the
- 12 Complaint, First Amended Complaint, SAC and TAC.
- 13 3.17 "Medicare Retirees" are defined as Eligible County Retirees in County Offered
- 14 Medical Plans who are either participating in or eligible to participate in Medicare.
- 15 3.18 "County Medical Contribution" means the monthly amount up to which the County
- 16 will pay for each Settling Retiree Class Member who is enrolled in a County
- 17 Offered Medical Plan. The specified dollar amount of the County Medical
- 18 Contribution the County will contribute for the applicable plan year will be no
- 19 more than one hundred percent of the monthly plan premium as determined by and
- 20 between the County and a County Offered Medical Plan provider or the County
- 21 Medical Contribution specified in Paragraph 6.1.1, whichever is less.
- 22 3.19 "MOU" means a Memorandum of Understanding between a labor organization and
- 23 the County.
- 24 3.20 "Non-Medicare Retirees" are defined as Eligible County Retirees in County
- 25 Offered Medical Plans and who are not eligible to participate in Medicare. When a
- 26 Non-Medicare Retiree becomes eligible to participate in Medicare, he/she will
- 27 cease to be a Non-Medicare Retiree and will be a Medicare Retiree.
- 28 3.21 "Notice Deadline" means the deadline for mailing notice as ordered by the Court as
- part of the Preliminary Approval process of this Agreement as provided in Section
- 9.
- 3.22 "Opt-Out" means the process by which a Class Member chooses not to be part of
- the "Settling Retiree Class" as provided in Section 7.
- 3.23 "Party" means SCARE, the County or Plaintiff Class Representative(s).
- 3.24 "Parties" means SCARE, the County and Plaintiff Class Representatives(s).
- 3.25 "Pooled" or "Pooling" means the premium rates for Non-Medicare Retirees under
- County Offered Medical Plans that are based on actual claims experience or
- demographic data for the combined group of active employees and Non-Medicare
- Retirees covered under County Offered Medical Plans.
- 3.26 "Preliminary Approval" means the initial approval by the Court of the terms of this
- Agreement, which shall occur prior to any notice being provided in accordance
- with Section 8 of this Agreement.
- 3.27 "Plaintiff Class Representatives" means the class representatives to be named in the

1 TAC, namely: Ed Clites, Kathy Wertz, Betty Seacord, Christopher Bauer, Margaret
2 Childress and Gary Zanolini.

3 3.28 "SCARE" means Plaintiff Sonoma County Association of Retired Employees, a
4 California non-profit corporation meeting the requirements of Internal Revenue
5 Code section 501(c)(5).

6 3.29 "SCARE Counsel" means Jeffrey Lewis and his firm, Keller Rohrback, L.L.P.

7 3.30 "Settling Retiree Class" is defined as all Eligible County Retirees but does not
8 include the Eligible County Retirees who opt out of the Class as provided in
9 Section 7. "Settling Retiree Class Member" means any individual member of the
10 Settling Retiree Class.

11 3.31 "SAC" means the Second Amended Complaint in this Lawsuit.

12 3.32 "TAC" means the Third Amended Class Complaint to be filed by SCARE, and by
13 Plaintiff Class Representatives on behalf of the Class, the filing of which is
14 stipulated to for settlement purposes only, which seeks injunctive and declaratory
15 relief as alleged in the SAC and additionally alleges damages on behalf of the Class
16 referred to in Paragraph 5.1.2.

17 **4. Conditions Precedent.**

18 Notwithstanding any other provision in this Agreement, each of County's Obligations
19 under Section 6 are prospective only and conditioned upon and do not become operative
20 until the occurrence of all of the following condition precedent events:

21 4.1 The Agreement is approved by the SCARE Board and membership of SCARE in
22 conformity with SCARE's Bylaws, is executed on behalf of SCARE, and SCARE
23 provides to the County a notarized certification under penalty of perjury from an
24 authorized officer of SCARE that the SCARE membership vote on the Agreement
25 is in compliance with SCARE's Bylaws and that the officer of SCARE signing the
26 Agreement and certification has the authority to execute them on behalf of SCARE.

27 4.2 The Agreement is approved by the County's Board of Supervisors after SCARE's
28 Board and membership approval.

4.3 The filing and service of the TAC. A draft of the TAC shall be provided to
County's Counsel for input before filing.

4.4 The filing by Class Counsel of a motion with the Court ("the Preliminary Approval
Motion") seeking an order approving the filing of the TAC, preliminarily approving
the TAC, setting a date for the Fairness Hearing, approving the Class Notice (in the
form agreed to by the Parties) and setting out the procedure for objecting to or
opting out of the Settlement. The motion shall provide that if the settlement fails to
be approved by the Court, then the TAC will be withdrawn and the County retains
all rights to object to the maintenance of an action as a class action and the Lawsuit
shall resume based on the SAC as of March 17, 2016 as provided in Paragraphs 7.3
and 7.4.

4.5 The obtaining of Preliminary Approval of this Agreement, Certification of the
Class and approval of the Class Notice and the procedures for providing that notice
to the Class, and the sending of notice to the Class in accordance with the
procedures for providing notice approved by the Court.

1 4.6 A Fairness Hearing is held by the Court to grant Final Approval of the Agreement
2 in accordance with Section 10 below.

3 4.7 The Court approves the Agreement after a Fairness Hearing has been conducted,
4 and enters a Final Approval Order which finally resolves and releases all claims
5 and causes of action alleged or that could have been alleged in the Lawsuit in
6 accordance with the terms set forth in Sections 10 and 12, the Final Approval Order
7 has become final, no appeal of the Final Approval Order or other order relating to
8 the Parties' settlement has been filed or is pending, and the time for appeal has
9 expired.

10 **5. Plaintiffs' Obligations.**

11 5.1 SCARE, the Plaintiff Class Representatives, and Class Counsel shall:

12 5.1.1 Cooperate with the County and the County's Counsel and use their best
13 efforts to achieve a complete settlement of all claims by the Class and SCARE in
14 accordance with this Agreement.

15 5.1.2 Prepare and seek leave to file the TAC by Plaintiff SCARE and Plaintiff
16 Class Representatives on behalf of the Class which seeks injunctive and declaratory
17 relief as alleged in the SAC and additionally alleges damages on behalf of the
18 Class, and submit it to County's Counsel for review and stipulation for filing for
19 settlement purposes only.

20 5.1.3 Move for the certification of the Class, preliminary approval of the
21 Settlement, and approval of the Class Notice as provided in Sections 8 and 9.

