

## **CLASS ACTION SETTLEMENT AGREEMENT**

This Class Action Settlement Agreement (hereinafter the "Settlement" "Agreement" or "Settlement Agreement") is made by Plaintiff Leticia Belmontez-Carillo, individually and on behalf of all members of the Settlement Class (collectively referred to as the "Employees" or "Plaintiffs") as defined below and the group of aggrieved individuals (as defined below), on the one hand, and Defendant Metropolitan Area Advisory Committee on Anti-Poverty of San Diego County, Inc. ("Defendant" or "MAAC"), on the other hand. Employee and the Defendant will, at times, be collectively referred to herein as "the Parties."

### **I. THE LITIGATION.**

1. On October 10, 2019, Plaintiff Belmontez-Carillo filed an individual, class, and Private Attorney General Act ("PAGA") complaint in the San Diego County Superior Court entitled *Belmontez-Carillo, et al. v. Metropolitan Area Advisory Committee on Anti-Poverty of San Diego County, Inc., et al.*, which case was assigned Case number 37-2019-00054227-CU-OE-CTL (the "Complaint"). The Complaint, as subsequently amended on December 26, 2019 and again on June 29, 2020, asserts claims against the Defendant on behalf of Plaintiff Belmontez-Carillo and other current and former employees in the State of California. These claims include (a) failure to pay overtime wages; (b) failure to pay minimum/regular wages; (c) failure to timely pay wages; (d) failure to provide accurate wage statements; (e) failure to reimburse business expenses; (f) failure to maintain accurate payroll records; (g) failure to comply with meal and rest break provisions; and (h) remedies under the Bus. & Prof. Code §§ 17200, *et seq.* The Complaint also includes a claim for civil penalties pursuant to the California Private Attorneys General Act ("PAGA"), Cal. Lab. Code §§ 2698, *et seq.*

2. The Parties engaged in substantial investigation and formal and informal discovery in connection with the Litigation. The Defendant provided documents and detailed information to counsel for Employee to review and analyze, including a sampling of payroll and other records on randomly selected employees.

3. On February 3, 2022, the Parties, through counsel, attended a full day of mediation with the Honorable Stephen Denton (Ret.). This

mediation was unsuccessful, but after continued negotiations the Parties ultimately agreed to settle on the terms as set forth herein.

4. This Agreement concerning the settlement is made in compromise of disputed claims. Defendant's payment required by this Agreement shall satisfy all claims there were or could have been alleged in the Litigation, including but not limited to claims for wages, civil and statutory penalties, and interest, and shall include payment for the PAGA penalties, individual settlement awards, attorneys' fees, litigation costs and expenses, an enhancement payment for the Class Representative, and all settlement administration costs.

5. Because this is a putative class action, this Agreement must receive preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. In the event the Court does not enter Final Judgment, or in the event such Final Judgment does not become Final for any reason, or is modified in any material respect, or in the event the Effective Date, as defined herein, does not occur, this Agreement shall be deemed null and void *ab initio* and shall be of no force or effect whatsoever, and shall not be referred to or utilized for any purpose and the Parties shall return to the positions they each held as of the day prior to signing this Agreement. The Defendant denies all claims asserted by Plaintiffs as to liability and damages as well as class allegations. Indeed, the Defendant does not waive, but rather expressly reserves all rights to challenge all such claims and allegations upon all substantive and procedural grounds (including, but expressly not limited to, the impropriety of judicial pursuit of any such claims that are inconsistent with the arbitration agreements between the Parties or between the Defendant and any other employees) including the assertion of any and all defenses, if the Final Judgment does not become Final for any reason, or in the event that the Effective Date does not occur.

## **II. DEFINITIONS.**

The following are certain definitions applicable to this Agreement. Definitions contained elsewhere in the body of this Agreement shall also be effective.

1. **“Aggrieved Employee(s)”** – means all individuals Defendant employed in California during the PAGA Time Period, as defined below.
2. **“Class Member(s)”** – means all individuals Defendant employed in California the during the Class Time Period.”
3. **“Class Counsel”** – means, collectively, Nicholas J. Ferraro and Lauren Vega of Ferraro Vega Employment Lawyers, Inc. and Thomas D. Rutledge, Esquire of the Law Office of Thomas D. Rutledge.
4. **“Class Counsel Attorneys’ Fees”** – refers to the amount awarded to Class Counsel by the Court for prosecuting and obtaining a settlement of the Litigation.
5. **“Class Counsel Attorneys’ Costs”** – refers to the amount awarded to Class Counsel by the Court for their actual costs incurred in prosecuting and obtaining a settlement of the Litigation.
6. **“Class Representatives Enhancement”** – means the sum to be paid to Employees as service for their role as Class Representatives, which shall be paid from the Gross Settlement Fund.
7. **“Defendant”** – means Defendant METROPOLITAN AREA ADVISORY COMMITTEE ON ANTI-POVERTY OF SAN DIEGO COUNTY, INC.
8. **“Effective Date”** – means the date by which both of the following have occurred: (a) this Settlement is finally approved by the Court; and (b) the Court’s Order Approving Class Settlement and Dismissing the Class Action with Prejudice (“Final Judgment”) becomes Final.
9. **“Final”** – means the latest of: (a) when the period for filing any appeal, writ or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (b) when any appeal,

