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as an aggrieved employee, and on behalf of
all other aggrieved employees

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Attorneys for Defendant

COMMUNITY CORPORATION OF SANTA MONICA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JACKIE ESSARY, as an aggrieved
employee, and on behalf of all other
aggrieved employees under the Labor Code
Private Attorneys General Act of 2004,

Plaintiff,

vs.

COMMUNITY CORPORATION OF
SANTA MONICA, a nonprofit corporation in
California; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 23STCV03250

[Assigned to the Hon. Lawrence P. Riff in
Dept. 7]

REPRESENTATIVE ACTION

PAGA SETTLEMENT AGREEMENT

ACTION FILED: February 14, 2023
TRIAL DATE: None Set

1 This PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement
2 Agreement”) is made by and between plaintiff Jackie Essary (“Plaintiff”), individually, and on
3 behalf of the Aggrieved Employees, on one hand; and defendant Community Corporation of
4 Santa Monica (“Defendant”), on the other hand, in the lawsuit entitled *Jackie Essary v.*
5 *Community Corporation of Santa Monica*, filed in the Los Angeles County Superior Court, Case
6 No. 23STCV03250. Plaintiff and Defendant shall be, at times, collectively referred to as the
7 “Parties”. This Agreement is intended by the Parties to fully, finally and forever resolve the
8 claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

9 **1. DEFINITIONS**

10 1.1. “**Action**” means the Plaintiff’s PAGA lawsuit, alleging wage and hour violations
11 against Defendant, captioned *Jackie Essary v. Community Corporation of Santa Monica*,
12 initiated on February 14, 2023, and pending in Superior Court of the State of California, County
13 of Los Angeles.

14 1.2. “**Administrator**” or “**Settlement Administrator**” means the third-party
15 administrator mutually chosen by the Parties based on bids obtained from at least two (2) and up
16 to three (3) settlement administrators. The Parties will obtain a not-to-exceed quote from the
17 mutually acceptable qualified settlement administrator for claims administration costs. The
18 Settlement Administrator mutually agreed upon by the Parties is Phoenix Class Action
19 Administration Solutions (“Phoenix”).

20 1.3. “**Administration Expenses Payment**” means the amount the Administrator will
21 be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
22 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
23 with approval of this Settlement.

24 1.4. “**Aggrieved Employees**” means all persons employed by Defendant in California
25 and classified as non-exempt, hourly-paid employees who worked for Defendant during the
26 PAGA Period.

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1.5. **“Aggrieved Employee Data”** means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and the dates of employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s).

1.6. **“Aggrieved Employee Address Search”** means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. **“Court”** means the Superior Court of California, County of Los Angeles.

1.8. **“Defense Counsel”** means Andrew J. Sokolowski of O’Hagan Meyer LLP.

1.9. **“Effective Date”** means the date by when the Court enters a final Judgment on its Order Approving the PAGA Settlement.

1.10. **“Gross Settlement Amount”** means \$300,030.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8.1 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment.

1.11. **“Individual PAGA Payment”** means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.12. **“Judgment”** means the judgment entered by the Court based upon the Final Approval of this Agreement.

1.13. **“LWDA”** means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.14. **“LWDA PAGA Payment”** means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.15. **“Net Settlement Amount”** means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

1.16. **“PAGA Counsel”** means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group, Inc., the attorneys representing the Plaintiff in the Action.

1.17. **“PAGA Counsel Fees Payment”** and **“PAGA Counsel Litigation Expenses Payment”** mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

1.18. **“PAGA Pay Period”** means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.19. **“PAGA Period”** means the period from December 9, 2021 through April 10, 2024.

1.20. **“PAGA”** means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.21. **“PAGA Notice”** means Plaintiff’s December 9, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.22. **“PAGA Penalties”** means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, with allocated 25% to the Aggrieved Employees and 75% to the LWDA in settlement of PAGA claims.

1.23. **“Plaintiff”** means Jackie Essary, the named plaintiff in the Action.

1.24. **“Approval Order”** means the proposed Court Order Granting Approval of PAGA Settlement.

1.25. **“Released PAGA Claims”** means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.

1.26. **“Released Parties”** means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1.27. “**Settlement**” means the disposition of the Action effected by this Agreement and the Judgment.

2. **RECITALS**

2.1 On February 14, 2023, Plaintiff commenced this Action by filing a Complaint (the “Operative Complaint”), alleging causes of action against Defendant for civil penalties under PAGA for the Labor Code violations alleged in the PAGA Notice. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on December 9, 2022.

