

December 1, 1997

Introduced By: Hague, Gossett, Nickels

Proposed No.: 97-671

ORDINANCE NO. **12942**

AN ORDINANCE approving and adopting the class action settlement agreement negotiated between King County and Plaintiffs in *Logan v. King County* and *Knox v. King County*, and directing the executive to implement the terms of the agreement.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The class action settlement agreement negotiated between King County and the plaintiffs in *Logan v. King County*, No. 93-2-20233-4 SEA, and *Knox v. King County*, No. 97-2-05811-2 SEA, consolidated with the Logan file number, attached hereto and by this reference made a part hereof, is hereby approved and adopted in substantially the same form as attached.

SECTION 2. Upon final approval of the class action settlement agreement by the Superior Court of the State of Washington, the executive is directed to implement the terms of the agreement.

INTRODUCED AND READ for the first time this 17<sup>th</sup> day of November, 19 97.

PASSED by a vote of 12 to 0 this 15<sup>th</sup> day of December, 19 97

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

Jane Hague  
Chair

ATTEST:

[Signature]  
Clerk of the Council

APPROVED this 15 day of December, 19 97  
[Signature]  
King County Executive

Attachment: Class Action Settlement Agreement, No. 93-2-20233-4 SEA

Civil Track I  
Honorable Steven Scott, Judge

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

MICHAEL J. LOGAN, et al., )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 KING COUNTY, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

**CONSOLIDATED  
CLASS ACTIONS  
NO. 93-2-20233-4 SEA**

\_\_\_\_\_  
**CLASS ACTION SETTLEMENT AGREEMENT**  
\_\_\_\_\_

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## I. INTRODUCTION

1. This Settlement Agreement is made pursuant to CR 23(e) to settle the class actions of *Logan v. King County*, No. 93-2-20233-4 SEA, and *Knox v. King County*, No. 97-2-05811-2 SEA, which were consolidated on June 20, 1997 with the *Logan* file number. This Agreement is intended to resolve fully and finally all claims of both *Logan* and *Knox* classes, except as otherwise provided in ¶¶8 and 9. All provisions in the Agreement apply to the members of both classes unless an exception is specifically stated. Class membership alone does not necessarily make relief available; class members are entitled to relief only as specifically stated in this Settlement Agreement. The Settlement Agreement is not effective until it is approved by the Metropolitan King County Council and by the King County Superior Court.

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## II. DEFINITIONS

The following general definitions apply in this Agreement:

2. "Class members" refers to employees of King County ("the County") who are members of both the *Logan* and *Knox* classes, as defined in the *Logan* class certification order of June 21, 1994, and modified on July 12, 1996, and in the *Knox* class certification order of June 13, 1997.

3. "Settlement Agreement" or "Agreement" refers to this document, together with any attachments. The Settlement Agreement may include amendments, supplements and additions as part of this Agreement, but only if they are in writing and signed by counsel for both sides, approved by the Court, and specifically refer to this Agreement.

4. "Employees" or "County employees" refers to persons employed by King County and paid through the King County payroll system, which includes, on and after January 1, 1994, the payroll system of the former Municipality of Metropolitan Seattle ("Metro"). The definition

1 of "employee" is limited because this Settlement Agreement does not deal with or affect the  
2 claims of some workers who assert they also are or were employees of King County (or formerly  
3 Metro) as stated in Part III, Claims Subject to this Agreement. The terms "County employee"  
4 and "employee" do not include employees working in the specific positions and departments that  
5 are not within the Career Service System established under §550 of the King County Charter.  
6 except that "County employee" and "employee" do include employees that have been considered  
7 exempt from Career Service because they are "part-time" or "temporary" to the extent described  
8 in this Agreement.  
9

10 5. There are further definitions relating to specific Parts of this Agreement and these  
11 definitions are found elsewhere in the Agreement.  
12

### 13 **III. GENERAL MATTERS**

#### 14 **Disputed Claims.**

15 6. This Settlement Agreement is a compromise of disputed claims and is the product  
16 of negotiation. The County's entry into this Agreement is a result of compromise and it does not  
17 constitute an admission of liability by the County. The compromise embodied in this Agreement  
18 is intended to resolve certain claims of class members relating to exclusion from the County's  
19 Career Service, as stated in this Part.  
20

#### 21 **Claims Subject to this Settlement Agreement.**

22 7. This Settlement Agreement is intended to completely resolve and settle the claims  
23 of class members relating to their exclusion from Career Service due to their designation as  
24 "part-time" and/or "temporary" employees of King County, except as stated in ¶¶8-11. Plaintiffs  
25 maintain that the exclusion from Career Service based on such designations violates §550 of the  
26 King County Charter, as amended in King County Charter Amendment No. 3 (effective on  
27



1 January 1, 1989), that in some cases the exclusion also violates provisions of certain ordinances  
2 defining "part-time" and/or "temporary" employees, and furthermore that the classification which  
3 denies Career Service rights and benefits to certain employees designated "part-time" or  
4 "temporary" violates the requirement of equal treatment in the Washington Constitution. These  
5 specific claims concerning allegedly wrongful exclusion from Career Service, together with the  
6 related claims based on County ordinances providing particular items of compensation, benefits  
7 and protections to Career Service employees and all other claims asserted in plaintiffs' com-  
8 plaints, including claims for wrongful termination based on exclusion from Career Service, are  
9 completely settled and resolved by this Settlement Agreement. Moreover, claims under  
10 Washington state remedial statutes, RCW 49.48.030 and 49.52.070, for double damages, attorney  
11 fees, and costs are completely settled and resolved by this Settlement Agreement. Any other  
12 claims that might have been or may be raised by members of the class against King County --  
13 whether related to their employment or not -- are not settled or resolved in this Settlement  
14 Agreement.

15  
16  
17 **Exception Claims.**

18 8. Some class members here are also members of another class certified in *Clark v.*  
19 *King County*, No. 95-2-29890-7 SEA. For these class members, the Career Service claims and  
20 the benefits and compensation claims described in ¶7 above are not fully resolved in this  
21 Settlement Agreement because the *Clark* case is not being settled in this Agreement. This  
22 Agreement therefore does not consider or take into account any work performed by class  
23 members for King County (including Metro after it was merged on January 1, 1994 into King  
24 County) while the class members (a) were considered or treated as "contractors" or "contract  
25 workers" and/or (b) received their paychecks from or through an agency ("temporary" or "payroll  
26 workers" and/or (b) received their paychecks from or through an agency ("temporary" or "payroll  
27 workers" and/or (b) received their paychecks from or through an agency ("temporary" or "payroll  
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1 service" agency) for personal services performed for King County and/or (c) performed services  
2 for the Municipality of Metropolitan Seattle or were paid directly or indirectly by the Municipal-  
3 ity of Metropolitan Seattle for work performed prior to its merger with King County effective  
4 January 1, 1994. Accordingly, class members who are also in the *Clark* class may be entitled to  
5 further monetary and/or other relief in *Clark* for the claims here due to the work which is not  
6 considered in this Agreement, potentially including matters such as further compensation and  
7 benefits, back pay, transition to Career Service, and/or reinstatement or compensation for  
8 terminations, if such relief is available in *Clark*.