writ, or other appellate proceeding opposing the Settlement has been dismissed finally and conclusively with no right to pursue further remedies or relief; or (c) when any appeal, writ or other appellate proceeding has upheld the Court's Final Order and Judgment with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court's order approving the Settlement is completely final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

10. "Final Judgment" – refers to the Final Judgment and Order Approving Class Settlement, and any related orders/judgments thereto.
11. "Final Approval Hearing" – means the hearing to be conducted by the Court to determine whether to enter the Final Judgment finally approving and implementing the terms of this Agreement.
12. "Gross Settlement Fund" – refers to \$637,500.00 which is the maximum amount the Defendant shall be required to pay under this Agreement, except as otherwise provided with respect to the employer's share of payroll taxes that Defendant shall pay separate and apart from the Settlement Amount.
13. "Litigation" – means, collectively, the action entitled *Leticia Belmontez-Carillo, et al. v. Metropolitan Area Advisory Committee on Anti-Poverty of San Diego County, Inc., et al.* S.D.S.C. Case Number: 37-2019-00054227-CU-OE-CTL, which alleges all facts and allegations in the Second Amended Complaint.
14. "LWDA" – means the California Labor and Workforce Development Agency.
15. "Motion for Preliminary Approval" – refers to the Motion for Preliminary Approval of the Settlement and its supporting papers.

16. "Net Settlement Fund" – means the Gross Settlement Fund, less the following: (a) Class Counsel Attorneys' Fees; (b) Class Counsel Attorneys' Costs; (c) Class Representatives Enhancement; (d) Settlement Administration Expenses; and (e) PAGA Payments to the LWDA.
17. "Notice" or "Notice Packet" – refers to the Notice of Pendency of Putative Class Action, Proposed Settlement and Hearing Date for Court Approval, and Settlement Allocation Form, which form will be prepared jointly by the Parties and included with the Motion for Preliminary Approval.
18. "Order Granting Preliminary Approval" – refers to the order or statement of decision preliminarily approving the Settlement.
19. "PAGA" – means the California Labor Code Private Attorneys General Act of 2004 as codified at Labor Code §§ 2698, 2699, *et seq.*
20. "PAGA Time Period" – means the period from October 10, 2018 to through the date of preliminary approval of this Agreement.
21. "Total PAGA Payment" – means the portion of the Gross Settlement Fund that the Parties have designated as representing the recovery of civil penalties on behalf of the Settlement Class under the Labor Code Private Attorneys General Act of 2004. This amount has been identified as \$20,000. The Total PAGA Payment is divided into the "PAGA Payment to the LWDA" (75%, \$15,000) and the "PAGA Payment to Aggrieved Employees" (25%, \$5,000).
22. "Parties" – means the named Plaintiff individually and in her capacity as Class Representative and representative of the state of California and other aggrieved employees under the PAGA, on the one hand; and the Defendant, on the other hand.
23. "Plaintiff" – means Leticia Belmontez-Carillo, individually and in her capacity as the Class Representative and of the state of California and representative of other aggrieved employees under the PAGA.

- 24. "Preliminary Approval Hearing" – means the hearing to be conducted by the Court to determine whether to grant the Motion for Preliminary Approval.**
- 25. "Released Parties" – includes Defendant, together with its respective past and present officers, directors, shareholders, partners, managers, employees, and agents.**
- 26. "Settlement" – means the settlement of the Litigation and related claims effectuated by this Agreement.**
- 27. "Settlement Administration Expenses" – means those expenses of effectuating and administering the Settlement, i.e., the costs incurred by the Settlement Administrator, the costs of giving notice to the Class, the costs of administering and disbursing the Net Settlement Fund, and the fees of the Settlement Administrator approved by the Court.**
- 28. "Settlement Administrator" – means Phoenix Class Action Administration Solutions, or any other third-party administrator selected by the Parties and approved by the Court to effectuate the Settlement.**
- 29. "Settlement Class" and "Settlement Class Members" – means all Class Members who have not properly and timely opted out of the Litigation.**
- 30. "Settlement Payments" – means the amounts to be paid from the Net Settlement Fund to individual Settlement Class Members.**
- 31. "Class Time Period" – means the period from October 10, 2015 through the date of preliminary approval of this Agreement**
- 32. "Settlement Release Agreement Class Members"-means all Class Members from whom Defendant procured signatures on settlement and release agreements before July 1, 2021, which agreements covered the claims asserted in this Agreement.**