2.3. On April 10, 2024, the Parties participated in an all-day mediation presided over by Gig Kyriacou, Esquire, which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery: (1) time and payroll records of approximately 33 of the estimated 125 Aggrieved Employees during the PAGA Period; (2) relevant policy documents of Defendant; and (3) Plaintiff’s personnel records.

2.5. From the above, Plaintiff was able to extract data points including the number of Aggrieved Employees, Pay Periods and shifts during the PAGA Period, and the average regular hourly rate of pay;

2.6 The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS**

3.1. **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8.1 below, Defendant promises to pay \$300,030.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

1 3.2. **Payments from the Gross Settlement Amount.** The Administrator will make
2 and deduct the following payments from the Gross Settlement Amount, in the amounts specified
3 by the Court in the Final Approval:

4 3.2.1. **To PAGA Counsel:** A PAGA Counsel Fees Payment of not more than one
5 third (1/3), which is currently estimated to be \$100,010.00 and PAGA
6 Counsel Litigation Expenses Payment of not more than \$25,000.00.
7 Defendant will not oppose requests for Court approval of these payments
8 provided that they do not exceed these amounts. Plaintiff and/or PAGA
9 Counsel will file an application or motion for PAGA Counsel Fees
10 Payment and PAGA Litigation Expenses Payment. If the Court approves
11 a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation
12 Expenses Payment less than the amounts requested, the Administrator will
13 allocate the remainder to the Net Settlement Amount. Released Parties
14 shall have no liability to PAGA Counsel or any other Plaintiff's Counsel
15 arising from any claim to any portion any PAGA Counsel Fees Payment
16 and/or PAGA Counsel Litigation Expenses Payment. There will be no
17 additional charge of any kind to either the Aggrieved Employees or request
18 for additional consideration from Defendant for such work unless
19 Defendant materially breaches this Agreement, including any term
20 regarding funding, and further efforts are necessary from PAGA Counsel
21 to remedy said breach, including, without limitation, moving the Court to
22 enforce the Agreement. The Administrator will pay the PAGA Counsel
23 Fees Payment and PAGA Counsel Litigation Expenses Payment using one
24 or more IRS 1099 Forms. PAGA Counsel assume full responsibility and
25 liability for taxes owed on the PAGA Counsel Fees Payment and the
26 PAGA Counsel Litigation Expenses Payment and hold Defendant
27 harmless, and indemnify Defendant from any dispute or controversy
28 regarding any division or sharing of any of these Payments.

1 3.2.2. **To the Administrator:** An Administrator Expenses Payment not to
2 exceed \$3,250.00 except for a showing of good cause and as approved by
3 the Court. To the extent the Administration Expenses are less or the Court
4 approves payment less than \$3,250.00, the Administrator will retain the
5 remainder in the Net Settlement Amount.

6 3.2.3. **To the LWDA and Aggrieved Employees:** PAGA Penalties in the
7 amount of \$164,270.00 to be paid from the Gross Settlement Amount, with
8 75% (\$123,202.50) allocated to the LWDA PAGA Payment and 25%
9 (\$41,067.50) allocated to the Individual PAGA Payments.

10 3.2.3.1. The Administrator will calculate each Individual PAGA Payment
11 by (a) dividing the amount of the Aggrieved Employees' 25%
12 share of PAGA Penalties (\$41,067.50) by the total number of
13 PAGA Period Pay Periods worked by all Aggrieved Employees
14 during the PAGA Period and (b) multiplying the result by each
15 Aggrieved Employee's PAGA Period Pay Periods. Aggrieved
16 Employees assume full responsibility and liability for any taxes
17 owed on their Individual PAGA Payment.

18 3.2.3.2. If the Court approves PAGA Penalties of less than the amount
19 requested, the Administrator will allocate the remainder to the Net
20 Settlement Amount. The Administrator will report the Individual
21 PAGA Payments on IRS 1099 Forms.

22 4. **SETTLEMENT FUNDING PAYMENTS**

23 4.1. **Aggrieved Employee Pay Periods.** Based on a review of its records to date,
24 Defendant estimates there are 125 Aggrieved Employees who worked a total of 4,529 PAGA Pay
25 Periods.

26 4.2. **Aggrieved Employee Data.** Within 14 days of the Effective Date, Defendant will
27 simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a
28 Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator

1 must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data
2 only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved
3 Employee Data to Administrator employees who need access to the Aggrieved Employee Data
4 to effect and perform under this Agreement. Defendant has a continuing duty to immediately
5 notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee
6 identifying information and to provide corrected or updated Aggrieved Employee Data as soon
7 as reasonably feasible. Without any extension of the deadline by which Defendant must send the
8 Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously
9 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or
10 omitted Aggrieved Employee Data.