9  
10 9. Because certain class members' additional service for King County and/or the  
11 former Municipality of Metropolitan Seattle as a *Clark* class member is not taken into account  
12 here at all, some class members might not obtain monetary or non-monetary relief that could  
13 otherwise be awarded here if the cumulative effect of work hours that are considered or compen-  
14 sated in this case were considered in combination with other work hours within *Clark*. For  
15 example, a class member here might appear to have worked insufficient hours in the King  
16 County payroll records during a particular time period to qualify for relief under this Agreement,  
17 but would qualify to obtain some relief in this case (or possibly qualify to obtain greater relief  
18 here), if all hours of work for King County during that time period were considered, including the  
19 hours of work that are within *Clark*. Any such cumulative effects or relief based on the aggre-  
20 gate hours of a person's service in both this case and in *Clark*, if there are any, shall be exclu-  
21 sively considered and decided in *Clark*. Therefore, some hours of work shown on King County  
22 payroll records may be considered and compensated in the *Clark* case, but in no event shall *Clark*  
23 plaintiffs be entitled to double recovery.

24  
25 10. The County does not agree by the above provisions (§§8-9) that the claims in  
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1 *Clark* have any merit or that the *Clark* class is entitled to any relief, nor does either the class here  
2 or the class in *Clark* agree, by this provision, that the work situation and entitlement to relief of  
3 class members in *Clark* are materially different from this case. Whatever similarities and  
4 differences there are, however, will be decided solely in the *Clark* litigation.

5  
6 11. In addition, any individual who released all his or her employment claims in  
7 litigation prior to the effective date of the Court's orders of May 29, 1997 and June 10, 1997,  
8 shall not be entitled to any relief or compensation described in this Agreement.

9 **Timeliness.**

10 12. This Settlement Agreement includes certain commitments by parties and counsel  
11 to take actions before the Agreement is finally approved and such commitments are intended to  
12 be followed. Nonetheless, any procedural failure or error, such as a failure to act in a timely  
13 manner, does not preclude final approval and enforcement of the Settlement Agreement if the  
14 error can be corrected or made harmless (e.g., a failure to give adequate notice to class members  
15 might be corrected by giving further notice and possibly rescheduling the settlement hearing).

16  
17 **Effective Date.**

18 13. This Settlement Agreement is subject to approval by the Metropolitan King  
19 County Council and by the King County Superior Court pursuant to CR 23(e). Notices of the  
20 proposed settlement to class members will be promptly distributed by the County, upon a  
21 schedule to be established by the parties and the Court. The settlement hearing date shall be  
22 scheduled by the Court. This Settlement Agreement is effective and binding upon the County  
23 Council's and the Superior Court's approval of the Agreement. However, upon execution of this  
24 Settlement Agreement, but prior to Council and Court approval and prior to dismissal of all  
25 claims, the parties agree that the litigation shall be stayed except as provided in this Agreement.  
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IV. RELIEF FOR THE FUTURE**Annual Review and Appeal Process.**

14. King County agrees that both operational efficiency and fair and equitable employment practices, as well as the intent of the Career Service provisions herein, are advanced by the use of Career Service employees. Therefore, it is the policy of King County to have ongoing, relatively stable, and predictable bodies of work, viewed on an annualized basis, that are necessary to the provision of County services performed by Career Service employees, not by temporary employees and to maximize its use of full-time employees to perform regular work. Guidance concerning what is meant by "ongoing, relatively stable, and predictable bodies of work" and illustrations of some of the practices that the parties intend to affect are set forth in Part IV, §§33-39.

15. King County also has the need for term-limited project temporary employees. These employees are not members of the Career Service, but they will receive full employee benefits, including paid leave benefits and insured benefits, *e.g.*, medical and dental benefits.

**Definitions.**

16. As used in Parts IV and V, the following definitions apply:

A. "Committee" means the Career Service Review Committee.

B. "Insured benefits" means the package of medical, dental, vision, and basic life, accidental death and dismemberment, and long term disability insurance (whether purchased through a carrier or handled on a self-insured basis by the County) provided in that calendar year to the largest group of career service employees.

C. "Direct cost" means the aggregate of the actual weighted average cost for insured benefits. Direct Cost does not include the cost of King County's overhead for administering the

1 benefits internal service fund.

2 By way of example, in 1996 the Direct Cost of the insured benefits package was \$375.69  
3 (medical \$281.08 + vision \$9.83 + dental \$77.43 + other insurance \$7.35).

4 D. "OHRM Director" means the Director of the Office of Human Resources  
5 Management.

6  
7 E. "Term-limited project employee" means an employee who performs time-limited  
8 work related to a specific grant, capital improvement project, information systems technology  
9 project, or other non-routine, substantial body of work, for a period greater than six months,  
10 including the types of bodies of work identified below. Term-limited project employees are not  
11 members of the Career Service, but they shall receive full employee benefits, e.g., paid leave  
12 benefits and insured benefits, including medical and dental. In determining whether a body of  
13 work is appropriate for a term-limited project employee, the department and the Committee will  
14 consider the following:  
15

16 i. **Grant-funded projects:** These employees will be involved in projects or  
17 activities that are funded by special grants for a specific time or activity. These grants are  
18 not those that are regularly available to, nor are their receipt predictable, by the County.

19 ii. **Information systems technology projects:** These employees will be needed to  
20 plan and implement new information systems projects for the County. Term-limited  
21 employees may not be used for ongoing maintenance of systems that have been  
22 implemented.

23 iii. **Capital Improvement projects:** These employees will be involved in the  
24 management of major construction projects. Term-limited project employees may not be  
25 used for ongoing management of buildings or facilities once they have been built.

26 iv. **Miscellaneous projects:** Other significant and substantial bodies of work may be  
27 appropriate for term-limited employees. These bodies of work must be either non-routine  
28 projects for the department, or related to the initiation or cessation of a County function,  
project, or department.

v. **Seasonal Positions Exceeding Annual Hourly Limits.** Employees who work

1 more than six consecutive months, half-time or more, with total hours exceeding 910 or  
2 1,040 in a calendar year, in positions that, due to the nature of the work, have predictable  
3 periods of inactivity exceeding one month.

4 **vi. Temporary Placement in Regular Positions.** Employees who fill regular  
5 positions for six months or more due to a Career Service employee's temporary absence  
6 such as extended leave.

7 **Annual Review Procedures.**

8 17. The County will conduct an annual review as described herein. By March 1 of  
9 each year, beginning March 1, 1999, each department, except those not subject to the Career  
10 Service System, shall prepare and submit to the Committee a report documenting its use of part-  
11 time and temporary employees in the preceding calendar year. The report shall describe the  
12 hours worked by each employee, both year-to-date and cumulative, the number of years the  
13 employee has been a part-time or temporary employee, the type of work performed by each such  
14 employee, and the classification that would apply if the work were performed by a Career Service  
15 employee. The report shall also specify whether the employee's position is within a work unit  
16 where the 35-hour week or 40-hour week is standard. The report shall identify and describe any  
17 ongoing, relatively stable and predictable bodies of work that could be performed instead by  
18 regular, full-time or part-time half-time-or-more, Career Service employees, and shall identify  
19 with specificity that body of work. The report shall also address whether the work performed by  
20 two or more part-time or temporary employees could be consolidated into a single Career Service  
21 position. The report shall also state whether the work, if not suitable for a Career Service  
22 position, should be performed by a term-limited project employee, rather than a less-than-half-  
23 time part-time employee or temporary employee.  
24

25  
26 18. Each such report shall be reviewed by the Committee that shall consist of the  
27 following three permanent members: Deputy County Executive or his or her designee; Chief  
28

1 Budget and Strategic Planning Officer or his or her designee; the OHRM Director or his or her  
2 designee; and one floating member, the applicable department director or his or her designee.