- 33. "Union Class Members"-means all Class Members who paid union dues to any labor union whose union members worked for the Defendant during the Class Time Period.**

### **III. RELEASE OF CLAIMS.**

#### **1. Scope of Settlement Class Member Release.**

**a.** In exchange for the consideration described through this Settlement, Plaintiffs and each member of the Settlement Class will fully release and discharge the Defendant and any of its past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, affiliates, including but not limited to, MAAC Community Center, Inc. and MAAC Housing Corporation, as well as each of its their past, present and future officers, directors, shareholders, partners, managers, employees, and agents (collectively "Released Parties") from the claims within the scope of this Settlement.

**b.** The settlement described herein will resolve fully and finally all wage and hour and related claims that were brought or could have been brought in the Litigation based on the facts alleged in the operative Complaint, including, but not limited to, any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action which are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Litigation based on the facts alleged in the operative Complaint, including without limitation to, claims for restitution and other equitable relief; claims for unpaid minimum wages, wages, and overtime wages; failure to properly calculate the regular rate; failure to properly calculate overtime; failure to provide rest periods or meal periods or to provide compensation in lieu thereof; meal period penalties; rest period penalties; waiting time penalties; penalties for unpaid minimum wages, wages, or overtime wages; penalties for incomplete payroll records and wage statements; failure to timely pay final wages; failure to reimburse for business expenses; unfair business practices; wage statement violations, failure to provide accurate wage statements; failure to maintain required records; claims for declaratory relief, accounting, or injunctive relief; civil

penalties brought under the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et seq.*) or any other benefit claimed on account of allegations and claims which are reasonably related to the allegations and claims asserted in the Litigation based on the facts alleged in the operative Complaint.

c. The Scope of Settlement and the release of claims herein is intentionally intended by the Parties to be as broad as possible and include "all claims," which is expressly intended by the Parties to "includ[e] 'claims that are not expressly enumerated in the release'" as recognized by the Court of Appeal in *Villacres v. ABM Industries, Inc.* (2010) 189 Cal.App.4th 562, 587 [acknowledging broad waiver of potential claims, including PAGA-based claims]. Thus, the Parties intend this release to cover all claims for relief of any kind based on the allegations raised by Plaintiffs and all transactions and occurrences upon which those claims were based, including all legal remedies and damages brought under state, local or federal law; any claim brought pursuant to the common law; all injunctive remedies and restitution; all statutory damages and civil penalties under PAGA (including, but expressly not limited to relief demanded for alleged violations of Labor Code sections 201, 202, 203, 203.1, 204, 204a, 210, 216, 218, 218.5, 221, 222, 222.5, 223, 224, 226, 226.7, 227, 231, 432, 432.5, 432.6, 510, 512, 513, 551, 552, 1021, 1021.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2800 and 2802, as well as alleged violations of IWC Wage Orders), the California Labor Code, California Business & Professions Code § 17200 *et seq.*, or any other source thereof; and all costs and attorneys' fees related thereto.

## **2. Conditional Agreement to Class Treatment.**

a. The Parties expressly note and agree that class certification for purposes of settlement is not an admission that class certification is proper under § 382 of the California Code of Civil Procedure or Federal Rule of Civil Procedure 23, or any other standard from this or any jurisdiction, and in fact the named Defendant (and all other Released Parties) take the position that no class action can be maintained either in court or in arbitration absent the limited, revocable waiver herein for the particular named plaintiff for the purposes of this settlement only. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought



on the same or similar allegations, and the Parties shall revert to the respective positions they held before entering into the Settlement Agreement.

