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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

SONOMA COUNTY ASSOCIATION OF  
RETIRED EMPLOYEES, et al.

Plaintiff,

v.

SONOMA COUNTY,

Defendant.

CASE NO. CV 09-4432 CW

**[PROPOSED] FINAL JUDGMENT**

Judge: Hon. Claudia Wilken

In accordance with the Court's Order Granting Final Approval of the Parties' class action Settlement Agreement (Dkt. No. 313) and Rules 23(c)(3)(B), 54(a) and 58(a), **FINAL JUDGMENT IS HEREBY ENTERED** binding to the terms of the approved Settlement Agreement attached hereto as Exhibit 1 (Settlement Agreement, ECF 303-1) all members of the finally certified Settling Retiree Class, defined as "Eligible County Retirees" who did not opt-out of the Class.

Eligible County Retirees means retired former employees of Sonoma County ("the County") or County Special Districts who meet the following criteria:

1. Retired from the County or a County Special District on or before June 30, 2016; and
2. Were hired by the County or a County Special District on or before December 31, 1989, and had been a contributing member of the Sonoma County Employees Retirement Association ("SCERA") and retired directly from the County or a County Special District service; OR

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

4. “Eligible County Retirees” also includes all of the following:

(a) Retirees of the Sonoma County Superior Court who were County employees at the time of retirement before January 1, 2001 and who upon retirement, enrolled in a County Offered Medical Plan, were eligible to receive a monthly medical contribution, and met the eligibility criteria in No. 2 or No. 3, above.

(b) County or County Special District employees who retired on or before June 30, 2016 and upon retirement were eligible to receive a monthly medical contribution and upon retirement or thereafter waived coverage for themselves and the Eligible County Retiree’s Eligible Dependent(s) (as defined in Paragraph 3.13 of the Settlement Agreement) and have a signed “Waiver of Medical Plan Acknowledgement” on file with the County. County employees who cancelled or dropped coverage in writing at the time of retirement, or at a later date, without a right to re-enroll are not Eligible County Retirees.

(c) Any retired employee of a County Special District currently receiving a \$500 monthly medical contribution from the 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.

(d) Any surviving spouse of a deceased Settling County Retiree, as defined in the Settlement Agreement, who is enrolled in a County Offered Medical Plan and was receiving a \$500 or less County Medical Contribution as of June 30, 2016.

Without affecting the finality of the Court’s Final Judgment in any way, the Court retains jurisdiction over this matter solely for purposes of resolving proceedings to enforce the express terms of the Settlement Agreement until June 30, 2023, as set forth in Section 14 of the Settlement Agreement.

This action is dismissed with prejudice pursuant to Rule 41 of the Federal Rules of Civil Procedure, as provided in Paragraph 10.3 of the Settlement Agreement, and each side shall bear its

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1 own costs and attorneys' fees, except as provided in Paragraph 26 of the Settlement Agreement.

2 **Approved As To Form Only:**

3  
4   
5 Jeffrey Lewis  
6 Keller Rohrback, L.L.P.  
7 Attorneys for Sonoma County Association  
8 of Retired Employees and Class Counsel

7 **Approved As To form Only:**

8  
9   
10 Raymond F. Lynch  
11 Hanson Bridgett LLP  
12 Attorneys for Sonoma County

13   
14 Bruce Goldstein  
15 County Counsel, Sonoma County

16 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

17 DATED: April 19, 2017

18   
19 HONORABLE CLAUDIA WILKEN  
20 United States District Judge

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# **EXHIBIT 1**

**Final Settlement Agreement – ECF 303-1**

Case No. CV 09-4432 CW

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**EXHIBIT 1**  
Final Settlement Agreement

1 KELLER ROHRBACK, L.L.P.  
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6 Attorneys for Plaintiff SONOMA COUNTY  
ASSOCIATION OF RETIRED EMPLOYEES  
7 and the PUTATIVE CLASS

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12 Facsimile: (415) 541-9366

13 Attorneys for Defendant  
COUNTY OF SONOMA

14  
15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

17  
18 SONOMA COUNTY ASSOCIATION OF  
RETIRED EMPLOYEES,

19 Plaintiff,

20 v.

21 SONOMA COUNTY,

22 Defendant

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.