22 5.1.4 Seek a Fairness Hearing and Final Approval Order as provided in Sections
23 8, 9 and 10.

24 5.1.5 Provide releases by SCARE and by the Settling Retiree Class of all claims,
25 disputes and controversies that were alleged or that could have been alleged in or
26 otherwise relating to the allegations in the Lawsuit and concerning County Offered
27 Medical Plans and subsidies paid for such plans, as provided in Paragraph 10.2 and
28 Section 12.

6. County's Obligations Once Agreement Is Approved By The Court And Final.

Subject to its right to void the Agreement under Section 7, and subject to the Conditions
Precedent in Section 4, the County agrees to the following obligations to the Settling
Retiree Class:

6.1 County Medical Contributions:

6.1.1 For County Offered Medical Plan coverage effective through May 31, 2026,
the County will contribute for the Settling Retiree Class Members and their Eligible
Dependent(s) who are enrolled in a County Offered Medical Plan a County
Medical Contribution of the lesser of \$500 per month or the amount of the
premium. For County Offered Medical Plan coverage effective June 1, 2026 and
continuing through May 31, 2041, County will contribute for the Settling Retiree
Class Members and their Eligible Dependent(s) who are enrolled in a County
Offered Medical Plan a County Medical Contribution of the lesser of \$200 per
month or the amount of the monthly premium. The Parties agree that after May 31,
2041, the County shall have no obligation to provide access to County Offered

1 Medical Plans or to provide a County Medical Contribution or any other
2 contribution of any kind whatsoever for any Settling Retiree Class Member,
3 Eligible Dependent or any other retiree under this Settlement Agreement or
4 otherwise.

5 6.1.2 Each Settling Retiree Class Member who has previously waived coverage
6 and meets the definition in Paragraph 3.12.5, and/or each surviving Eligible
7 Dependent as described in Paragraph 6.1.4 may re-enroll in a County Offered
8 Medical Plan and receive a County Medical Contribution pursuant to Paragraph
9 6.1.1 above, subject to meeting the following conditions:

10 6.1.2.1. The Settling Retiree Class Member must re-enroll within 31 days of
11 losing other insurance coverage and provide the County with evidence of
12 such *loss* of other coverage.

13 6.1.2.2. At the latest, the Settling Retiree Class Member must re-enroll, or
14 lose eligibility to receive a County Medical Contribution toward the retiree
15 County Offered Medical Plan, no later than 60 days after the effective date
16 of the retiree's Medicare coverage.

17 6.1.2.3. The Settling Retiree Class Member must re-enroll in a County
18 Offered Medical Plan in order to enroll an Eligible Dependent in a County
19 Offered Medical Plan.

20 6.1.2.4. The Settling Retiree Class Member may add an Eligible Dependent
21 spouse at a time later than the date the Settling Retiree Class Member
22 enrolls so long as the Settling Retiree Class Member and his or her Eligible
23 Dependent spouse as defined in 3.13 are not covered by more than one
24 County Offered Medical Plan as prohibited in 6.1.3.

25 6.1.2.5. Eligible Dependent children must be enrolled at the time the
26 Settling Retiree Class Member elects coverage.

27 6.1.3 A Settling Retiree Class Member and his or her Eligible Dependents (as
28 defined in Paragraph 3.13) cannot be covered by more than one County Offered
Medical Plan. A Settling Retiree Class Member and Eligible Dependent(s) (as
defined in Paragraph 3.13), may be enrolled in a County Offered Medical Plan but
is allowed only to enroll either as a subscriber in a County Offered Medical Plan or,
as the Eligible Dependent spouse of another eligible County employee/Settling
Retiree Class Member but not both. If an eligible County employee/Settling
Retiree Class Member is also eligible to cover Eligible Dependent child/children,
each child will be allowed to enroll as a dependent on only one Settling Retiree
Class Member/employee plan.

6.1.4 Upon the death of a Settling Retiree Class Member, the County will
continue to pay the County's Medical Contribution toward the medical plan
premium costs for a surviving Eligible Dependent in the same manner as if the
Settling Retiree Class Member had survived provided that one of the following
criteria are met:

6.1.4.1. The surviving Eligible Dependent was enrolled as the Settling
Retiree Class Member's Eligible Dependent in the County Offered Medical
Plan at the time of the Settling Retiree Class Member's retirement and
remains enrolled at the time of the death of the Settling Retiree Class
Member, OR

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6.1.4.2. The Settling Retiree Class Member has a written waiver form or writing described in Paragraph 3.12.5 on file waiving coverage and retaining the right to re-enroll.

6.1.5 Any additional surviving Eligible Dependent(s) enrolled under the Settling Retiree Class Member's County Offered Medical Plan at the time of the Settling Retiree Class Member's death, may continue participation in the County Offered Medical Plan but shall remain responsible for all premium costs in excess of the County contribution.

6.2 Access to County Offered Medical Plans:

6.2.1 The County has no obligation to provide the Settling Retiree Class or their Eligible Dependents access to any County Offered Medical Plan after May 31, 2041. For plan years prior to May 31, 2041, the County will provide Settling Retiree Class Members and their Eligible Dependents access to County Offered Medical Plans solely to the extent the County's then current medical plan providers are willing to provide medical plan coverage for: (1) Settling Retiree Class Members who are Medicare Retirees, and/or (2) formerly Pooled Settling Retiree Class Members and their Eligible Dependents from and after the earlier of their becoming Medicare Retirees or their exclusion from pooling pursuant to Paragraph 6.3.1. (Medical coverage for the two groups identified in Sections (1) and (2) of the immediately preceding sentence are hereinafter referred to collectively as the "Requested Coverages" and the two groups in these same sections shall be referred to as the "Requested Coverage Groups.") The County will annually ask each County Offered Medical Plan provider then currently providing medical coverage for active County employees whether it will provide the Requested Coverages, and if so, will request rate quotes for the Requested Coverages, and shall provide access to such coverage for the Requested Coverage Groups to the extent offered for one or both. Other than as set forth in this Section 6.2, the County shall have no further obligation of any kind to seek the Requested Coverages for the Requested Coverage Groups in any plan year. Nothing in this Section 6.2 requires the County: (1) to make a request for proposal or otherwise ask any medical plan providers other than its County Offered Medical Plan providers for any medical plan coverage for the Requested Coverage Groups; or (2) to provide any particular level or kind of medical plan coverage for the Requested Coverage Groups from its County Offered Medical Plan providers other than as set forth herein.