3. Indeed, Defendant contend that the Parties' pre-dispute agreements to submit to binding arbitration generally prohibit class-wide or other collective actions and/or relief. Employees dispute whether said agreements are lawful or otherwise prohibit class-wide or other collective actions and/or relief, and further maintain that Defendant waived their right to arbitrate the claims in the Lawsuit. However, in the interest of efficiency—and solely for the purpose of and expressly conditioned upon obtaining all required judicial and administrative approvals required to fully implement this Settlement Agreement—Employees and the Defendant (as well as any affected Released Party) have each elected to agree to a limited waiver on the purported prohibition against class and other collective actions. Should final approval not be ordered and/or confirmed by the Court consistent with this Settlement Agreement—or should final approval be ordered on terms that vary from those set forth in this Settlement Agreement or reversed on appeal — then neither this Settlement Agreement, the limited waiver, nor any of the facts or circumstances related hereto can or should be interpreted as supporting any right by any party or any other putative class member to insist upon class-wide or other collective relief being available under the Parties' arbitration agreements (or prohibit Employees from asserting any defenses to said arbitration agreements). Moreover, any individual(s) who elects to exclude himself or herself from the Settlement Agreement and the terms thereof will not be able to benefit from any of the terms of the class settlement and shall not have the benefit of the limited waiver on class and/or collective claims including, but expressly not limited to the Parties' waiver of any claims or defenses against class-wide and other collective relief in arbitration, statute of limitations defenses, and defenses that would preclude the certification or establishment of any class of aggrieved or similarly situated claimants. The Parties expressly recognize that there has been no finding in this action that class-wide or other collective relief is justified under the facts and circumstances relating to the allegations raised by Employees in the Litigation. Indeed, there is sharp dispute between the Parties as to whether class-wide or other collective relief would be available or appropriate, both because of the existence of arbitration obligations between the Parties and between many members of the Settlement Class (including subclasses) and any Released Parties (which agreements do not provide for class-wide relief), and because the facts and circumstances relating to the allegations raised by Employee do not support class treatment because of a questions of commonality, typicality, etc. No

member of the Class (including any who choose to exclude himself or herself from the Settlement) may rely on this Settlement Agreement or the terms thereof as they may be applied to other members of the Class as a basis for seeking to bring any existing or future class allegation or other claim.

#### **4. Scope of Named Plaintiff's Release**

a. For the purpose of implementing a full and complete release of her claims against Defendant, Plaintiff expressly acknowledges the releases given in this Settlement Agreement are intended to include, without limitation, any and all claims that Plaintiff may have against Defendant, **including but not limited to** those claims that Plaintiff did not know or suspect to exist in their favor at the time of the effective date of this Settlement Agreement, regardless of whether the knowledge of such claims, or the facts upon which they might be based, would materially have affected the settlement of this matter; and that the consideration given under this Settlement Agreement, including Defendant's agreement to an award of Enhancement Fees to Plaintiff, was also for the release of those claims and contemplates the extinguishment of all known, and any unknown, claims. Plaintiff makes this complete release of claims, waiving any rights provided to them under California Code of Civil Procedure § 1542, which provides:

**A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.**

#### **IV. ALLOCATION OF GROSS SETTLEMENT FUND.**

The Gross Settlement Fund will be allocated as follows:

**1. Net Settlement Fund.** The Settlement Administrator shall first deduct from the Gross Settlement Fund the amounts approved by the Court for the Attorneys' Fees and Costs awarded to Class Counsel, the Settlement Administration Costs, the Class Representative Incentive Award, and the PAGA Payment to the LWDA. The remaining amount shall

be known as the "Net Settlement Fund," which shall be distributed as described below as described in Paragraph VIII.1 of this Stipulation of Settlement.

**2. PAGA Distribution.** \$20,000 of the Gross Settlement Fund has been set aside by the Parties and designated as civil penalties pursuant to PAGA. Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or \$15,000, will be the PAGA Payment to the LWDA. The remaining twenty-five percent (25%), or \$5,000, will be payable as the "PAGA Payment to Aggrieved Employees," as described below. (See Paragraph VIII.2.)

**3. Attorneys' Fees and Costs.**

a. The Parties agree that Class Counsel will jointly request an award of attorneys' fees as class counsel of up to one-third (1/3rd) of the Gross Settlement Fund, and the Defendant and Released Parties agree not to contest any request for fees up to that amount. Should the Court approve less than the requested amount, such reduced approval shall not be grounds for revocation or rescission of this Settlement. Class Counsel, all, one, or some, may elect to have the Settlement Administrator, directly or indirectly, disperse all or part of his attorneys' fees award paid to him/her in periodic payments, through a structured settlement and/or to an assignee. Class Counsel will bear any and all costs, fees, and expenses of administration for any periodic payments of such award and shall be fully responsible for any taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments, including without limitation, any such issues, claims, and/or disputes brought by the state or federal government concerning the payment of taxes thereon. Class Counsel shall indemnify, defend, and hold Defendant harmless for any and all taxes, costs, liabilities, attorneys' fees, and/or penalties resulting from any issues, claims, and/or disputes arising out of, related to, or incurred in connection with any such periodic payments. To the extent the Court approves any award for attorneys' fees that does not equal 1/3rd of the Total Settlement Amount, Class Counsel retains the right to appeal the Court's award. Should Class Counsel appeal the Court's award, the difference between the amount awarded and the amount disputed on appeal shall be retained by the Settlement Administrator pending Class Counsel's appeal. After resolution of any appeal, any funds not awarded to