3.9 "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

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

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

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

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

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

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

**4. Conditions Precedent.**

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

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

4.2 The Agreement is approved by the County's Board of Supervisors after SCARE's 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

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

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

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

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

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

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

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

6.1.3 A Settling Retiree Class Member and his or her Eligible Dependents (as 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.

19 6.5.3 The County will prepare the HRA Plan and select an appropriate third party  
20 administrator for the HRA Plan by May 30, 2017, which will result in a contract  
21 between the County and the selected third party HRA administrator for a set period  
22 of years where the monthly charge will be set forth in the contract. After the initial  
23 contract period and for each subsequent contract period, the County will enter into  
24 a new contract with a third party HRA administrator at which time the monthly  
25 administrative charges will be negotiated between the County and the selected third  
26 party HRA administrator, and those contractual charges will apply.

27 6.5.4 The purpose of the \$250,000 hold back described in Paragraph 6.5.1.2 is to  
28 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.

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6.5.4.1. If the Excise Tax is repealed, the \$250,000 hold back (or the remaining portion thereof) shall be contributed to the HRA Plan not more than 90 days following the date of repeal 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).

6.5.4.2. If the County reasonably determines, in its sole discretion, that all of the Excise Tax applicable to the HRA Plan has been paid and some or all of the \$250,000 hold back remains, the \$250,000 hold back (or the remaining portion thereof) shall be contributed to the HRA Plan not 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).

6.5.4.3. If the \$250,000 hold back has not been allocated in accordance with Paragraph 6.5.4.1 or Paragraph 6.5.4.2, the \$250,000 hold back (or the remaining portion thereof) shall be contributed to the HRA Plan in accordance with the following schedule: up to \$75,000 on September 15, 2021, up to \$75,000 on September 15, 2022, up to \$50,000 on September 15, 2023 and the balance (if any) on September 15, 2024; *provided, however*, that if the effective date of the Excise Tax is delayed by the United States Congress, Department of the Treasury or such other Federal government agency, beyond January 1, 2020 to a date certain, then the contribution schedule described herein shall be delayed, such that first 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).

6.6 Maintenance of Health Reimbursement Account Plan by the County

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

6.6.1.1. Upon the death of a Settling Retiree Class Member, any balance in that Settling Retiree Class Member's account under the HRA Plan will be available to his/her Eligible Dependent Spouse, provided that such Eligible Dependent Spouse notifies the third party HRA administrator 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

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

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

6.6.1.3. In addition to reimbursement to Settling Retiree Class Members for medical plan premiums and other qualified medical expenses meeting the requirements of Internal Revenue Code Section 213(d), funds in a Settling Retiree Class Member's account under the HRA Plan may be used to reimburse Medicare Part B premiums, upon receipt of appropriate substantiation of payment of Medicare Part B premiums by the third party HRA Plan administrator as required under Section 213(d) of the Internal Revenue Code. Appropriate substantiation is a statement or itemized invoice prepared by the individual or entity to whom the medical premium or other qualified medical expense, as defined under Internal Revenue Code Section 213(d), was made and must show the nature of the payment, for whom the expense was incurred, the amount paid and the date of payment as required under 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).

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

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

**7. Opt-Out Right.**

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

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

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

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

7.4 If County exercises its option to void the Agreement, all of the Parties' obligations under this Agreement shall cease to be of any force and effect, and the Agreement and any orders entered in connection therewith shall be vacated, rescinded, cancelled, and annulled, and the Parties shall return to the status quo in the Lawsuit as if the Parties had not entered into the Agreement, including resumption of the case based on the SAC as of March 17, 2016. In addition, the Agreement and all 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.

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

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

8.2 Any Class Member may object to the proposed Agreement by filing, within sixty (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.



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not include any County Offered Medical Plan providers with which County contracts to provide health care at any point in time, as distinct from the County.

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

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

**13. No Third Party Beneficiaries.**

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

1                   whatsoever, to any other persons or entities, whatsoever, under either this  
2                   Agreement or the Final Approval Order.