3 19. Within 60 days of submission of the above reports, the Committee shall make a  
4 factual determination as to whether, in light of the Charter's provisions on Career Service and the  
5 above-stated reasons for the Annual Review Process, an ongoing, relatively stable and predict-  
6 able body of work on an annualized basis has been identified. If the Committee determines that  
7 such a body of work exists, the Committee, in consultation with the affected department, may  
8 recommend (1) the creation of any new regular part-time or full-time Career Service position(s),  
9 or (2) the filling of an existing vacant Career Service position in which the work is being  
10 performed by a temporary or part-time employee(s), or (3) the creation of a term-limited project  
11 employee position, or (4) the cessation of the work. If the Committee identifies such a body of  
12 work, but the Committee does not make any of the recommendations described above, the  
13 department must discontinue the use of part-time or temporary employees to perform that work.  
14 If the Committee recommends creation of a Career Service position, but the County Council does  
15 not create such a position, the department shall discontinue performance of the pertinent body of  
16 work by temporary or part-time employees.  
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20 20. The reports of each department and of the Committee and the records of their  
21 proceedings shall be considered disclosable public records and shall also be made available to the  
22 County Council.

23 **Effect of Exceeding Threshold Hours.**

24 21. Part-time and temporary employees who exceed the calendar year working hour  
25 thresholds set forth in the definitions of part-time or temporary employees in the ordinances that  
26 accompany this Agreement shall receive a one-time only retroactive payment in an amount equal  
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1 to the Direct Cost of three months of insured benefits, and thereafter, on a monthly basis, while  
2 still employed or until hired into a regular or term-limited position the employee (1) shall be paid  
3 an amount equal to the Direct Cost made by the County for each employee for whom insured  
4 benefits are provided, *pro rated* to reflect the affected employee's normal work week on an  
5 annualized basis, provided, however, at the employee's option there may be a payroll deduction  
6 for medical coverage at the County's current composite rate for the medical plan selected by the  
7 employee, provided such medical plan is then available to the employee, and if the "direct cost"  
8 due to the employee is less then the composite rate, the employee would pay the difference  
9 through a payroll deduction; if the Direct Cost is in excess of the composite rate of the medical  
10 plan, the excess would be paid to the employee. If the employee elects to participate in an  
11 available medical plan, the employee must remain in the medical plan until the end of the plan  
12 year or until termination from County employment, whichever occurs first, even if the em-  
13 ployee's hours drop resulting in a lower benefits replacement payment. By way of example,  
14 assume an employee worked 75% of the time worked by a full-time employee. Assume the  
15 Direct Cost is \$\$420.68 (for 1997). The employee elects to participate in the KingCare Preferred  
16 medical plan. The monthly cost of the plan (in 1997) is \$347.27. The employee would be  
17 entitled to receive \$315.51 (.75 x \$420.68) or the employee could elect to participate in the  
18 medical plan, with the \$315.51 applied through a payroll deduction to the medical coverage, and  
19 the employee paying the difference of \$31.76.  
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22

23 In addition to the value of the insured benefits, these employees may also appeal their  
24 classification as provided below.  
25

26 **Appeal Procedure.**

27 22. Part-time and temporary employees who exceed the calendar-year working-hour



1 thresholds set forth in the definitions contained in the draft ordinance accompanying this  
2 agreement may seek conversion of a body of work in which they perform work into a regular  
3 part-time or full-time Career Service position by appeal to the Committee. Conversion decisions  
4 shall be based on whether the work performed by the employee is an ongoing, relatively stable,  
5 and predictable body of work that is half time or more, even though the work was not perceived  
6 as such previously, and whether it should be performed by a regular part-time or full-time Career  
7 Service employee. The Committee shall also decide, if the body of work does not warrant a  
8 Career Service position, whether the position should be converted to a term-limited project  
9 employee position, as set forth in ¶¶16.E and 29 of this Agreement. The Committee shall  
10 determine whether the work performed by the employee shall (1) remain outside Career Service  
11 as part-time or temporary, (2) be converted to a term-limited project employee position that  
12 receives benefits, or (3) be converted to a part-time or full-time Career Service position.

15 23. The Committee shall make its determination within 45 days of the employee's  
16 request. In the event of a tie vote by the Committee, where half the Committee finds that the  
17 body of work should be converted, the appeal shall be deemed to have prevailed. The Commit-  
18 tee shall make a recommendation to the Executive for recommendation to the Council. The  
19 Committee's determination shall be submitted to the County Council if the Committee decides  
20 the body of work should be performed by a Career Service employee and that further FTE  
21 authority is required. If the County Council does not approve the additional FTE authority, the  
22 work must be discontinued and not performed by temporary or part-time employees.

24 24. If the Committee finds that the work performed by the employee should remain  
25 less-than-half-time part-time or temporary, the employee may appeal within ten days from the  
26 date of receipt of the Committee's finding by filing a Notice of Appeal with the Committee. The  
27

1 Committee shall direct the appeal to be considered by a King County hearing examiner or, at its  
2 option, the Committee may direct the appeal be considered by an independent, neutral arbitrator  
3 who will make a final determination. The arbitrator shall be chosen by the parties (King County  
4 and the appellant) and shall be paid by the County. The hearing examiner's or arbitrator's  
5 discretion shall be confined to upholding the Committee's finding or overturning the Commit-  
6 tee's finding and determining that the body of work should be converted to a regular part-time  
7 (half-time or more) or full-time Career Service position, or a term-limited project employee  
8 position. The decision shall be based on whether the work performed by the employee is an  
9 ongoing, relatively stable, and predictable body of work and is half-time or more, under the same  
10 standards applicable to the Committee, or on whether the work meets the definition of term-  
11 limited project employee as set forth in ¶16.E. Employees covered by a grievance procedure  
12 contained in a collective bargaining agreement may elect either to use the grievance procedure, if  
13 the applicable collective bargaining agreement permits it, or to use the appeal procedure  
14 described above, but not both procedures.

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17 25. If the hearing examiner or arbitrator overturns the Committee's findings, any new  
18 Career Service or term-limited position must be absorbed by the department within its authorized  
19 FTE level, or within funds available for term-limited work, provided that the Department may  
20 request additional FTE or budget authority. The appealing employee will be placed in the Career  
21 Service position as a provisional appointee, with insured benefits and leave benefits, until a  
22 competitive hiring process, which substantially takes into account and weighs the experience of  
23 the employee performing the tasks of the position, is completed. If the appealing employee is  
24 selected for the position, his or her start date will be the date of the provisional appointment for  
25 all purposes, including seniority and/or a probationary period, except that those employees  
26  
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1 covered by a collective bargaining agreement the date of the appointment shall be determined in  
2 accordance with the collective bargaining agreement or by the collective bargaining process. If  
3 the employee is placed in a term-limited project position, his or her start date will be the date of  
4 his or her appointment to the term-limited project position for all purposes, except for those  
5 employees covered by collective bargaining agreements, whose start date will be determined by  
6 the collective bargaining agreement or by the collective bargaining agreement process.  
7

8 **Appeal Procedure For Term-Limited Project Employees.**

9 26. A term-limited project employee who exceeds his or her term may appeal to the  
10 Committee to have the body of work converted to a Career Service position. The Committee  
11 shall decide whether the body of work still warrants a term-limited project employee designation  
12 or should be converted to a Career Service position. If a majority of the Committee finds that  
13 the body of work should continue as a term-limited project employee position, the employee may  
14 appeal within ten days from the date of receipt of the Committee's finding by filing a Notice of  
15 Appeal with the Committee. In the event of a tie vote, the appeal shall be deemed to prevail.  
16 The appeal process shall be the same as for part-time and temporary employees, §§22-25,  
17 provided, however, if the appeal prevails the employee shall be placed in a Career Service  
18 position, not a provisional appointment, and the employee shall not be required to serve a  
19 probationary period.  
20  
21

22 **Notice of Appeal Procedure.**

23 27. By no later than July 15, 1998, the County shall provide a summary explaining the  
24 appeal procedures to each then-employed part-time and temporary and term-limited project  
25 employee and a summary shall be provided to each temporary employee and each term-limited  
26 employee with his/her hire.  
27

**Effect of Appeal on Discharge.**

28. Nothing in this agreement shall restrict King County's ability to terminate part-time and temporary employees who exceed the calendar-year working-hour threshold set forth in the definitions of part-time or temporary employees contained in the draft ordinance accompanying this Agreement, provided, however, that if an employee seeks conversion of the body of work by appeal to the Committee, any termination shall not become effective until the conclusion of the appeal process described herein. If the employee's appeal is successful, the effect is as described in ¶25.