Class Counsel then in possession of the Settlement Administrator will be added to the Net Settlement Fund for distribution to Settlement Class Members by the Settlement Administrator on a proportional basis relative to the size of their Settlement Shares, in accordance with other administration and distribution requirements hereunder, and Class Counsel shall pay any additional costs incurred by the Settlement Administrator for this purpose. The Parties agree that the Court's approval of any request for attorneys' fees and costs is not a condition of the Settlement Agreement and that an award of less than the amounts requested would not give rise to a basis for Plaintiffs or their counsel to abrogate the Settlement Agreement. Employees acknowledge that they have been advised by this writing of the proposed award of fees associated with this Settlement and hereby consents thereto.

b. Class Counsel may also request reimbursement of actual costs and other expenses incurred in connection with this action and the achievement of this settlement. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement, including any objections raised, responses to any intervenors and any appeals necessitated by those objections or intervenors. Should the Court approve less than the requested amount, such reduced approval shall not be grounds for revocation or rescission of this Settlement.

**4. Class Representation Enhancement and Full Release Payments.** Up to \$5,000 shall be allocated from the Gross Settlement Fund in recognition of the contributions of Plaintiff Belmontez-Carillo to the achievement of this settlement, as an enhancement award. The named Plaintiff participated actively in the preparation and prosecution of this action, and the contributions in time and risk by Plaintiff was instrumental in achieving the settlement result. The Class Representative's Enhancement is in addition to the payment to which the Named Plaintiff has the right to receive as a member of the Settlement Class. Court approval is required for any Class Representative's Enhancement, and the Parties agree that they will provide information and documentation to support the approval of the requested enhancement. However, even in the event that the Court reduces or does not approve the requested Class Representative's Enhancement, Plaintiff shall not have the right to revoke

this settlement for that reason, and the settlement will remain binding. In exchange for the full release provided herein by the named Plaintiff, Plaintiff Belmontez-Carillo shall receive a Full Release Payment of \$10,000, as Belmontez-Carillo had individual wage claims against Defendant and she is waiving unknown claims against Defendant.

**5. Settlement Administration Costs.**

a. The Parties have agreed to engage a third-party administrator to administer this Settlement. Defendant shall deposit the Gross Settlement Fund with the Settlement Administrator within thirty one (31) calendar days of when the settlement becomes Final, as defined in Paragraph 9 of this Agreement.

b. All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater than \$20,000, will be drawn from the Gross Settlement Fund.

**V. Settlement Administration Procedure.**

1. **Motion for Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiffs shall apply to the Court for the entry of an Order:

a. Conditionally certifying the Settlement Classes for purposes of this Settlement Agreement;

b. Appointing Nicholas J. Ferraro and Lauren Vega of Ferraro Vega Employment Lawyers, Inc. and Thomas D. Rutledge, Esquire of the Law Office of Thomas D. Rutledge, as Class Counsel;

c. Appointing Leticia Belmontez-Carillo as the Class Representative;

d. Approving Phoenix Class Action Administration Solutions, as Settlement Administrator;

e. Preliminarily approving this Settlement and its terms as fair, reasonable, and adequate;

f. Approving the form and content of a Notice Packet and directing the mailing of same; and

g. Scheduling a Final Approval hearing.

## **VI. Notice to Settlement Class.**

**1. Notice Timing and Distribution.** Submitted with the motion for preliminary approval will be draft Notice documents intended to provide efficient notice to members of the Settlement Class as follows:

a. Within twenty one (21) calendar days after the Court grants preliminary approval of this Settlement, the Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, the dates of employment, and the number of workweeks worked by each Class Member during the Class Period (the "Class Data") and number of pay periods worked during the PAGA Time Period ("PAGA Data"). Defendant shall provide enough details to the Settlement Administrator to enable the Settlement Administrator to differentiate Union Class Members from nonunion Class Members and Settlement Release Agreement Class Members from other Class Members. The Settlement Administrator is authorized to share this information with Class Counsel to facilitate their preparation of tentative payout figures to the Class in their preliminary approval papers. The Class Data and the PAGA Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.

b. Within ten (10) calendar days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address ("NCOA") database to determine any updated addresses for Settlement Class members; (ii) update the addresses of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Award for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.

c. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be

re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within five (5) calendar days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall immediately resend the Notice Packet to the Settlement Class member. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. It will be conclusively presumed that, if an envelope so mailed has not been returned within thirty (30) days of the mailing, the Settlement Class member received the Notice Packet. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have twenty (20) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or the Defendant' attorneys to provide notice of the proposed settlement.