3                   **14. Enforcement of the Agreement.**

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

10                   **14.1 Informal Resolution:**

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

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

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

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

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

41                   14.1.3 Within forty-five (45) calendar days of receipt of a Response To Party  
42                   Notice under Paragraph 14.1.1 or a Response To Non-Party Notice under  
43                   Paragraph 14.1.2, counsel for the Parties, and any Settling Retiree Class Member,  
44                   Eligible Dependent or QMCSO Beneficiary providing a Non-Party Notice shall  
45                   meet and confer by telephone or in person and attempt to resolve the enforcement  
46                   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, 26<sup>th</sup> 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.

1           **20. Duty to Support and Defend Agreement.**

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

5           **21. Amounts Paid Not Penalty.**

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

9           **22. Receipt of Advice of Counsel.**

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

13           **23. Power and Authority.**

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

18           **24. Deadlines.**

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

28           **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, 3, 2016



\_\_\_\_\_  
Carol Bauer, President of  
Sonoma County Association of Retired Employees

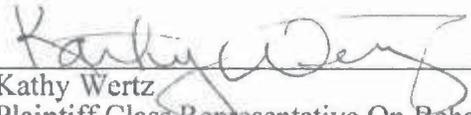
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**For Plaintiff Class:**

Dated: November 3, 2016

  
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Ed Clites  
Plaintiff Class Representative On Behalf Of the Class

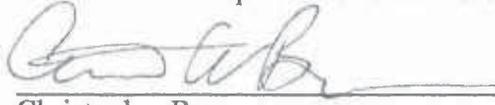
Dated: November 3, 2016

  
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Kathy Wertz  
Plaintiff Class Representative On Behalf Of the Class

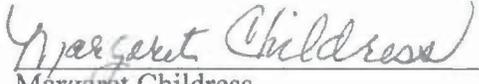
Dated: November \_\_, 2016

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Betty Seacord  
Plaintiff Class Representative On Behalf Of the Class

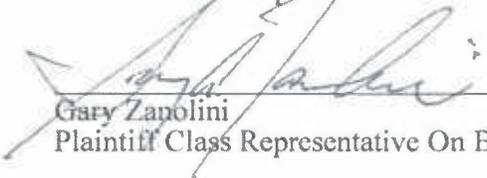
Dated: November 3, 2016

  
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Christopher Bauer  
Plaintiff Class Representative On Behalf Of the Class

Dated: November 3, 2016

  
\_\_\_\_\_  
Margaret Childress  
Plaintiff Class Representative On Behalf Of the Class

Dated: November 3, 2016

  
\_\_\_\_\_  
Gary Zapolini  
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

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**For Plaintiff Class:**

Dated: November \_\_, 2016

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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 E Seacord*  
\_\_\_\_\_  
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:**

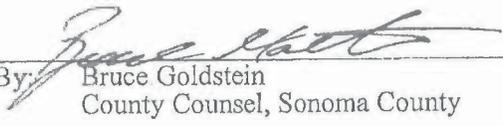
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Jeffrey Lewis  
Keller Rohrback, L.L.P.  
Attorneys for Sonoma County Association  
of Retired Employees and Class Counsel

1 Approved As To Form Only:

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

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6 Bruce Goldstein, County Counsel

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8 By: Bruce Goldstein  
8 County Counsel, Sonoma County

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County of Sonoma  
State of California

THE WITHIN INSTRUMENT IS A  
CORRECT COPY OF THE ORIGINAL  
ON FILE IN THIS OFFICE.

ATTEST: DEC 06 2016

SHERYL BRATTON, Clerk/Secretary  
BY CW Cochran  
DEPUTY CLERK/ASST. SECRETARY

Date: December 6, 2016

Item Number: 28

Resolution Number: 16-0458

4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California,  
Approving the Proposed Settlement Agreement in the Lawsuit Filed by Sonoma County  
Association of Retired Employees Against the County of Sonoma in the Northern District of  
California, Case No. CV 09-4432 CW**

**Whereas**, on September 22, 2009, the Sonoma County Association of Retired Employees ("SCARE") filed a lawsuit against the County of Sonoma in the Northern District of California, Case No. CV 09-4432 CW, challenging the County's ability to make changes to health care for retirees;

**Whereas**, the County filed a motion to dismiss the complaint and the Federal District Court granted the County's motion on May 14, 2010;