6.3 Pooling:

6.3.1 For coverage through May 31, 2019, Non-Medicare Retirees and active employees enrolled in County Offered Medical Plans shall have access to then current County Offered Medical Plans and remain Pooled for rate setting purposes. Effective for medical coverage provided on and after June 1, 2019, the Parties agree the County has no obligation whatsoever to continue Pooling, under this Settlement Agreement or otherwise, with respect to the Settling Retiree Class Members, including, without limitation, Non-Medicare Retirees, Medicare Retirees, Eligible Dependents, or as to any other retirees.

6.4 Replacement Plans:

6.4.1 Nothing in this Agreement requires the County to maintain or continue to provide any County Offered Medical Plan through an existing medical plan provider or otherwise, or to maintain or continue to provide any health plan. If the County replaces an existing County Offered Medical Plan provider or an existing

1 health plan with a new County Offered Medical Plan provider and/or health plan,
2 Settling Retiree Class Members and Eligible Dependents shall have access to the
3 extent such providers and/or plans provide coverage for retirees. Should the
4 County discontinue a County Offered Medical Plan provider(s) that is the only
5 option for a Settling Retiree Class Member or Eligible Dependent, the County will
6 arrange for reimbursement of medical premiums paid by such Settling Retiree
7 Class Member or Eligible Dependent up to the amounts specified in Paragraph
8 6.1.1 for the applicable period set forth in Paragraph 6.1.1 upon receipt of
9 appropriate substantiation of payment of medical premiums. As a precondition to
10 reimbursement, a Settling Retiree Class Member or Eligible Dependent must
11 provide a statement or itemized invoice prepared by the individual or entity to
12 whom the medical premium payment was made showing the nature of the payment,
13 for whom it was incurred, the amount paid and the date of payment as required
14 under Treasury Regulation Section 1.213-1(h) (or any successor Treasury
15 Regulation, related Internal Revenue Code Section or other directly applicable
16 guidance issued by the Internal Revenue Service). To the extent allowable under
17 the applicable tax rules, such reimbursement may be made by contribution to the
18 HRA Plan described in Section 6.5, below. (Any such contribution by the County
19 shall be in addition to the County's obligation under Section 6.5 below). Should the
20 County discontinue all County Offered Medical Plans at any time during the period
21 specified in Paragraph 6.1.1, the County will arrange for reimbursement for
22 medical premiums paid by such Settling Retiree Class Members or Eligible
23 Dependents up to the amount specified in Paragraph 6.1.1 for the applicable period
24 set forth in Paragraph 6.1.1. Medical premiums will be reimbursed upon receipt of
25 a statement or itemized invoice prepared by the individual or entity to whom the
26 medical premium payment was made showing the nature of the payment, for whom
27 it was incurred, the amount paid and the date of payment as required under
28 Treasury Regulation Section 1.213-1(h) (or any successor Treasury Regulation,
related Internal Revenue Code Section or directly applicable guidance issued by the
Internal Revenue Service). To the extent allowable under the applicable tax rules,
such reimbursement may be made through the HRA Plan described in Section 6.5,
below.

6.5 Health Reimbursement Account Plan Contributions

6.5.1 The County will provide funding in the total amount of \$12,000,000 minus
the deductions specified in this Paragraph 6.5.1 (the "County's Net HRA Payment")
for accounts to be established for Settling Retiree Class Members under an
employer-established Retiree Health Reimbursement Account Plan ("HRA Plan").
The County's Net HRA Payment will be used to pay for premium reimbursement
payments and other related medical expenses referenced in this Agreement for the
benefit of Settling Retiree Class Members and their Eligible Dependents (to the
extent allowed by law, including but not limited to, applicable Internal Revenue
Service regulations, rulings, and opinions, and excluding Eligible Dependents who
are domestic partners to the extent such domestic partners are not "tax dependents"
as defined in Internal Revenue Code Section 152 (or any successor Internal
Revenue Code Section, related Treasury Regulation or other directly applicable
guidance issued by the Internal Revenue Service) as provided for herein. The
County's Net HRA Payment is to be allocated on a pro rata basis based on the
number of Settling Retiree Class Members (determined as of June 30, 2017 and
including with respect to any Settling Retiree Class Member who is deceased as of
June 30, 2017 his or her Eligible Dependent who is a spouse (excluding an Eligible
Dependent who is a domestic partner or unmarried child) (an "Eligible Dependent
Spouse")) into an individual Settling Retiree Class Member's account under the
HRA Plan. The following amounts will be deducted, in accordance with paragraph

1 6.5.3, from the \$12,000,000:

2 6.5.1.1. \$100,000 to cover the County's costs and attorneys' fees to
3 establish the HRA Plan (including, but not limited to, the County's costs to
4 draft the plan documents and to select an appropriate third party HRA
5 administrator) and to cover the County's ongoing administration costs; plus

6 6.5.1.2. \$250,000 to cover any excise tax on high cost employer-
7 sponsored health coverage under Internal Revenue Code Section 4980I (or
8 any successor Internal Revenue Code Section, related Treasury Regulation
9 or other directly applicable guidance issued by the Internal Revenue
10 Service) (the "Excise Tax") that may be imposed on, and payable by, the
11 County for any taxable period beginning after December 31, 2019 as a
12 consequence of the County's sponsorship of the HRA Plan.

13 Within 90 days of entering into this Agreement, the Parties shall agree to an
14 estimated amount for the monthly charge that will be applied equally to each
15 individual Settling Retiree Class Member's account under the HRA Plan that has a
16 balance in it and deducted on a monthly basis (or on another interval as required by
17 the third party HRA Administrator) by the third party HRA administrator to cover
18 the cost of the third party HRA administrator in connection with the ongoing
19 administration of the HRA Plan. Such monthly or other amount will be disclosed in
20 the Class Notice.

21 6.5.2 The County's total \$12,000,000 payment shall be paid in three (3)
22 increments as follows: \$3,330,000 on or before June 30, 2017, \$4,330,000 on or
23 before June 30, 2018, and the balance of the County's payment on or before June
24 30, 2019; provided, however, that such payments shall be reduced as follows:

25 6.5.2.1. \$100,000 as set forth in Paragraph 6.5.1.1 shall be deducted
26 from the first incremental payment amount of \$3,330,000.

27 6.5.2.2. \$250,000 as set forth in Paragraph 6.5.1.2 shall be deducted
28 from the third incremental payment amount of \$4,340,000.