**Term-Limited Project Employees.**

29. Term-limited project appointments can be made for purposes stated in the definitions above (¶16.E) and also to backfill positions for regular employees who work on any of the types of term-limited projects. All term-limited appointments will be made by the department in consultation with the OHRM Director prior to the appointment of term-limited employees. The OHRM Director will be responsible for maintaining a current list of all term-limited project employees by department. This list shall describe the work performed by the term-limited project employees, identify the pertinent category (i, ii, iii, iv, v, or vi) in the definition of term-limited project employee (¶16.E of this Agreement), state the duration of the term-limited employee's term, state the expiration date of the term, and identify the employee's department(s). This list shall be disclosable public record.

30. Employees may not be employed in term-limited positions by the County longer than three years beyond the date of hire, except for grant-funded projects, capital improvement projects, and information systems technology projects for which the maximum period may extend up to five years upon approval of the OHRM Director. A project term-limited position is

1 a temporary position, not a regular position, *i.e.*, a position with an indefinite term.

2 31. The parties do not intend by this term-limited employee provision to affect any  
3 provision of any collective bargaining agreement without approval by the collective bargaining  
4 representatives.

5 **Council's Authority.**

6  
7 32. Nothing in these review and appeal provisions affects the authority of the County  
8 Council to determine that a function shall be eliminated or a body of work discontinued.

9 **Guidelines for the Identification of Ongoing, Predictable, Stable Bodies of Work.**

10 33. A review of part-time and temporary non-Career Service employees will be  
11 conducted by the Career Service Review Committee to determine whether an ongoing, relatively  
12 stable, and predictable body of work exists. This standard will be utilized by the Career Service  
13 Review Committee when reviewing a body of work whether the body of work is temporary,  
14 term-limited, or part-time. If such a body of work is determined to exist and is half-time or more  
15 on an annualized basis, a Career Service position will be used to perform the work or the  
16 department will cease the utilization of temporary or part-time non-Career Service employees to  
17 perform the work. In the course of reviewing bodies of work, King County will consolidate  
18 positions and will maximize the use of full-time employees.

19  
20  
21 34. Work is ongoing and should be performed by a Career Service employee even  
22 though an employee may have limited periods below half-time hours of work, so long as on an  
23 annualized basis the employee is working half-time or more. Similarly, the fact that the work  
24 may have some seasonality or irregularity does not mean that work is not predictable or relatively  
25 stable so long as the work when viewed as whole on an annualized basis requires an employee to  
26 work half-time or more. The following examples illustrate the parties' intention regarding an  
27

1 legitimately performed by temporary or part-time employees. There may also be term-limited  
2 jobs in such seasonal bodies of work, as stated in ¶16.E.v.

3 38. If the work is ongoing, relatively stable, and predictable, it is not appropriate for a  
4 department to make the work seem otherwise by dividing hours of work among employees to  
5 give the appearance that the work is not ongoing, relatively stable, and predictable. Thus, the  
6 practice of having a temporary receptionist work for six months, only to be replaced with another  
7 temporary receptionist who works for six months, is not permissible. In this illustration the work  
8 should be performed by a single employee in the Career Service, not by a series of temporary  
9 employees who are outside Career Service.  
10

11 39. As part of its annual review, King County will review all part-time and temporary  
12 non-Career Service employees. Positions which have required hours close to but not exceeding  
13 910/1040 hours in successive years will be reviewed to ensure that an artificial limit is not being  
14 placed on such bodies of work. The parties acknowledge there may be operational efficiencies  
15 achieved in some instances by aggregating work performed by two or more part-time employees,  
16 each of whose hours is below the allowable limit. In such instances, the County should aggregate  
17 the work so that it is performed by a Career Service employee.  
18

19  
20 **Charter Amendment.**

21 40. While the parties believe that term-limited project temporary employees are  
22 encompassed by §550 of the Charter, this Agreement does not preclude the County from  
23 proposing to the voters a Charter Amendment to confirm the exclusion of term-limited project  
24 temporary employees from the Career Service.  
25  
26  
27

1 ongoing, relatively stable, and predictable body of work.

2 35. For example, when an employee works around or even below half-time for some  
3 months, followed by other months substantially above half-time, the employee's work is  
4 ongoing, relatively stable, and predictable. If an employee usually worked 18 hours per week (in  
5 a 40 hour per week agency) for a full year, but for certain weeks the body of work requires  
6 substantially more hours so that the employee worked more than 1040 hours in that year, this  
7 body of work would be ongoing, relatively stable, and predictable.  
8

9 36. Seasonal bodies of work are not ongoing. For a body of work to be ongoing it  
10 must be a year-round body of work. However, the fact that some employees in a job classifica-  
11 tion may perform a seasonal job that should be performed by non-Career Service employees does  
12 not make all employees in the job classification ineligible for Career Service. For example,  
13 although some lifeguards work at beaches open only in the summer and are thus short-term  
14 seasonal employees who should not be in the Career Service, lifeguards who work year-round  
15 should not be excluded from the Career Service if they regularly work half-time or more on an  
16 annualized basis. Thus, in this example, it is the amount of work regularly performed, on an  
17 annualized basis, not the kind of work (but the body of work must still be ongoing, relatively  
18 stable, and predictable), that determines whether the position should be in the career service.  
19  
20

21 37. There are certain bodies of work where the volume increases at certain points in  
22 the year such as the growing season or warmer weather for bodies of work including, but not  
23 limited to, parks ground maintenance, roadside litter detail, and surface water facility mainte-  
24 nance. If it is predictable that certain individuals will be needed year-round to perform the stable  
25 body of work, the work should be performed by a Career Service employee. However, the  
26 periods of limited duration which require additional people during certain points in the year, are  
27

**Ordinances.**

41. The County will adopt or amend ordinances implementing this Agreement. The ordinance amendments cannot be further amended or repealed within five years of their effective date, except for minor modifications approved by the parties.

42. The County shall not evade the requirements of this Agreement by designating its employees as independent contractors, paid directly by the County, or by paying them through temporary employment or payroll service agencies.

**V. TRANSITION PROVISIONS****Creation of Career Service Fully-Benefited Position.****Introduction/Purpose.**

43. The County employs many part-time and temporary non-Career Service employees who do not work half-time or more or who are genuinely short-term employees. The County also has employed a substantial number of part-time and temporary employees who work half-time or more, for extended periods of time performing ongoing, relatively stable, and predictable bodies of work. The purpose of this transitional section for the creation of Career Service jobs and term-limited project jobs is to change King County practices and classifications for existing class members and potential class members. As explained more fully below, this Agreement provides for three mechanisms to integrate certain class members and potential class members into the Career Service and into term-limited project positions.