**Whereas**, SCARE appealed the order to the Ninth Circuit and in February 2013, the Ninth Circuit reversed the order of dismissal and remanded the case back to the Federal District Court to allow SCARE leave to amend the complaint;

**Whereas**, SCARE filed a second amended complaint on May 13, 2013 and the County filed a motion to dismiss;

**Whereas**, on January 10, 2014, the Federal District Court partially granted the County's motion to dismiss and ruled that all those who retired before January 1, 1990 and all formerly unrepresented employees had no cognizable claims to vested benefits;

**Whereas**, in late 2015, the Federal District Court ordered the parties to participate in mediation and a two-day mediation conducted by Alameda County Superior Court Judge Ron Sabraw was held on March 16-17, 2016;

**Whereas**, as a result of the two-day mediation and continued negotiations thereafter, representatives for SCARE and the County reached proposed settlement terms and a tentative Settlement Agreement was finalized;

**Whereas**, the terms of the settlement are set forth in the Settlement Agreement, attached hereto;

**Whereas**, the Settlement Agreement provides that SCARE and individually named plaintiffs will file a third amended complaint on behalf of a class of approximately 3,300 retirees to seek the Federal Court's approval of the Settlement Agreement (§4.3-4.4 and §5.1 of the attached Settlement Agreement);

**Whereas**, the Settlement Agreement provides that all members of the class of retirees will receive notice and an opportunity to opt out of the class before the settlement becomes final (§7 of the attached Settlement Agreement);

**Whereas**, if the number of class members opting out of the settlement exceeds five percent (5%) of the total number of eligible class members, then the Board, at its sole option and discretion, reserves the right, as provided under the Settlement Agreement, to void the Settlement Agreement and return to litigation (§7.3-7.4 of the attached Settlement Agreement);

**Whereas**, the Settlement Agreement further provides that upon approval of the Settlement Agreement by the Federal Court, the lawsuit will be dismissed with prejudice and plaintiffs will be barred from bringing any future actions against the County on the same or related claims (§4.7, §5.1.5, §10.2-10.3, and §12 of the attached Settlement Agreement);

**Whereas**, the Settlement Agreement is beneficial because it provides healthcare benefits for retirees with significant service to the County and who now may be living on fixed incomes and otherwise could benefit from assistance in procuring a reasonable level of healthcare;

**Whereas**, the Settlement Agreement is further beneficial because it provides incentives for retirees to use Medicare and widely available coverages such as AARP for those that are eligible;

**Whereas**, the Settlement Agreement is further beneficial because it balances retiree health care costs with other County services and obligations in a fiscally sustainable way;

**Whereas**, the Settlement Agreement is further beneficial because it provides certainty to those receiving these benefits and those managing county finances so that both may rely on that information to plan accordingly;

**Whereas**, the Settlement Agreement is further beneficial because it eliminates the risk of an adverse court decision whereby SCARE prevails on their claims that retirees are entitled to having the County pay "all or substantially all" of their retiree health care

costs;

**Whereas**, the County's actuary estimated the impact of an adverse court decision and concluded that the County's Other Post-Employment Benefits (OPEB) liability would increase by \$264 million and result in a \$20.7 million increase in the annual cost, per year;

**Whereas**, the Settlement Agreement is further beneficial because it reduces the County's total OPEB liability by an estimated \$31.9 million and will provide annual savings in the future;

**Whereas**, on November 3, 2016, the SCARE Board of Directors and SCARE membership approved the Settlement Agreement, with 313 votes in favor of the tentative Settlement Agreement and 3 votes opposed;

**Now, Therefore, Be It Resolved** by the Board of Supervisors of the County of Sonoma that the Settlement Agreement in *Sonoma County Association of Retired Employees (SCARE) v. Sonoma County, et.al*, U.S. Northern District Court Case No. CV-09-4432 CW is approved.

**Be it Further Resolved** that the Board extends authority to the County Administrator, County Counsel, Human Resources and the Auditor-Controller, Treasurer Tax-Collector to facilitate all financial and other transactions necessary to comply with the terms of the Settlement Agreement.

**Supervisors:**

Gorin: Aye	Rabbitt: Aye	Zane: Aye	Gore: Aye	Carrillo: Aye
Ayes: 5	Noes: 0	Absent: 0	Abstain: 0	

**So Ordered.**