6.5.3 The County will prepare the HRA Plan and select an appropriate third party
administrator for the HRA Plan by May 30, 2017, which will result in a contract
between the County and the selected third party HRA administrator for a set period
of years where the monthly charge will be set forth in the contract. After the initial
contract period and for each subsequent contract period, the County will enter into
a new contract with a third party HRA administrator at which time the monthly
administrative charges will be negotiated between the County and the selected third
party HRA administrator, and those contractual charges will apply.

6.5.4 The purpose of the \$250,000 hold back described in Paragraph 6.5.1.2 is to
offset the County's liability with respect to the Excise Tax that may be imposed as a
consequence of the County's sponsorship of the HRA Plan. Thus, it is the intent of
the Parties that the \$250,000 hold back shall be available to the County for this
purpose, and to the extent that all or a portion of the \$250,000 is not required to
offset the County's liability with respect to the Excise Tax because (i) the Excise
Tax is repealed, (ii) the Excise Tax imposed is less than \$250,000, or (iii) the
effective date of the Excise Tax has been deferred (as described in Paragraph
6.5.4.3), then the \$250,000 hold back (or the remaining portion thereof) shall be
contributed to the HRA Plan on the earliest to occur of the events described in
Paragraphs 6.5.4.1 through 6.5.4.3.

1 6.5.4.1. If the Excise Tax is repealed, the \$250,000 hold back (or the
2 remaining portion thereof) shall be contributed to the HRA Plan not more
3 than 90 days following the date of repeal and allocated on a pro rata basis
4 based on the number of Settling Retiree Class Members (determined as of
the date of the allocation and including the Eligible Dependent Spouse of
any Settling Retiree Class Member who is deceased as of the date of the
allocation).

5 6.5.4.2. If the County reasonably determines, in its sole discretion,
6 that all of the Excise Tax applicable to the HRA Plan has been paid and
7 some or all of the \$250,000 hold back remains, the \$250,000 hold back (or
8 the remaining portion thereof) shall be contributed to the HRA Plan not
9 more than 90 days following the date of determination and allocated on a
pro rata basis based on the number of Settling Retiree Class Members
(determined as of the date of the allocation and including the Eligible
Dependent Spouse of any Settling Retiree Class Member who is deceased
as of the date of the allocation).

10 6.5.4.3. If the \$250,000 hold back has not been allocated in
11 accordance with Paragraph 6.5.4.1 or Paragraph 6.5.4.2, the \$250,000 hold
12 back (or the remaining portion thereof) shall be contributed to the HRA
13 Plan in accordance with the following schedule: up to \$75,000 on
14 September 15, 2021, up to \$75,000 on September 15, 2022, up to \$50,000
15 on September 15, 2023 and the balance (if any) on September 15, 2024;
16 *provided, however*, that if the effective date of the Excise Tax is delayed by
17 the United States Congress, Department of the Treasury or such other
18 Federal government agency, beyond January 1, 2020 to a date certain, then
19 the contribution schedule described herein shall be delayed, such that first
20 contribution shall occur on September 15 in the calendar year following the
calendar year in which the delayed effective date of the Excise Tax occurs,
and the remaining three contribution dates shall occur on the first, second
and third anniversary thereof. Notwithstanding the foregoing, the full
amount of the \$250,000 hold back (or any remaining portion thereof) shall
be contributed to the HRA Plan no later than September 15, 2024.
Contributions made under this Paragraph 6.5.4.3 shall be allocated on a pro
rata basis based on the number of Settling Retiree Class Members
(determined as of the date of the allocation and including the Eligible
Dependent Spouse of any Settling Retiree Class Member who is deceased
as of the date of the allocation).

21 6.6 Maintenance of Health Reimbursement Account Plan by the County

22 6.6.1 So long as it is in compliance with applicable law and the Internal Revenue
23 Code requirements, the following will apply to the administration of the HRA Plan:

24 6.6.1.1. Upon the death of a Settling Retiree Class Member, any
25 balance in that Settling Retiree Class Member's account under the HRA
26 Plan will be available to his/her Eligible Dependent Spouse, provided that
27 such Eligible Dependent Spouse notifies the third party HRA administrator
28 of the Settling Retiree Class Member's death and provides any additional
information required by the third party HRA administrator as soon as
possible following the Settling Retiree Class Member's death but in no
event more than ninety (90) days following the Settling Retiree Class
Member's death. If such Eligible Dependent Spouse fails to notify the third
party HRA administrator within such ninety-day period, or if such Eligible

1 Dependent Spouse fails to provide any additional information required by
2 the third party HRA Administrator, then any balance in the Settling Retiree
3 Class Member's account under the HRA Plan shall be first used to pay
4 reasonable expenses of the administration of the Settling Retiree Class
5 Member's HRA Plan account and any excess shall be allocated among the
6 remaining accounts under the HRA Plan.

6.6.1.2. Upon the death of a Settling Retiree Class Member who has
7 no surviving Eligible Dependent Spouse, or upon the death of the Settling
8 Retiree Class Member's Eligible Dependent Spouse after the death of the
9 Settling Retiree Class Member, any balance in the Settling Retiree Class
10 Member's account under the HRA Plan shall be first used to pay reasonable
11 expenses of the administration of the Settling Retiree Class Member's HRA
12 Plan account and any excess shall be allocated among the remaining
13 accounts under the HRA Plan.

6.6.1.3. In addition to reimbursement to Settling Retiree Class
14 Members for medical plan premiums and other qualified medical expenses
15 meeting the requirements of Internal Revenue Code Section 213(d), funds
16 in a Settling Retiree Class Member's account under the HRA Plan may be
17 used to reimburse Medicare Part B premiums, upon receipt of appropriate
18 substantiation of payment of Medicare Part B premiums by the third party
19 HRA Plan administrator as required under Section 213(d) of the Internal
20 Revenue Code. Appropriate substantiation is a statement or itemized
21 invoice prepared by the individual or entity to whom the medical premium
22 or other qualified medical expense, as defined under Internal Revenue Code
23 Section 213(d), was made and must show the nature of the payment, for
24 whom the expense was incurred, the amount paid and the date of payment
25 as required under Treasury Regulation Section 1.213-1(h) (or any
26 successor Treasury Regulation, related Internal Revenue Code Section or
27 directly applicable guidance issued by the Internal Revenue Service).

6.6.1.4. The third party HRA administrator shall be solely
28 responsible for making any determination as to what constitutes a qualified
29 medical expense meeting the requirements of Internal Revenue Code
30 Section 213(d) and the administrator's decision shall be final and binding on
31 all Settling Retiree Class Members and their Eligible Dependents.