**Class Members And Future Class Members Included In the Transition Process.**

44. For purpose of this transitional section, class member employees as of July 31, 1997 are categorized into two groups: (A) employees who worked more than 910 hours in a 12-month period in those work units where the 35-hour week is standard or 1040 hours in a 12-



1 month period in those work units where the 40-hour work week is standard and (B) temporary  
2 and part-time employees who have not met those hours-of-work thresholds. The first group is  
3 called Group A employees (class members) and the second group is called Group B employees  
4 (potential class members). Group B employees who meet the hours threshold (910/1040) based  
5 on 1997 year-end payroll records (*i.e.*, through December 31, 1997) are hereafter referred to as  
6 Group B-1 employees. All other Group B employees are B-2 employees. Class members who  
7 are not employed as of July 31, 1997 are not covered by this Part V of the Agreement. Class  
8 members and potential class members who are King County Stadium employees are addressed by  
9 a separate section.

#### 11 **Creation of New Positions To Be Filled By Class Members.**

#### 13 **Process For Creation of New Positions**

14 45. At the time of executing this Agreement, the parties do not know how many  
15 Career Service and term-limited project positions should be created based on the standards set  
16 forth in Part IV of this Agreement. The parties do not know in part because many part-time and  
17 temporary positions have no job title (simply listing the work performed as "extra-help") and the  
18 parties do not know whether work performed by these employees meets the standards set forth in  
19 ¶¶17, 33-39 of this Agreement for career service employees and in ¶¶16.E and 29 for project  
20 term-limited employees.

22 46. To create Career Service positions and term-limited project positions, referenced  
23 in ¶45, the County will use the process set forth in the annual review of work performed by its  
24 current employees. The first departmental reports for work being performed by current employ-  
25 ees, both class members and potential class members, will be completed and submitted to the  
26 Committee by December 31, 1997. The Committee will complete its review and recommend the  
27

1 number of Career Service positions and term-limited project positions that should be created by  
2 February 27, 1998. In deciding how many positions should be created, the Committee may  
3 consolidate the work performed by class members and/or potential class members to create a  
4 single position, although the work has been performed previously by one or more employees.  
5 The Committee may also decide the work performed by one or more class members or potential  
6 class members should not be performed by the County at all. The Committee will make its  
7 recommendation and the Executive shall submit his or her recommendation to the County  
8 Council no later than March 17, 1998.  
9

10 **Procedure for Filling Newly-Created Positions.**

11 47. The new positions created in ¶46 above will be open to Group A and Group B-1  
12 as set forth below.  
13

14 48. The hiring authority for each department will first consider Group A employees  
15 within that department for the newly-created positions in that department. If no such employee is  
16 hired, the hiring authority will consider all other Group A employees. Group A employees  
17 seeking to be employed in a newly-created position shall submit a letter of interest (in the form  
18 approved by OHRM). Employees who meet the minimum qualifications shall be considered for  
19 the position. Where more than one Group A member is qualified for the position, the selection  
20 shall be based on the employee's qualifications, including the employee's work history, and the  
21 time the employee has worked in the same or similar positions. Where employees in a bargain-  
22 ing unit represented by a labor union, the selection shall be based on the collective bargaining  
23 and/or negotiation process with the labor union.  
24

25  
26 49. In the event a position is not filled by any Group A employee, then employees in  
27 Group B-1 who meet the qualifications for that position may be considered for the newly-created  
28

1 position. The procedure and basis for selecting the employee to fill the position shall be as set  
2 forth in ¶48 above.

3 **Probationary Period.**

4 50. Where a new position is created in a department and is filled by the class member  
5 in that department who had been performing that job or a substantially similar job, and the class  
6 member has been working six (6) months or more, the probationary period shall be deemed  
7 completed and the class member shall not serve any probationary period.  
8

9 51. Where the class member fills a newly-created job in a department different from  
10 the one where he/she previously worked, or, if the job for which the employee is selected is not  
11 substantially similar to the employee's previous job, then the employee shall serve the same  
12 probationary period as other employees in that department. For class members covered by a  
13 collective bargaining agreement, their seniority date will be determined by the collective  
14 bargaining agreement or by the collective bargaining process. For class members who are not  
15 part of a bargaining unit, their seniority date shall be the date of their placement in the new  
16 position.  
17

18 **Placement of Class Members And Potential Class Members In Regularly-Created**  
19 **and Vacated Positions.**  
20

21 52. Starting Friday, October 17, 1997, Group A employees shall have a preference for  
22 all other new or vacant positions in King County as these positions become available. (These  
23 positions are in addition to the positions that will be created as described above in ¶¶45-46). The  
24 preference shall cease May 1, 1998 (but see "Recall Rights" below). The County expects to have  
25 many new and vacant Career Service positions and it anticipates that class members will be able  
26 to fill many of these jobs as the jobs become available.  
27

1           **Vacation Accrual Date.**

2           53.     The vacation accrual date for Group A employees who are placed by the County  
3 in Career Service positions or term-limited project positions pursuant to any of the above  
4 positions shall be their original hire date, except that class members hired prior to January 1,  
5 1989 shall have a hire date for vacation accrual purposes of January 1, 1989. The class mem-  
6 ber's original hire date may be adjusted on the same bases as Career Service employees, *e.g.*,  
7 separation from the payroll due to the employee's voluntary termination, dismissal for cause,  
8 retirement, voluntary leave of absence, family leave or disability.  
9

10           **Recall Rights.**

11           54.     If there are any Group A employees who are not placed in a Career Service or a  
12 term-limited project position, either because they lack qualifications for the positions created or  
13 because there are fewer positions needed than there are qualified employees, the Group A  
14 employees shall be given the recall rights of a Career Service employee. King County's recall  
15 system is quite effective, with about a 90% placement rate for employees who are laid off with  
16 recall rights.  
17

18           **Appeal.**

19           55.     Group B-1 employees who believe that a Career Service position or term-limited  
20 project employee position should have been created for their work may appeal to the Committee  
21 under the procedure set forth in ¶¶22-25 of the Agreement for employees who exceed the work  
22 hours threshold. Such appeals shall be filed with the Committee within 30 days of the County  
23 Council's action on the Committee's recommendations, as referenced in ¶46.  
24  
25  
26  
27  
28

1           **Interim Relief For Class Members.**

2           56.     Group A employees who are not receiving insured benefits, beginning January 1,  
3 1998, and ending at the termination of employment, hiring into a benefitted position, or Decem-  
4 ber 31, 1998, whichever comes first shall be paid an amount equal to the Direct Cost made by the  
5 County for employees for whom insured benefits are provided, *pro rated* to reflect the affected  
6 employee's normal work week on an annualized basis or elect a payroll deduction for a medical  
7 plan, under the same terms as in ¶21 above. Group A members will also receive an additional  
8 15% of their gross pay in each paycheck to compensate them for paid leave benefits. For Group  
9 A employees who are receiving benefit offsets, the 15% will replace the benefit offset unless the  
10 benefit offset currently provided to the employee is higher. Group A and Group B employees  
11 currently receiving ABC insured benefits will continue to receive those benefits.  
12  
13