11 **4.3. Funding of Gross Settlement Amount.** Defendant shall fully fund the Gross
12 Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the
13 Effective Date.

14 **4.4. Payments from the Gross Settlement Amount.** Within 14 days after Defendant
15 funds the Gross Settlement Amount, the Administrator will disburse funds for all Individual
16 PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the PAGA
17 Counsel Fees Payment, and the PAGA Counsel Litigation Expenses Payment. Disbursement of
18 the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment shall not
19 precede disbursement of Individual PAGA Payments.

20 **4.4.1.** The Administrator will issue checks for the Individual PAGA Payments
21 and send them to the Aggrieved Employees via First Class U.S. Mail,
22 postage prepaid. The face of each check shall prominently state the date
23 (not less than 180 days after the date of mailing) when the check will be
24 voided. The Administrator will cancel all checks not cashed by the void
25 date. Before mailing any checks, the Settlement Administrator must update
26 the recipients' mailing addresses using the National Change of Address
27 Database.

1 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search
2 for all Aggrieved Employees whose checks are returned undelivered
3 without USPS forwarding address. Within seven (7) days of receiving a
4 returned check the Administrator must re-mail checks to the USPS
5 forwarding address provided or to an address ascertained through the
6 Aggrieved Employee Address Search. The Administrator need not take
7 further steps to deliver checks to Aggrieved Employees whose re-mailed
8 checks are returned as undelivered. The Administrator shall promptly send
9 a replacement check to any Aggrieved Employee whose original check
10 was lost or misplaced, requested by the Aggrieved Employee prior to the
11 void date.

12 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is
13 uncashed and cancelled after the void date, the Administrator shall
14 transmit the funds represented by such checks to the California Controller's
15 Unclaimed Property Fund in the name of the Aggrieved Employee.

16 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant
17 to confer any additional benefits or make any additional payments to the
18 Aggrieved Employees (such as 401(k) contributions or bonuses) beyond
19 those specified in this Agreement.

20 **5. RELEASES OF CLAIMS**

21 Effective on the date when Defendant fully funds the entire Gross Settlement Amount
22 Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

23 5.1. **Plaintiff's General Release.** Plaintiff and his or her respective former and present
24 spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators,
25 successors, and assigns generally release and discharge Released Parties from all claims, causes
26 of action, transactions, or occurrences of any kind that Plaintiff has or may have against the
27 Released Parties from the beginning of time until the date Plaintiff executes the Settlement
28 Agreement, including, but not limited to: (a) all Plaintiff's individual claims that were, or

1 reasonably could have been, alleged, based on the facts contained in the Operative Complaint
2 and the PAGA Notice; (b) any and all claims arising out of Plaintiff's employment with
3 Defendant; and (c) any claims of any kind Plaintiff may have against Defendant or the Released
4 Parties ("Plaintiff's Release"). The Parties intend Plaintiff's Release to be construed to the
5 broadest extent possible and to extinguish all claims Plaintiff has or may have against Defendant
6 and/or the Released Parties through the date Plaintiff executes the Settlement Agreement.
7 Provided, however, that Plaintiff's Release does not extend to any claims or actions to enforce
8 this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits,
9 social security benefits, or workers' compensation benefits. Plaintiff acknowledges that Plaintiff
10 may discover facts or law different from, or in addition to, the facts or law that Plaintiff now
11 knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain
12 effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery
13 of them.

14 **5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.**

15 For purposes of Plaintiff's Release, Plaintiff expressly waives and
16 relinquishes the provisions, rights, and benefits, if any, of section 1542 of
17 the California Civil Code, which reads:

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

23 **5.2. Release by Aggrieved Employees:** Upon the Effective Date, all Aggrieved
24 Employees are deemed to release, on behalf of themselves and their respective former and present
25 representatives, agents, attorneys, heirs, administrators, successors, and assigns, Released Parties
26 from all claims, rights, demands, liabilities and causes of action that arose during the PAGA
27 Period for civil penalties under PAGA that were alleged, or reasonably could have been alleged,
28

1 based on the facts stated in the Operative Complaint and the PAGA Notice for PAGA civil
2 penalties.