6.6.1.5. The HRA Plan shall include the following provisions: (i) a
32 six month statute of limitations in which any HRA Plan participant must
33 make a claim, including a claim for benefits, under the HRA Plan; (ii)
34 limiting claims arising out of the administration of the HRA Plan to an
35 amount no greater than the amount of the disbursement requested from the
36 HRA account; (iii) a mandatory mediation and arbitration provision with
37 respect to any claim, including a claim for benefits, under the HRA Plan;
38 and (iv) a requirement that any claim, including a claim for benefits, under
39 the HRA Plan must be brought on an individual basis only, and not on a
40 class, collective or representative basis.

7. **Opt-Out Right.**

7.1 Any Class Member may request exclusion from the Class for purposes of
41 settlement. Class Members who wish to opt out of the Class for purposes of the
42 Settlement must submit a written and signed request for exclusion from the
43 Settlement ("Opt-Out Statement") to the Settlement Administrator. Opt-Out

1 Statements must be postmarked and mailed to the Settlement Administrator not
2 later than sixty (60) calendar days after the Notice Deadline set by the Court, must
3 include the Class Member's name and current contact information, and must
4 affirmatively state that the Class Member does not want to be covered by the
5 Settlement.

6 7.2 The Settlement Administrator shall stamp the date received on the original of any
7 Opt-Out Statement it receives and serve copies of the Opt-Out Statement on Class
8 Counsel and County's Counsel not later than five (5) business days after receipt
9 thereof and shall file the date-stamped originals of any Opt-Out Statements with the
10 Court not later than ten (10) business days prior to the date set for the Fairness
11 Hearing. The Settlement Administrator shall retain copies of all Opt-Out
12 Statements in its files until such time as the Settlement Administrator is relieved of
13 its duties and responsibilities under this Agreement.

14 7.3 If the number of Class Members opting out of the Agreement in the manner
15 provided in this Agreement exceeds five percent (5%) of the total number of
16 eligible Class Members, then County, at its sole option and discretion, shall have
17 the right to void this Agreement by electronically filing with the Court a Notice of
18 its decision to void the Agreement in the Lawsuit until the sixtieth (60th) day after
19 the Court requires individuals to return all Opt-Out Statements. In the event the
20 60th day falls on a weekend or holiday, the last day for the County to void the
21 Agreement shall be extended to the next business day.

22 7.4 If County exercises its option to void the Agreement, all of the Parties' obligations
23 under this Agreement shall cease to be of any force and effect, and the Agreement
24 and any orders entered in connection therewith shall be vacated, rescinded,
25 cancelled, and annulled, and the Parties shall return to the status quo in the Lawsuit
26 as if the Parties had not entered into the Agreement, including resumption of the
27 case based on the SAC as of March 17, 2016. In addition, the Agreement and all
28 related negotiations, Court orders and proceedings shall be without prejudice to the
rights of any and all Parties, and evidence relating to the Agreement and all
negotiations shall be protected in accordance with Federal Rules of Evidence Rule
408 and shall not be admissible, discoverable or used in any manner in the Lawsuit.

19 **8. Preliminary Approval, Objections, and Fairness Hearing.**

20 8.1 Promptly after execution of this Agreement, the Parties shall cooperate to
21 implement the terms of this Agreement, including without limitation, to file within
22 three (3) business days of obtaining Board of Supervisors approval of the
23 Agreement, a motion seeking orders Granting Preliminary Approval of this
24 Agreement, Authorizing the Filing of the TAC, Preliminarily Certifying the Class
25 for Settlement Purposes Only, and Approving the Proposed Form of Notice and
26 Plan for Providing Notice Submitted by the Parties.

27 8.2 Any Class Member may object to the proposed Agreement by filing, within sixty
28 (60) days after the Notice Deadline set by the Court, written objections with the
Court as provided by the Court's Order of Preliminary Approval of Settlement.

8.3 Responses by County Counsel and Class Counsel to any timely-filed objections
shall be made no less than five (5) business days before the Fairness Hearing or
otherwise as provided by the Court's Order.

8.4 The Parties shall use their best efforts to schedule a Fairness Hearing, and to
request the Court to issue a Final Approval Order as provided in Section 10.

1 **9. Notice.**

2 After the Court enters its Order granting preliminary approval of the Settlement, all Class
3 Members shall be provided with the Class Notice (updated to reflect the Order granting
4 preliminary approval of the Settlement and any dates and deadlines set by the Court) by the
5 Settlement Administrator as follows:

6 9.1 Within fifteen (15) calendar days after the Court grants preliminary approval of the
7 Settlement, County shall provide to the Settlement Administrator a list of Class
8 Members, and their then-current or last known addresses.

9 9.2 On or before the Notice Deadline, the Settlement Administrator shall mail the Class
10 Notice to all Class Members via first-class regular U.S. Mail, using the address
11 information provided by the County.

12 9.3 If any Class Notice is returned as undeliverable within thirty (30) calendar days of
13 the mailing of the Class Notice with a forwarding address, the Settlement
14 Administrator shall have seven (7) calendar days to re-mail a Class Notice to the
15 forwarding address. If any Class Notices are returned as undeliverable within thirty
16 (30) calendar days of the mailing of the Class Notice without a forwarding address,
17 the Settlement Administrator shall have seven (7) calendar days from receipt of the
18 returned Class Notice to conduct a search for a more current address for the Class
19 Member and to re-mail a Class Notice to the Class Member. The Settlement
20 Administrator shall be responsible for taking all reasonable steps to trace the
21 mailing address of any Class Member for whom a Class Notice is returned by the
22 U.S. Postal Service as undeliverable. These reasonable steps will include, at a
23 minimum, the tracking of all undelivered mail, performing an address search for all
24 mail returned without a forwarding address, and promptly re-mailing the Class
25 Notice to Class Members for whom new addresses are found.

26 9.4 The Settlement Administrator shall provide weekly status reports to counsel for the
27 Parties, including: (a) the number of Class Notices mailed; and (b) the number of
28 Opt-Out Statements received.

 9.5 No later than fourteen (14) calendar days before the Final Approval Hearing, the
Settlement Administrator shall serve on Class Counsel and the County's Counsel,
for filing with the Court in support of Plaintiff's motion for final approval of the
Settlement, a declaration setting forth its compliance with this section of this
Agreement, and attaching all Opt-Out forms that it has received, together with
envelopes showing the date on which each Opt-Out form was postmarked.