**2. Options Upon Notice.** The Notice to Settlement Class will inform members of the Settlement Class of their options, including the following:

**Notice of Settlement Award and Deadline to Dispute.** Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Class Member's estimated Settlement Award as well as the Class Member's number of workweeks worked during the Class Time Period, and the number of pay periods worked during the PAGA Time Period. Class Members will have the opportunity, should they disagree with these records regarding the information stated in the Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. The postmark date for the dispute shall be the

exclusive means used to determine whether a dispute has been timely submitted. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Court shall determine the eligibility for, and the amounts of, any Settlement Awards under the terms of this Settlement Agreement, if the Parties can not reach an agreement.

**a. Requests for Exclusion.**

**(1)** Any Class Member who wishes to opt-out of the class settlement must complete and mail a Request for Exclusion to the Settlement Administrator within forty-five (45) calendar days of the date of the initial mailing of the Notice Packets (the "Response Deadline").

**(2)** The Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Class Member; (2) contain a statement that the Class Member wishes to be excluded from the class settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion does not contain the information listed in (1)-(3), it will be deemed invalid for exclusion from the class settlement, except a Request for Exclusion not containing a Class Member's telephone number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Class Member who requests to be excluded from the class settlement will not have the right to any recovery under the Settlement provisions and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon, although the PAGA settlement and release provisions will apply to each Aggrieved Employee without any option for exclusion, and each such individual shall have the right to his or her share of the PAGA Distribution. Any Class Member who does not submit a Request for Exclusion is automatically deemed a Settlement Class Member; there is no requirement that any claim form be submitted.



**(3)** If ten percent (10%) or more of the Settlement Class members validly request exclusion from the class settlement, the Defendant may, at its sole discretion, elect to revoke this Settlement and its stipulation to class certification by communicating that decision to both the Settlement Administrator and Class Counsel, provided however, the Defendant will be responsible for any costs and fees incurred by the Settlement Administrator. Defendant has represented to Plaintiff's counsel that as of July 13, 2022, the Settlement Class consisted of approximately 908 putative class members who worked 60,529 pay periods during the Class Period. If the number of pay periods between the start of the class period through the date of preliminary approval is more than 10% greater than 60,529, Defendant shall be obligated to increase the Gross Settlement Fund amount in proportion to the increase in pay periods (e.g. in the number of pay periods is 12.5 % greater than 60,529 pay periods as of the date of preliminary approval, Defendant will increase the Net Settlement Amount by 2.5%.

**(4)** The Parties and their counsel agree not to take any action to initiate any contact with any Class Member to opt out of and/or object to the Settlement.

**b. Objections.** Settlement Class members who do not request exclusion may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and counsel for the Defendant, as well as file all such objections with the Court). Counsel for the Defendant and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Counsel for the Defendant and Class Counsel shall have ten (10) days to respond. To be valid, any objection must: (1) contain the objecting Class Member's full name, last four digits of his or her Social Security Number, telephone number and current address; (2) include all objections and the factual and legal bases for same; (3) include all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline. Class Counsel and Counsel for the Defendant shall be permitted to submit a written response to any objections within ten (10) calendar days of the Final Approval hearing.

## **VII. Final Order and Judgment.**

**1. Upon final approval of the Settlement, a Final Order and Judgment shall be entered by the Court which shall, among other things:**

**a. Grant final approval to the Settlement as fair, reasonable, adequate, in good faith and in the best interests of the Class as a whole, and to order the Parties to carry out the provisions of this Agreement.**

**b. Award amounts for Class Counsel Attorneys' Fees, Litigation Costs and Expenses, the Class Representative's Enhancement, and Settlement Administration Expenses.**

**c. Adjudge that the Settlement Class Members are conclusively deemed to have released the Defendant and the Released Parties of and from any and all rights, claims, demands, liabilities, causes of action, liens and judgments arising out of or in any way related to the matters within the scope of the Litigation, consistent with the release provisions herein.**

**d. Bar and permanently enjoin each Settlement Class Member from prosecuting against the Released Parties any and all of the Released Claims which the Settlement Class Members have arising out of, based upon, or otherwise related to the Litigation.**

**e. Confirm that the Parties' resolution of claims under PAGA meets all required standards and that the release of such claims as set forth in this Settlement precludes the State of California or any other representative thereof (including any other aggrieved employee) from pursuing claims released herein on behalf of itself or any aggrieved employee affected by this Settlement and its release terms.**