3 5.3. **Release by PAGA Counsel:** Upon the Effective Date, PAGA Counsel release on
4 behalf of their present and former attorneys, employees, agents, successors and assigns the
5 Released Parties from all claims for attorneys fees and/or costs incurred in connection with the
6 Operative Complaint and any actual or potential claims based on the facts stated in the Operative
7 Complaint and the PAGA Notice.

8 **6. MOTION OR APPLICATION FOR APPROVAL OF**
9 **SETTLEMENT**

10 The Parties agree to Plaintiff's filing of a motion for approval of this Settlement.

11 6.1. **Plaintiff's Responsibilities.** Plaintiff will prepare and endeavor to deliver to
12 Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor
13 Code Section 2699, subd. (f)(2)) including (i) a draft motion for approval of the PAGA
14 Settlement; (ii) a draft proposed Order Granting Approval of PAGA Settlement; (iii) a signed
15 declaration from the Administrator attaching its "not to exceed" bid for administering the
16 Settlement and attesting to its willingness to serve; competency; operative procedures for
17 protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data
18 breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential
19 conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any
20 financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iv) a signed declaration
21 from PAGA Counsel attesting to their timely transmission to the LWDA of all necessary PAGA
22 documents (initial notices of violations (Labor Code section 2699.3, subd. (a)), Operative
23 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
24 subd. (l)(2)) and all facts relevant to any actual or potential conflict of interest with Aggrieved
25 Employees and/or the Administrator.

26 6.2. **Responsibilities of the Parties.** PAGA Counsel are responsible for expeditiously
27 finalizing and filing the motion for approval of this Settlement after the full execution of this
28 Agreement and, if necessary, obtaining a prompt hearing date for the motion. PAGA Counsel

1 and Defense Counsel are responsible for appearing in Court to advocate in favor of the motion.
2 PAGA Counsel are responsible for delivering the Court's Judgment to the Administrator.

3 **6.3. Duty to Cooperate.** If the Parties disagree on any aspect of the proposed
4 application or motion for approval of this Settlement and/or the supporting declarations and
5 documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of
6 the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement.
7 If the Court does not grant the motion for approval of this Settlement or conditions its approval
8 on any material change to this Agreement, PAGA Counsel and Defense Counsel will
9 expeditiously work together on behalf of the Parties by meeting in person or by telephone, and
10 in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

11 **7. SETTLEMENT ADMINISTRATION**

12 **7.1. Selection of Administrator.** The Parties have mutually chosen Phoenix to serve
13 as the Administrator and verified that, as a condition of appointment, Phoenix agrees to be bound
14 by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in
15 exchange for payment of Administration Expenses. The Parties and their Counsel represent that
16 they have no interest or relationship, financial or otherwise, with the Administrator other than a
17 professional relationship arising out of prior experiences administering settlements.

18 **7.2. Employer Identification Number.** The Administrator shall have and use its own
19 Employer Identification Number for purposes of calculating payroll tax withholdings and
20 providing reports state and federal tax authorities.

21 **7.3. Qualified Settlement Fund.** The Administrator shall establish a settlement fund
22 that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
23 Regulation section 468B-1.

24 **7.4. Administrator Duties.** The Administrator has a duty to perform or observe all
25 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

26 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR** 27 **CLAUSE**

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are 125 Aggrieved Employees who worked 4,529 Pay Periods during the PAGA Period.

8.1. Defendant represents that there are no more than 4,529 Pay Periods worked by Aggrieved Employees during the PAGA Period. In the event the number of Pay Periods worked by Aggrieved Employees during the PAGA Period increases by more than 10%, or 453 Pay Periods, then the Gross Settlement Amount shall be increased proportionally by the Pay Periods in excess of 4,982 Pay Periods multiplied by the Pay Period Value. The Pay Period Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$300,030.00) by 4,529. The Parties agree that the Pay Period Value amounts to \$66.25 per Pay Period ($\$300,030.00 \div 4,529$ Pay Periods). Thus, for example, should there be 5,500 Pay Periods worked by Aggrieved Employees during the PAGA Period, then the Gross Settlement Amount shall be increased by \$34,317.50 ($[5,500 \text{ Pay Periods} - 4,982 \text{ Pay Periods}] \times \$66.25 \text{ Pay Period Value}$).