 9.6 The Class Settlement Notice, and the Plan for Providing Notice must satisfy the
requirements of Federal Rule of Civil Procedure 23, and must be approved by the
Court. In Plaintiff Class Representatives' motion for preliminary approval of the
Agreement, the Plaintiff Class Representatives shall propose a deadline for the
Settlement Administrator to send the Class Settlement Notice ("Notice Deadline")
and the proposed Notice Deadline shall be as soon as reasonably practicable.

10. Order, Final Approval and Dismissal.

 10.1 At the time of the Fairness Hearing, the Parties shall ask the Court to enter the Final
Approval Order in a form agreeable to the Parties granting Final Approval of this
Agreement and Finally Certifying the Class for Settlement Purposes Only.

1 10.2 The Final Approval Order shall attach this Agreement as an exhibit, and shall
2 provide for the Releases of All Claims by SCARE and the Settling Retiree Class
pursuant to Section 10.1.

3 10.3 The Lawsuit shall be dismissed with prejudice pursuant to Rule 41 of the Federal
4 Rules of Civil Procedure when the Final Approval Order is file; provided however,
5 that, the Court shall retain jurisdiction only until June 30, 2023 for the sole and
6 limited purpose of enforcing the express terms of this Agreement by the Parties as
set forth in Section 14. The continuing jurisdiction provided by this Paragraph
does not extend to any obligation not expressly created by this Agreement.

7 **11. Mediation and Settlement Statements and Communications.**

8 11.1 The Parties, Counsel for SCARE and Counsel for the County agree that all oral or
9 written statements and communications made in connection with the March 16,
10 2016 mediation by the parties or their counsel in the mediation or after that
11 mediation, related to the mediation or to the implementation of the mediated
12 settlement, are neither admissible nor discoverable in any action, nor may they be
13 used in any way in the Lawsuit in the event the settlement is not fully implemented,
14 is not approved by SCARE, the County, or the Court, or is rejected by the County
15 as provided in Section 7. Statements and communication made after the earliest of
these events are admissible and discoverable; provided, however, that statements
and communications made after March 16, 2016 and before the earliest of these
events shall remain neither admissible nor discoverable, nor may they be used in
any way in the Lawsuit. The Parties, Counsel for SCARE and Counsel for the
County further agree that all communications and writings made in connection with
the two prior unsuccessful mediations between the Parties in 2009 and 2013 shall
remain confidential and subject to the mediation privilege, as previously agreed by
the Parties in 2009 and 2013.

16 11.2 If this Agreement is approved by the Court in the Final Approval Order, this
17 Agreement will be admissible in evidence in any civil action or proceeding to
enforce the terms of this Agreement.

18 **12. Releases.**

19 12.1 Release of All Claims.

20 12.1.1 Effective on the date of the Final Approval Order, SCARE, its predecessors,
21 successors, assigns, agents, officers, directors, and employees and Plaintiff Class
22 Representatives, on behalf of the Settling Retiree Class, and each of the Settling
23 Retiree Class Members, and their respective spouses, dependents, survivors,
24 executors, successors, heirs, assigns, administrators, agents and representatives
25 (collectively, the "Releasing Parties") in consideration of the relief set forth herein,
26 the sufficiency of which is expressly acknowledged, unconditionally and forever do
27 fully and finally release, acquit, and forever discharge the County including without
28 limitation its Board of Supervisors, County Special Districts, departments, officials,
officers, agents, attorneys, insurers, and employees, and each of their predecessors,
successors, and assigns, and any other person or persons, entity or entities of any
kind whatsoever for whose actions, representations, or omissions County may be
legally responsible and/or who were involved with the County Health Plans in the
provision of health care to Eligible County Retirees and/or their Eligible
Dependents in any way whatsoever from the Released Claims as defined in
Paragraph 12.1.2 ("Released Parties"); provided, however, that Released Parties do
not include any County Offered Medical Plan providers with which County

1 contracts to provide health care at any point in time, as distinct from the County.

2 12.1.2 The "Released Claims" are all claims that were alleged or could have been
3 alleged in the Lawsuit by the Releasing Parties, including without limitation, any
4 and all claims, rights, demands, charges, complaints, obligations, actions, debts,
5 suits and causes of action, whether known or unknown, suspected or unsuspected,
6 accrued or unaccrued, for past or future injuries or damages, including without
7 limitation, injunctive, declaratory or equitable relief, or monetary damages of any
8 kind, including without limitation, statutory, actual, compensatory, consequential,
9 special penalty, or punitive however described, based on actions, representations,
10 or omissions preceding Final Approval of this Agreement arising out of or relating
11 in any way whatsoever to any of the legal, factual, or other allegations made in the
12 Lawsuit, or any legal theories that could have been raised based on the allegations
13 of the Lawsuit that relate in any way to the health care provided by the County or
14 by a Released Party to the Releasing Parties under law, contract, policy, practice,
15 legislation or statute, including without limitation claims under federal, state, or
16 local constitutions, statutes, codes, regulations, or resolutions, any claims that the
17 County or any Released Party promised or guaranteed to pay a certain percentage
18 of contribution for retiree health care, any obligation to continue pooling after June
19 1, 2019, or to treat retirees the same as current County employees with respect to
20 health care subsidies. or arise out of any future reduction or elimination of County
21 reimbursement of Medicare part B premiums, and any claims as described in this
22 Paragraph under any MOU, Board Resolution, contract, tort or common law of any
23 kind, or otherwise.

24 12.1.3 The Parties agree that the releases described in this Section 12 shall be
25 construed broadly and to the fullest extent permitted by law, and that the Final
26 Approval Order will be fully binding and effective for purposes of res judicata and
27 collateral estoppel upon the Releasing Parties with respect to claims described in
28 Paragraph 12.1.2.

12.1.4 Section 1542 Waiver of Known or Unknown Claims. The Releasing Parties
understand and expressly agree that this Agreement extends to all Released Claims
of every nature and kind, known or unknown, suspected or unsuspected, past,
present, or future, arising from or attributable to any act, conduct, policy, practice,
contract of County, whether known by the Releasing Parties or whether or not any
Releasing Party believes he or she may have any claims, and that any and all rights
granted to the Releasing Party under Section 1542 of the California Civil Code or
any analogous state law or federal law or regulations, are hereby expressly
WAIVED. Section 1542 of the California Civil Code reads as follows:

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.