**f. Except for the PAGA claims, dismiss this action without prejudice as to all putative Class Members who are not Settlement Class Members.**

**g. Dismiss this action with prejudice as to all Settlement Class Members on all claims including PAGA.**

2. The Court shall reserve continuing jurisdiction as required to effectuate the provisions set forth herein.

### **VIII. Distribution of Settlement Proceeds.**

#### **1. Net Settlement Fund.**

a. As noted above, Settlement Class members are not required to submit a claim form to receive a payment from the Settlement.

b. Allocation of the Net Settlement Fund to each Settlement Class Member will be based on each Settlement Class Member's *pro rata* share of the total number of workweeks within the Class Time Period he or she worked. For each individual, this share is calculated as the number of workweeks worked by the individual within the Class Time Period for the Defendant or any Released Party divided by the total number of weekly pay periods worked by all Settlement Class Members during the Class Time Period. Eighty percent (80%) of the Net Settlement Funds shall be payable to Class Members who were not Union Class Members, Settlement Release Agreement Class Members, or both. The remaining twenty percent (20%) of the Net Settlement Funds shall be payable to Class Members who were Union Class Members, Settlement Release Agreement Class Members, or both.

c. Tax Allocation of Individual Class Payments. 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

#### **2. PAGA Payment to Aggrieved Employees.**

a. \$20,000 of the Gross Settlement Fund has been designated as civil penalties under PAGA, of which 25% (\$5,000) shall be

distributed to Aggrieved Employees, as part of the Net Settlement Fund. Each Aggrieved Employee shall receive a portion of the PAGA Payment to Aggrieved Employees proportionate to the number of pay periods that he or she worked during that time period, which shall be calculated by multiplying the PAGA Payment to Aggrieved Employees by a fraction, the numerator of which is each individual's number of pay periods worked during the PAGA Time Period, and the denominator of which is the total number of pay periods worked by all Aggrieved Employees during the PAGA Time Period.

### **3. Distribution Timing and Reporting.**

**a.** Within ten (10) calendar days following the deposit of the Gross Settlement Fund amount with the Settlement Administrator, the Settlement Administrator shall: (i) calculate Settlement Award amounts and provide the same to counsel for review and approval; (ii) upon approval by counsel, prepare and mail settlement awards, less applicable taxes and withholdings, to participating Settlement Class members and Aggrieved Employees; and, (iii) pay the withholdings to the applicable authorities with the necessary reports, submitting copies to counsel for the Defendant.

**b.** For purposes of calculating applicable taxes and withholdings, each Class Settlement Award shall be allocated as follows: four-fifths (4/5) as penalties, reimbursed expenses and interest; and one-fifth (1/5) as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed "wages" and IRS Forms 1099 for the amounts allocated as penalties and interest. Note: The Settlement Administrator will also calculate the amount of employment taxes owed by the Defendant on the wage portion of the distribution, and the Defendant will provide the amount of such employment taxes separate and apart from the Gross Settlement Fund amount; this is the only element of costs or other expenses that is not taken from the Gross Settlement Fund amount. The Settlement Administrator will handle submission of employer-side employment taxes on behalf of the employer through a suitable power of attorney.

**c.** Class Representative's Enhancement and Full Release Payment shall be paid within ten (10) calendar days of the deposit of the Gross Settlement Fund amount.

**d.** Class Counsel's Attorneys' Fees and Costs shall be paid within ten (10) calendar days of the deposit of the Gross Settlement Fund amount.

#### **4. Non-Reversionary Settlement.**

**a.** Each member of the Settlement Class who receives a settlement award, and all recipients of a PAGA Payment, must cash such checks within 180 days from the date of mailing by the Settlement Administrator. Any funds payable to Settlement Class members or Aggrieved Employees whose checks were not cashed within 180 days after mailing will be distributed in accordance with California law, including Code of Civil Procedure § 384. The Defendant and administrator shall not bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks.

**b.** If any check issued to a Settlement Class Member or Aggrieved Employee is returned as undeliverable, the Settlement Administrator shall make reasonable efforts to locate the individual by conducting a National Change of Address Search and re-mail the check. After one hundred eighty calendar days (180) from the date of first issuance, all the checks shall become null and void, and any monies remaining in the distribution account shall be distributed to the State Bar of California's Justice Gap Fund in the names of the Settlement Class Members who did not cash their checks. The Parties agree that this disposition results in no "unpaid residue" under California Code of Civil Procedure § 384, as the entire Net Settlement Fund will be paid out to Settlement Class Members, whether or not they all cash their Settlement Checks. Therefore, the Defendant will not be required to pay any interest on said amount.