9. CONTINUING JURISDICTION OF THE COURT

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. **Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

1 **10. ADDITIONAL PROVISIONS**

2 **10.1. No Admission of Liability or Representative Manageability for Other**
3 **Purposes.** This Agreement represents a compromise and settlement of highly disputed claims.
4 Nothing in this Agreement is intended or should be construed as an admission by Defendant that
5 any of the allegations in the Operative Complaint have merit or that Defendant has any liability
6 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that
7 Defendant's defenses in the Action have merit. The Parties agree that representative treatment is
8 for purposes of this Settlement only. If, for any reason, the Court does not approve this
9 Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff
10 reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties'
11 willingness to settle the Action will have no bearing on, and will not be admissible in connection
12 with, any litigation (except for proceedings to enforce or effectuate the Settlement and this
13 Agreement).

14 **10.2. Integrated Agreement.** Upon execution by all Parties and their counsel, this
15 Agreement together with its attached exhibits shall constitute the entire agreement between the
16 Parties relating to the Settlement, superseding any and all oral representations, warranties,
17 covenants, or inducements made to or by any Party.

18 **10.3. Attorney Authorization.** PAGA Counsel and Defense Counsel separately
19 warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take
20 all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
21 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
22 terms of this Agreement including any amendments to this Agreement.

23 **10.4. Cooperation.** The Parties and their counsel will cooperate with each other and
24 use their best efforts, in good faith, to implement the Settlement by, among other things,
25 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
26 points and authorities as requested by the Court. In the event the Parties are unable to agree upon
27 the form or content of any document necessary to implement the Settlement, or on any
28

1 modification of the Agreement that may become necessary to implement the Settlement, the
2 Parties will seek the assistance of a mediator and/or the Court for resolution.

3 **10.5. No Prior Assignments.** The Parties separately represent and warrant that they
4 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
5 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of
6 action, or right released and discharged by the Party in this Settlement.

7 **10.6. No Tax Advice.** Neither Plaintiff, PAGA Counsel, Defendant nor Defense
8 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
9 Settlement be relied upon as such within the meaning of United States Treasury Department
10 Circular 230 (31 CFR Part 10, as amended) or otherwise.

11 **10.7. Modification of Agreement.** This Agreement, and all parts of it, may be
12 amended, modified, changed, or waived only by an express written instrument signed by all
13 Parties or their representatives, and approved by the Court.

14 **10.8. Agreement Binding on Successors.** This Agreement will be binding upon, and
15 inure to the benefit of, the successors of each of the Parties.

16 **10.9. Applicable Law.** All terms and conditions of this Agreement and its exhibits will
17 be governed by and interpreted according to the internal laws of the State of California, without
18 regard to conflict of law principles.

19 **10.10. Cooperation in Drafting.** The Parties have cooperated in the drafting and
20 preparation of this Agreement. This Agreement will not be construed against any Party on the
21 basis that the Party was the drafter or participated in the drafting.

22 **10.11. Confidentiality.** To the extent permitted by law, all agreements made, and orders
23 entered during Action and in this Agreement relating to the confidentiality of information shall
24 survive the execution of this Agreement.

25 **10.12. Use and Return of Aggrieved Employee Data.** Information provided to PAGA
26 Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data
27 provided to PAGA Counsel by Defendant in connection with the mediation, other settlement
28 negotiations, or in connection with the Settlement, may be used only with respect to this

Settlement, and no other purposes, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

10.13. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14. **Calendar Days.** Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. **Notice.** All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

BIBIYAN LAW GROUP, P.C.

David D. Bibiyan (SBN 287811)

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Vedang J. Patel (SBN 328647)

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Los Angeles, California 90024

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To Defendant:

O'HAGAN MEYER LLP

Andrew J. Sokolowski

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550 S. Hope Street, Suite 2400,

Los Angeles, CA, 90071

Tel: (213) 647-0005

10.16. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

10.18. **Severability.** In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and PAGA Counsel, on behalf of the Parties and the Aggrieved Employees, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Jackie Essary

Jackie Essary (May 19, 2025 12:06 PDT)

Plaintiff Jackie Essary

Defendant Community Corporation of Santa Monica

By: _____

Its: _____

Vedang J. Patel

David D. Bibiyan

Vedang J. Patel

Counsel for Plaintiff Jackie Essary

Andrew J. Sokolowski

Counsel for Defendant Community

Corporation of Santa Monica

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19
20
21 _____
22 Plaintiff Jackie Essary

23
24
25 _____
26 David D. Bibiyan
27 Vedang J. Patel
28 Counsel for Plaintiff Jackie Essary

Tara Barauskas

Tara Barauskas (May 12, 2025 12:54 PDT)

Defendant Community Corporation of Santa
Monica

By: Tara Barauskas

Its: Executive Director

May 12, 2025

Andrew J. Sokolowski

Andrew J. Sokolowski
Counsel for Defendant Community
Corporation of Santa Monica