14           **Vacation Accrual Rate and Pay Step Adjustments.**

15           57.     Many class members have already become members of King County's Career  
16 Service system or may become members of the Career Service. Previous service as class  
17 members may not have been applied to vacation accrual or the appropriate pay step placement.  
18 Under this agreement, the vacation accrual date for class members who are members of the  
19 Career Service or who may become members of the Career Service shall be their initial date of  
20 hire as a part-time or temporary employee, but not earlier than January 1, 1989. The initial hire  
21 date may be adjusted on the same bases as adjustments for Career Service employees as  
22 explained in ¶53 above.  
23

24           58.     Class members who are now members or become members of the Career Service  
25 may also apply by July 1, 1998, for reconsideration of their pay step placement within the  
26 applicable pay range assigned to their classification for the work performed after July 1, 1998. In  
27

1 deciding whether the employee's pay step should be adjusted, the County shall consider the class  
2 member's prior service as a part-time or temporary employee. This provision applies only to  
3 future work performed by class members after July 1, 1998. The procedure to apply for  
4 reconsideration of their job pay step shall be the same as for career service employees. By June  
5 1, 1998, the County shall inform class members described in this section of their right to seek  
6 reconsideration of their pay step placement. The procedure for review of classification or pay  
7 range assignment shall be the same as for Career Service employees.  
8

9 **King County Stadium Employees.**

10 59. In approximately two or three years, the King County Stadium (Kingdome) will  
11 no longer be a County function. Accordingly, class members and potential class members who  
12 work for the Stadium are a special category of term-limited project employees. King County will  
13 use the annual review process for Kingdome employees to determine whether they are perform-  
14 ing ongoing, relatively stable and predictable bodies of work half-time or more on an annualized  
15 basis, and, if it so determines, instead of creating Career Service positions, the County may create  
16 term-limited project positions for Kingdome employees, as defined in ¶¶16.E and 29 of this  
17 Agreement. Kingdome employees who are Group A members will be offered those positions in  
18 the same manner as other Group A employees in other departments. Group B-1 employees will  
19 be offered term-limited project positions if there are more such positions in the Kingdome than  
20 Group A members to fill them.  
21  
22

23 60. Any Group A Stadium employee who does not receive a term-limited project  
24 position will have the right to apply for vacant or new King County Career Service positions for  
25 which he/she is qualified as an internal King County candidate and shall have recall rights for  
26 any Career Service or term-limited project positions for which he or she is qualified.  
27

1           61.     The vacation accrual date for any Kingdome Group A employee who receives a  
2 term-limited project position shall be the employee's original hire date, but not earlier than  
3 January 1, 1989, and may be adjusted on the same bases as adjustments for Career Service  
4 employees (see ¶53).

5           **Named Plaintiffs.**

6           62.     The 17 named plaintiffs in *Logan* and *Knox* shall have recall rights as stated in  
7 ¶54, even if they are not currently employed by the County.  
8

9                           **VI. DISTRIBUTION OF COMPENSATION**

10           **Class Distribution Fund.**

11           63.     The Class Distribution Fund shall be funded by King County in the total amount  
12 of \$22 million. The Fund shall be distributed in accordance with the provisions of Part VI and  
13 Part VIII.  
14

15           **Definitions.**

16           For purposes of Part VI and Part VIII, the following definitions are used:

17           64.     "Half-Time" means working at least half-time in any period of twelve consecutive  
18 months -- at least 910 hours in a 12-month period in a work unit in which a 35-hour week is  
19 standard or at least 1040 hours in a work unit in which a 40-hour week is standard. An employee  
20 need not work any particular number of hours in a specific month within the 12-month period to  
21 be Half-Time in the 12-month period, taken as a whole. For purposes of Distribution of  
22 Compensation, Part VI, partial Class Member Service Periods that follow an initial Class  
23 Member Service Period and which are not a full 12 months due to an event affecting Class  
24 Member Service such as termination, separation, reduction in hours, or change to employment in  
25 a Career Service job, "Half-Time" shall be *pro rated* for the portion of the Class Member Service  
26  
27  
28

1 Period before the event that ended Class Member Service. For any particular calendar month of  
2 Class Member Service for purposes of Distribution of Compensation (see Part VI), "Half-Time"  
3 means either 76 hours in a calendar month for employees whose work unit has a 35-hour  
4 workweek or 87 hours in a calendar month for employees whose work unit has a 40-hour  
5 workweek.

6  
7 65. "Class Member Service" means service for King County as a class member  
8 beginning when the employee worked Half-Time or more, but not including any time while  
9 receiving County health and paid leave benefits as a Career Service or as an exempt employee  
10 and not including any service in departments that are outside the Career Service system (e.g.,  
11 King County Executive's Office, King County Prosecuting Attorney's Office, Metropolitan King  
12 County Council, King County Superior Court, King County District Court). Class Member  
13 Service does not include service under a collective bargaining agreement entered into by the  
14 former Municipality of Metropolitan Seattle prior to January 1, 1994 until the expiration of such  
15 agreement.

16  
17 66. "Class Member Service Period" is a period of twelve consecutive months in Class  
18 Member Service calculated as stated in this definition. For each employee who worked Half-  
19 Time or more in Class Member Service, the employee's first Class Member Service Period  
20 begins on the "Beginning Date," which is the first day of the first month of the first period of  
21 twelve consecutive months in which the employee worked Half-Time. Subsequent Class  
22 Member Service Periods are the 12-month periods starting on each anniversary date of the  
23 Beginning Date while the employee remains employed, whether or not the class member is Half-  
24 Time in such subsequent 12-month periods.



1           **Eligible Class Members.**

2           67.    “Eligible Class Members” are King County employees who meet the following  
3 criteria:

4           68.    Employed on or after January 1, 1989 and up to December 31, 1997;

5           69.    Paid through the King County payroll system for work during the period described  
6 in criterion A and/or paid through the payroll system of the former Municipality of Metropolitan  
7 Seattle for work on or after January 1, 1994 and up to December 31, 1997;

8           70.    Defined as “part-time” and/or “temporary” County employees and either  
9 (1) excluded from Career Service or (2) denied the insured benefits and/or paid leave benefits  
10 received by Career Service employees;

11           71.    Worked at least Half-Time on an annualized basis, not necessarily in each month,  
12 in any period of twelve consecutive months (*i.e.*, in a Class Member Service Period); and

13           72.    Worked in Class Member Service for more than nine months (*i.e.*, if an employee  
14 worked Half-Time -- over 910 hours or 1040 hours -- in a period of nine or fewer consecutive  
15 months, but terminated Class Member Service prior to the beginning of the tenth month, such as  
16 by leaving employment with the County or by becoming a Career Service employee, the  
17 employee is not an Eligible Class Member).

18           **Distributions to Eligible Class Members**

19           73.    Distributions to Eligible Class Members will be based on two benefits not  
20 received: (1) insured benefits and (2) paid leave, plus (3) prejudgment interest.

21           **Insured Benefits.**

22           74.    For insured benefits (including medical, dental, vision, disability and life  
23 insurance benefits), distributions to each Eligible Class Member will be based on the number of  
24

1 months in each calendar year (1989 through 1997) in which (a) he or she worked Half-Time in a  
2 Class Member Service Period, (b) but only for the particular months within such Class Member  
3 Service Periods in which the Eligible Class Member worked Half-Time, (c) only for those  
4 months where the employee did not receive medical benefits under plans to which the County  
5 contributes, and (d) only for those months in which he/she was paid less than \$35 per hour in  
6 base pay (*i.e.*, not including any benefits or benefit offset). The first three Half-Time months of  
7 the first Class Member Service Period will be eliminated due to the County's standard benefit  
8 waiting period. The number of remaining Half-Time months for each Eligible Class Member in  
9 any Class Member Service Period will be determined for each calendar year and be multiplied by  
10 the monthly amount for insured benefits established in the Court Order of July 11, 1997  
11 determining the monthly value of these benefits for each calendar year from 1989 to 1997. This  
12 yields the total base value of insured benefits for each Eligible Class Member for each calendar  
13 year. Prejudgment interest on this base value will be calculated for each Eligible Class Member  
14 from the end of each calendar year to the date payments will be made. Employees who have  
15 already received payment for health insurance benefits during the period covered by this  
16 agreement (*e.g.*, pursuant to a union grievance or other litigation) shall not receive payment for  
17 the particular months in which payment has already been received.