25 **13. No Third Party Beneficiaries.**

26 13.1 Each of the Parties' intent is to confer only the rights, benefits and remedies
27 expressly provided in this Agreement upon the Settling Retiree Class, SCARE, the
28 Plaintiff Class Representatives, County, or Eligible Dependents only. Each of the
Parties specifically decline to provide any rights, benefits or remedies, of any kind
whatsoever, to any other persons or entities, whatsoever, under either this

1 Agreement or the Final Approval Order.

2 **14. Enforcement of the Agreement.**

3 Any proceedings to enforce the express terms of this Agreement by the Parties, Settling
4 Retiree Class Members, Eligible Dependents or a QMCSO (Qualified Medical Child
5 Support Order) Beneficiary as approved in the Final Approval Order shall be brought
6 under the procedures described in Section 14 only until June 30, 2023. Such proceedings
7 shall follow the procedure described in Paragraph 14.1 and if no resolution is reached, the
8 procedure described in Paragraph 14.2 shall be followed:

9 14.1 Informal Resolution:

10 14.1.1 Any Party seeking enforcement of the express terms of this Agreement
11 shall notify the other Parties and provide a written statement identifying the express
12 term of the Agreement allegedly not complied with, the factual and legal basis
13 upon which enforcement is sought, and the specific relief sought (the "Party
14 Notice"). The other Parties shall respond in writing to the Party Notice within forty-
15 five (45) calendar days of receipt of the Party Notice ("Response To Party Notice").

16 14.1.2 Any Settling Retiree Class member, Eligible Dependent, or QMCSO
17 Beneficiary seeking enforcement of the express terms of this Agreement shall first
18 provide SCARE and the other Parties with a written statement identifying the
19 express term of the Agreement allegedly not complied with, the factual and legal
20 basis upon which enforcement is sought, and the specific relief sought ("Non-Party
21 Notice To SCARE"). SCARE shall decide whether it will pursue enforcement
22 within forty-five (45) calendar days of receipt of the Non-Party Notice To SCARE.

23 If SCARE decides it will pursue enforcement, it will notify the other Parties
24 and provide them with a Party Notice as described in Paragraph 14.1.1. The
25 other Parties will each provide their response to the Party Notice within
26 forty-five (45) calendar days of receipt of the Party Notice.

27 If SCARE declines to pursue enforcement of the Non-Party Notice To
28 SCARE, or has taken no action to pursue enforcement of the Non-Party
Notice To SCARE within forty-five (45) calendar days of the receipt of the
Non-Party Notice To SCARE, the Settling Retiree Class member, Eligible
Dependent, or QMCSO Beneficiary may seek enforcement by providing all
Parties with a written statement identifying the express term of the
Agreement allegedly not complied with, the factual and legal basis upon
which enforcement is sought, the specific relief sought, and a statement that
SCARE has been asked to seek enforcement and has either declined or has
not timely acted to seek enforcement (the "Non-Party Notice").

Any Party desiring to respond shall do so in writing within forty-five (45)
calendar days of receipt of the Non-Party Notice (Response To Non-Party
Notice").

14.1.3 Within forty-five (45) calendar days of receipt of a Response To Party
Notice under Paragraph 14.1.1 or a Response To Non-Party Notice under
Paragraph 14.1.2, counsel for the Parties, and any Settling Retiree Class Member,
Eligible Dependent or QMCSO Beneficiary providing a Non-Party Notice shall
meet and confer by telephone or in person and attempt to resolve the enforcement
issue informally.

1 14.1.4 If the meet and confer under Paragraph 14.1.3 has been completed and does
2 not result in resolution of the alleged enforcement issue, any Party may request
3 mediation. The other Parties shall in good faith consider whether a mediation
4 should be conducted using an agreed neutral of Judicial Arbitration and Mediation
5 Services. The Parties shall participate in a mediation only if all Parties agree to
6 participate in a mediation.

7 14.1.5 Any Party, Settling Retiree Class member, Eligible Dependent or QMCSO
8 Beneficiary who invokes the procedures set forth in this Section 14 shall be
9 responsible for their own attorney's fees and costs at all stages of such procedures,
10 including without limitation all attorney's fees and Costs in any mediation. No
11 Party shall be required to pay any attorney's fees or Costs of any other Party or of
12 any Eligible Dependent, Class Member, or QMCSO Beneficiary.

13 14.2 Submission to the Court:

14 14.2.1 If the Informal Resolution process pursuant to Paragraph 14.1 of this
15 Agreement has been completed and does not result in a resolution of the alleged
16 enforcement issue within a reasonable time not to exceed sixty (60) calendar days,
17 any Party, Settling Retiree Class member, Eligible Dependent or QMCSO
18 Beneficiary may make a motion in this Lawsuit seeking resolution of the dispute
19 over the enforcement of the express terms of this Agreement by Judge Claudia
20 Wilken or any other United States District Judge in the Northern District who may
21 be assigned to the Lawsuit ("Enforcement Motion"). Such an Enforcement Motion
22 shall be the sole means of enforcement of any claim based on the express terms of
23 this Agreement through the period ending June 30, 2023.

24 14.2.2 Unless a different time or schedule is agreed to by the Parties and the Court,
25 an Enforcement Motion shall provide the Parties and any other persons responding
26 to it at least sixty (60) calendar days notice in advance of the hearing date. The
27 Parties and any persons responding to the Enforcement Motion shall file their
28 response to the Enforcement Motion at least fifteen (15) calendar days in advance
of the hearing date.

14.2.3 In the event a Party, Settling Retiree Class member, Eligible Dependent or
QMCSO Beneficiary seeks enforcement by the Court of the express terms of this
Agreement, each Party, Settling Retiree Class member, Eligible Dependent or
QMCSO Beneficiary shall each be responsible for their own attorney's fees and
Costs at all stages of any such enforcement proceeding, including without
limitation all attorney's fees and Costs in any Court proceeding. No Party shall be
required to pay any attorney's fees or Costs of any other Party or of any Settling
Retiree Class member, Eligible Dependent or QMCSO Beneficiary.

15. Entire Agreement.

This Agreement constitutes the full agreement of the Parties and supersedes any and all
other prior agreements and all negotiations leading up to the execution of this Agreement,
whether oral or in writing, between the Parties with respect to the subject matter of the
present Agreement, including without limitation the Interim Mediated Settlement
Agreement In Principle. No additional promises or representations, express or implied, not
contained in this Agreement have been made by any of the Parties, or any agent or
employee of any of the Parties, other than what is expressly contained in this Agreement.

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16. Communications to County and SCARE/Class Counsel.