#### **IX. Miscellaneous Terms.**

**1. No Effect on Other Benefits.** The settlement shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiffs or Settlement Class Members, and Plaintiffs and Settlement Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.

**2. No Admission of Liability or Class Certification for Other Purposes.** The Defendant deny they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims, including disputes regarding whether any party may seek relief for disputes in a judicial forum and/or in a collective action for which no collective action is authorized under dispute resolution agreements requiring arbitration of disputes. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by the Defendant or any Released Party, or an admission by Employees that any of the claims were non-meritorious or any defense asserted by the Defendant was meritorious. This Settlement and the fact that Employees and the Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code § 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code § 1152, and neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Employees or the Defendant, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Parties in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

**3. Waiver and Amendment.** The Parties may not waive, amend, or modify any material provision of this Settlement Agreement except by a written agreement signed by all the Parties, and subject to any necessary Court approval. Nonmaterial amendments or modifications to this Agreement may be made in writing between Class Counsel and Defendant' Counsel without the need to seek the Court's approval or additional signatures of the Parties. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

**4. Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

**a.** if to Employee and the class:

Nicholas J. Ferraro  
Lauren Vega  
Ferraro Vega Employment Lawyers, Inc.  
3160 Camino del Rio South, Suite 308  
San Diego, California 92108  
(619) 693-7727  
Email: [nick@ferrarovega.com](mailto:nick@ferrarovega.com)

Thomas D. Rutledge  
Attorney-at-Law  
16956 Via de Santa Fe, Suite 1847  
Rancho Santa Fe, California 92091-4606  
Telephone: (619) 886-7224  
Email: [thomasrutledgelaw@gmail.com](mailto:thomasrutledgelaw@gmail.com)  
[www.thomasrutledgelaw.com](http://www.thomasrutledgelaw.com)

**b.** If to the Defendant

Janice P. Brown, Esq.  
Arlene R. Yang, Esq.  
MEYERS & NAVE  
600 B Street, Suite 1650  
San Diego, CA 92101

Telephone: 619.330.1700  
Facsimile: 619.330.1701  
Email: jbrown@meyersnave.com  
Email: ayang@meyersnave.com

**5. Stay.** All proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement, including moving for preliminary approval and final approval of this Settlement, are hereby stayed.

**6. Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings before the date hereof relating to the subject matters hereof.

**7. Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts, by electronic signature (such as via DocuSign) and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

**8. Authorization and Cooperation.** Class Counsel warrant and represent that they are authorized by Employees, for whom they are the attorneys of record, and the attorneys of record for the Defendant warrant and represent that they are authorized by the Defendant, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties agree to seek the assistance of the Mediator, and if agreement remains out of reach, the Court. In all cases, all such documents, supplemental provisions and assistance of the Court shall be consistent with this Agreement.



**10. Successors.** This Agreement shall be binding upon, and inure to the benefit of, the successors of each of the Parties.

**11. California Law.** All terms of this Agreement and its Exhibits shall be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.

**12. Representation by Counsel.** The Parties have each been represented by counsel and have cooperated in the drafting and preparation of this Agreement. This Agreement shall not be construed against any party on the basis that the party was the drafter or participated in the drafting.

Representative Plaintiff

Dated: Aug 3, 2022

*Leticia Carrillo*

\_\_\_\_\_  
LETICIA BELMONTEZ-CARILLO,  
individually and for Aggrieved  
Employees

Defendant METROPOLITAN AREA  
ADVISORY COMMITTEE ON ANTI-  
POVERTY OF SAN DIEGO  
COUNTY, INC.

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

For Defendant

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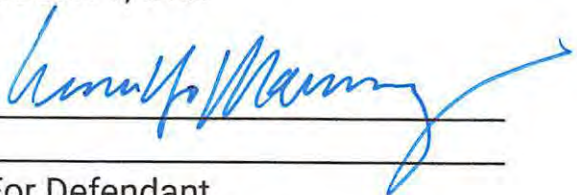
Representative Plaintiff

Dated: \_\_\_\_\_

\_\_\_\_\_  
LETICIA BELMONTEZ-CARILLO,  
individually and for Aggrieved  
Employees

Defendant METROPOLITAN AREA  
ADVISORY COMMITTEE ON ANTI-  
POVERTY OF SAN DIEGO  
COUNTY, INC.

Dated: 8/8/2022

  
\_\_\_\_\_  
\_\_\_\_\_  
For Defendant

ARNULFO MANRIQUEZ  
PRESIDENT / CEO