21 **Paid Leave.**

22 75. Paid leave includes vacation, holiday, sick leave, and miscellaneous leave. In  
23 total, paid leave equals about 15% of paid hours for Career Service employees. Compensation  
24 for denial of paid leave benefits will be based on 15% of gross pay for all Class Member Service  
25 Periods in which the class member worked Half-Time, except Class Member Service Periods (or  
26 portions thereof) for which a benefit offset was received (including, as received, benefit offset  
27

1 payments received retroactively under collective bargaining agreements or in settlement of the  
2 class action of *Woo v. King County*, No. 96-2-02874-6 SEA). The paid leave benefits due to  
3 each Eligible Class Member that were not covered or reimbursed by a benefit offset payment  
4 shall be calculated as 15% of the gross pay of Class Member Service Periods in which the  
5 Eligible Class Member worked Half-Time to determine the base value of paid leave benefits for  
6 each Eligible Class Member for each calendar year, but only for those months in which he/she  
7 was paid less than \$35 per hour in base pay. Prejudgment interest on this base value is calculated  
8 for each Eligible Class Member from the end of each calendar year to the date payments will be  
9 made.  
10

11 **Prejudgment Interest.**

12  
13 76. Prejudgment interest shall be 12% annual simple interest (not compounded), or  
14 1% per month simple interest. RCW 19.52.010.

15 **Distribution Formula.**

16 77. The Class Distribution Fund shall be distributed *pro rata* to Eligible Class  
17 Members based on the distribution formula described here. The base values of insured benefits  
18 for all Eligible Class Members shall be aggregated into a total dollar amount (without interest)  
19 for the dollar amount known as A in the formula below. The base values of all paid leave  
20 benefits for Eligible Class Members shall be aggregated into a total dollar amount (without  
21 interest) for the dollar amount known as B in the formula below. The aggregated total dollar  
22 amount of prejudgment interest for insured benefits for all Eligible Class Members shall be C in  
23 the formula. The aggregated total dollar amount of prejudgment interest for paid leave benefits  
24 for Eligible Class Members shall be D in the formula. Any particular Eligible Class Member  
25 may not necessarily have these four components of the formula (A, B, C, and D).  
26  
27  
28

1           78.     The aggregated totals for all Eligible Class Members of all four component items  
2 (A, B, C and D) will be added together in a sum known as Y, which is the denominator of a  
3 fraction for this formula. The numerator of the fraction, X, is the amount of the Class Distribu-  
4 tion Fund after a 22% deduction for attorney fees (see ¶81) and the deduction in the next  
5 paragraph below, ¶79. This fraction, the *pro rata* distribution fraction, X divided by Y, is the  
6 fraction upon which *pro rata* distributions will be based. Each Eligible Class Member shall  
7 receive the same *pro rata* distribution fraction for each of the four possible payment components  
8 (A, B, C, and D). (For example, if a hypothetical class member's payment component base  
9 values are A (\$4,000 for insured benefits), B (\$1,000 for paid leave), C (\$1,500 for interest on  
10 insured benefits) and D (\$500 for interest on paid leave) and the *pro rata* distribution fraction (X  
11 divided by Y) is 71/100ths (or 0.71), the class member will receive 71% of each component, or  
12 \$2840 for insured benefits (A), \$710 for paid leave (B), \$1015 for interest or insured benefits (c),  
13 and \$355 for interest on paid leave benefits (D).)

14  
15  
16           **Named Plaintiffs.**

17           79.     The 17 named plaintiffs in *Logan* and *Knox* will receive the gross amount  
18 calculated for their insured benefits and paid leave benefits, with interest, without any *pro rata*  
19 reduction or attorney fee deduction (¶81) and without any nine-month exception (¶72). In  
20 addition, the 17 named plaintiffs shall receive \$1,500 cash for participation as class representa-  
21 tives, including discovery matters, meetings, testimony, and the commencement of these  
22 lawsuits. These additional sums received by the named plaintiffs (\$25,500) shall be deducted  
23 from the numerator of the *pro rata* distribution fraction (X).  
24  
25

26           **Attorney Fees and Costs.**

27           80.     The Washington Supreme Court determined the method of computing attorneys'  
28

1 fees to be awarded in a class action for employee benefits in *Bowles v. Dept. of Retirement*  
2 *Systems*, 121 Wn.2d 52 (1993). In *Bowles*, a class of public employees obtained a declaratory  
3 judgment concerning calculation of their average compensation that effectively increased their  
4 future pension benefits. The Supreme Court determined that the "common fund" approach  
5 should be applied in calculating fees for the attorneys representing the class in *Bowles* and that  
6 attorney fees should be set as a percentage of the recovery for the class. 121 Wn.2d at 72-73.  
7 The Court said that 20 to 30 percent is the usual "common fund" fee award and this range is a  
8 reasonable percentage. It also said the "benchmark" fee award in "common fund" cases is 25  
9 percent of the recovery. *Id.* The Supreme Court applied this percentage of recovery approach in  
10 *Bowles* to the present value of the public employees' future pension benefits obtained in that  
11 case. *Id.* at 57. The approach set forth in *Bowles* is applied here.

12  
13  
14 81. The Class Distribution Fund for monetary compensation to the class set forth in  
15 ¶63 is \$22,000,000. A reasonable percentage for an award of attorney fees is 22% of this  
16 recovery, or \$4,840,000. This percentage shall be deducted from the *pro rata* distribution to  
17 Eligible Class Members (see ¶78) and paid to Bendich, Stobaugh & Strong, P.C., the law firm  
18 representing the class, on the scheduled class payment date, which is on or before July 15, 1998.

19  
20 82. The value of future benefits here is based on the future benefits for the class  
21 provided in Parts IV and V. The plaintiff class members estimate the value of those benefits at  
22 \$12 million to \$17 million, and a reasonable fee award is at \$1,800,000. This amount is not  
23 deducted from the Class Distribution Fund and shall be paid by King County to Bendich,  
24 Stobaugh & Strong, P.C., the law firm representing the class, after January 1, 1998 and no later  
25 than March 1, 1998.