All notices or communications required by this Agreement shall be in writing by facsimile and U.S. Mail or overnight delivery service addressed as follows:

16.1 To Named Class Plaintiffs, SCARE and Class Counsel or the Class:

Jeffrey Lewis
Keller Rohrback, L.L.P.
300 Lakeshore Drive, Suite 1000
Oakland, CA 94607
Telephone: (510) 463-3900
Fax: (510) 463-3901

To County:

Raymond F. Lynch
Hanson Bridgett LLP
525 Market Street, 26th Floor
San Francisco, CA 94105
Telephone: (415) 777-3200
Fax: (415) 541-9366

and

Bruce Goldstein, County Counsel
Sonoma County
575 Administration Drive Room 105-A
Santa Rosa, CA 95403
Telephone: (707) 565-2421
Fax: (707)565-2624

Each of the Parties may change the individuals to whom notices and communications required by this Agreement shall be sent by providing the other Party with written notification.

17. Modification.

Prior to the Court's entry of the Final Approval Order, this Agreement can only be amended by written agreement of each the Parties. Following entry of the Final Approval Order, no modification of this Agreement shall be effective unless agreed to in a written agreement by each of the Parties and approved by Court Order.

18. Drafting of this Agreement.

This Agreement is deemed to have been drafted by each of the Parties, as a result of arm's length negotiations among the Parties. Whereas each of the Parties has contributed to the preparation of this Agreement, it shall not be construed more strictly against one Party than another.

19. Execution in Counterparts.

This Agreement may be executed by each of the Parties in separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same agreement.

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20. Duty to Support and Defend Agreement.

Each of the Parties agrees to abide by all of the terms of this Agreement in good faith and to support it fully, and each shall use their best efforts to defend this Agreement from any legal challenge, whether by appeal or collateral attack.

21. Amounts Paid Not Penalty.

It is understood that no amount paid or expended by County in its performance of this Agreement constitutes a penalty, fine, punitive damages, or other form of assessment for any alleged claim or offense.

22. Receipt of Advice of Counsel.

Each of the Parties acknowledges and warrants to each other that they have fully read this Agreement, have received independent legal advice from their respective counsel regarding the advisability of entering into this Agreement, and fully understand its effect.

23. Power and Authority.

Each of the Parties represents that they have the power and authority to execute and deliver this Agreement and to perform obligations, and that each person executing this Agreement on each Party's behalf has been authorized to sign on behalf of the respective Party and to bind each to the terms of this Agreement.

24. Deadlines.

With regard to the provisions of this Agreement that require that certain acts be taken within specified periods, each of the Parties understands and agrees that Court approval shall not be required for reasonable extensions of deadlines. In the event that any Party determines that an action required by this Agreement cannot be taken within the specified time period, that Party shall promptly notify each of the other Parties that it anticipates a delay, the reasons for the delay and a proposed alternative deadline. Each of the Parties shall endeavor to cooperate in reasonably rescheduling such deadlines. However, if each of the other Parties does not agree to the proposed delay, the Parties shall submit the matter to the Court for resolution.

25. Time Is Of The Essence.

Each of the Parties agrees that time is of the essence in the implementation of this Agreement. To that end, the Parties agree to use best efforts as follows:

- 25.1 SCARE and Plaintiff Class Representatives shall provide to the County, by November 7, 2016 or as soon thereafter as possible, a notarized certification under penalty of perjury from an authorized SCARE officer that the SCARE membership vote to approve the Agreement is in compliance with SCARE's Bylaws, and the officer of SCARE signing the Agreement and certification has the authority to execute them on behalf of SCARE.
- 25.2 The County, by December 13, 2016 or as soon thereafter as possible, shall obtain Board of Supervisors approval of the Agreement.
- 25.3 The Parties, by January 31, 2017, or as soon thereafter as possible, shall obtain Court orders (1) preliminarily approving the Agreement, (2) authorizing the filing of the TAC, (3) certifying the Class, and (4) approving a Class Notice.

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25.4 The Parties, by March 30, 2017, or as soon thereafter as possible, shall obtain the Court's Final Approval Order.

26. Attorneys' Fees And Costs.

26.1 Within 60 days after Final Approval of the Agreement by the Court and running of any appeal period, County will pay to SCARE a total of \$1 million dollars for all attorneys' fees and costs in the Lawsuit, which costs shall include without limitation the third party class administration fees and costs. In the event the Court's Judgment on the Final Approval Order is appealed, County will pay the \$1 million dollars to SCARE when and only if the Judgment is affirmed and final.

26.2 Other than as provided in Section 26.1 above, Each Party shall bear all other attorneys' fees and costs incurred in or otherwise related to or arising from the Lawsuit, including without limitation all attorney's fees and costs in connection with the mediation, negotiation, preparation, implementation, approval and all disputes concerning the Agreement.

27. Settlement Administrator.

As set forth in paragraph 26.1 of this Agreement, SCARE will pay all fees and costs of the Settlement Administrator, including without limitation the cost of preparing and mailing the Class Notice. The parties have agreed that Simpluris Inc. ("Simpluris") shall serve as the Settlement Administrator. If the Court does not approve of Simpluris or for any reason Simpluris cannot serve as the Settlement Administrator, then County will select a replacement to serve as the Settlement Administrator, subject to the approval of SCARE and Class Counsel provided such approval will not be unreasonably withheld.

28. Effective Date of the Agreement.

This Agreement will be effective on the date the last Party executes it.

For Plaintiff Sonoma County Association of Retired Employees:

Dated: November, __, 2016

Carol Bauer, President of
Sonoma County Association of Retired Employees

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For Plaintiff Class:

Dated: November __, 2016

Ed Clites
Plaintiff Class Representative On Behalf Of the Class

Dated: November __, 2016

Kathy Wertz
Plaintiff Class Representative On Behalf Of the Class

Dated: November __, 2016

Betty Seacord
Plaintiff Class Representative On Behalf Of the Class

Dated: November __, 2016

Christopher Bauer
Plaintiff Class Representative On Behalf Of the Class

Dated: November __, 2016

Margaret Childress
Plaintiff Class Representative On Behalf Of the Class

Dated: November __, 2016

Gary Zanolini
Plaintiff Class Representative On Behalf Of the Class

For Sonoma County:

Dated: December __, 2016

Efren Carrillo, Chair, Board of Supervisors

Approved As To Form Only:

Jeffrey Lewis
Keller Rohrback, L.L.P.
Attorneys for Sonoma County Association
of Retired Employees and Class Counsel

1 **Approved As To Form Only:**

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3 _____
4 Raymond F. Lynch
5 Hanson Bridgett LLP
6 Attorneys for Sonoma County

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8 Bruce Goldstein, County Counsel

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10 _____
11 By: Bruce Goldstein
12 County Counsel, Sonoma County

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