26  
27 83. In addition, the law firm representing the class has incurred substantial costs and

1 expenses. It will incur further time in connection with monitoring the County's implementation  
2 of the Settlement and the transition of employees into Career Service positions. A reasonable  
3 amount to cover those fees and costs is \$172,500, which shall be paid by King County to  
4 Bendich, Stobaugh & Strong, P.C., the law firm representing the class, within seven days after  
5 Superior Court approval of this Settlement Agreement. This amount is not paid from the Class  
6 Distribution Fund. It covers all statutory costs, expert witness fees, and computer analyses, as  
7 well as attorney fees connected with monitoring implementation of this Settlement up to the  
8 dismissal date of this action (see Part X), even if the time required by counsel for the class has  
9 been underestimated or there are unexpected further time requirements. This amount does not  
10 include any County litigation expenses or the County's costs associated with the Settlement.  
11  
12

13 **Deductions from Pay.**

14 84. The compensation to be paid Eligible Class Members under the Agreement, as  
15 stated in the above the Distribution Formula, includes back pay for paid leave benefits, compen-  
16 sation for failure to provide insured benefits, and prejudgment interest. With respect to the back  
17 pay portion and the insured benefit portion of each class member's check, and the 17 named  
18 plaintiffs' \$1,500 payments, the County shall make appropriate deductions for federal income  
19 tax, FICA, and Medicare tax, as well as any state-mandated PERS deduction to the extent  
20 applicable. With respect to the interest portion, no deductions shall be made, but the interest  
21 shall be reported to the IRS with the appropriate Form 1099.  
22

23 **VII. SETTLEMENT APPROVAL PROCEDURE**

24 **Notices.**

25  
26 85. The parties shall prepare a proposed notice of settlement hearing and summary of  
27 the proposed Settlement Agreement to be distributed to the class. The proposed notice shall be

1 presented to the Court for its approval. The notice shall summarize major terms of the Settle-  
2 ment Agreement, state the time, date and place of the settlement hearing, and explain the  
3 procedures and deadlines for submitting written comments or objections. The notice shall also  
4 state a location in County offices where a copy of the Agreement may be obtained without a  
5 copying charge.  
6

7 **List of Class Members.**

8 86. The County shall prepare a list of persons who appear to be class members and  
9 divide the list into two groups -- (C) employees currently employed by the County, including  
10 current employees in temporary, part-time and full-time status, and (F) former employees not  
11 now employed by the County. Employees in group C shall receive notices with the first  
12 paycheck after notices are to be distributed and those in group F shall receive notices at the last  
13 known address in the County's payroll records.  
14

15 **Time of Mailing Notices.**

16 87. The notices of settlement hearing shall be mailed by a date set by the Court, with  
17 the intent of allowing about one month's notice prior to the settlement hearing.  
18

19 **Other Notice.**

20 88. By the above date of mailing, the County shall also provide a copy of the notice to  
21 employees' collective bargaining representatives and shall make the notice available in electronic  
22 format in a manner likely to be seen by County employees.  
23  
24  
25  
26  
27  
28

VIII. NOTICE, CLAIMS PROCEDURE, AND  
PAYMENT PROCEDURE

Notices.

89. For all class members eligible for compensation under Part VI, the County shall provide notices as follows:

90. No later than February 5, 1998, the County will provide a notice, claim form, and information summary (described below) to class members currently employed with that employee's paycheck.

91. No later than February 5, 1998, the County shall mail, by regular first-class mail, a notice, claim form, and information summary to the last known address of class members who no longer work for King County. If the letter is returned by the U.S. Postal Service as undeliverable, then the County shall re-mail the materials in care of the last known address of the person named by the employee as the employee's emergency contact.

92. In addition to the mailing described in ¶91, class members shall also be notified through the Internal Revenue Service of their opportunity to file claims. By no later than February 15, 1998, the County shall provide to IRS the list of class members, by name and Social Security number and whatever other information is required by IRS in the format required by IRS (e.g., electronic transmittal, tape, diskette). The notice to these class members shall, in addition to the notice and claim form, state how an employee may obtain his/her information summary.

93. The County shall provide a copy of the notice to employees' collective bargaining representatives by February 5, 1998.

94. The County shall publish the notice in the Sunday edition of the Seattle Times/Seattle Post Intelligencer, the Eastside Journal, the South County Journal, and the News



1 Tribune on February 8 and 15, 1998. The notice shall be placed in the local news section, the  
2 sports section, or the first section of the newspaper.

3 95. By February 5, 1998, the County shall conspicuously post the notice on employee  
4 bulletin boards in all County buildings, including, where practicable, the offices of each  
5 department, division, section and unit.  
6

7 96. By January 15, 1998, the County shall announce the existence of the notice in  
8 electronic format in a manner likely to be seen by County employees and inform employees how  
9 to obtain complete copies of the notice and claim form and state where to obtain the information  
10 summary.  
11

#### 12 **Content of Notices.**

13 97. The notices to class members, claim forms, and information summary shall be in a  
14 form approved by plaintiffs' counsel and the Court.

15 98. The "information summary" form prepared by the County for each eligible class  
16 member shall provide a summary of the pertinent facts concerning that employee. These facts  
17 include (a) the employee's date of hire, (b) the date the employee first became eligible to receive  
18 compensation (Beginning Date, see ¶66 above), (c) the number of hours worked in each  
19 consecutive 12-month period from that date, (d) the months in each period in which the class  
20 member worked half-time or more. For class members who did not receive compensation in lieu  
21 of leave benefits ("benefit offset"), the summary shall also include the employee's gross pay for  
22 each calendar year of employment. The notice shall state that the class member shall receive a  
23 distribution based on information in the summary.  
24  
25

#### 26 **Claim Requirements.**

27 99. Only eligible class members (or their agents or heirs) who submit a claim form  
28

1 within the time specified by the Court shall qualify to receive a payment for benefits.

2 100. Claims must be postmarked by a specific date set by the Court to allow approxi-  
3 mately 90 days after IRS mails notices to class member, or the claim will be deemed untimely  
4 and the claimant will not receive any monetary payment.

5 **Claims Processing.**

6  
7 101. The County shall designate a person or office (with an address, telephone number,  
8 and e-mail address), known as the Class Action Claims Processing Office, to which the class  
9 members will send their claim forms.

10 102. Upon receipt of a claim form that does not dispute the facts in the information  
11 summary, the County shall immediately compute the back compensation for that class member  
12 by components: base amount for insured benefits, base amount for pay in lieu of leave benefits,  
13 and total interest on each of these components through the disbursement date (no later than July  
14 15, 1998). The County shall maintain records available for review by the affected employees (or  
15 their agents, class attorneys, or heirs) showing how each component was calculated.

16  
17 103. Where there is a claimant who was not identified by the County as an Eligible  
18 Class Member and/or where the claimant disputes the facts of the information summary, the  
19 County shall immediately review the data concerning the claimant and, where necessary, review  
20 departmental records and the claimant's personnel file. Where the County does not agree with  
21 the claimant, the claim will be reviewed by a lawyers' committee consisting of Plaintiffs'  
22 Counsel and Defendant's Counsel. If the lawyers' committee cannot unanimously resolve the  
23 mater, the claim shall be resolved by the Court. Upon resolution of the claim, where applicable,  
24 the County shall compute the compensation for the claimant in the same amount as other Eligible  
25 Class Members.  
26  
27

1           **Computation of Cash Payments to Eligible Class Members.**

2           104. At the close of the claims period and following the resolution of the disputed  
3 claims referenced in ¶103, the County shall compute each Eligible Class Member's *pro rata*  
4 share (see ¶78 above) of the Fund distributions to the class. Any mandatory deductions shall be  
5 made (FIT, FICA, Medicare Tax, and, where applicable, PERS).  
6

7           **Disbursements.**

8           105. No later than July 15, 1998, or ninety days from the close of the claims period and  
9 the resolution of the disputed claims referenced in ¶103, whichever is later, the County shall  
10 disburse the payment to each Eligible Class Member for his/her *pro rata* share of the Fund,  
11 together with an itemized statement or itemized pay stub showing the payment items.  
12

13           106. The County shall pay the employer's share of applicable taxes and PERS  
14 contributions.

15           107. No later than the deadline for disbursement referenced in ¶105, the County shall  
16 pay to Bendich, Stobaugh & Strong, P.C., the attorneys' fees for recovery of compensation for  
17 past benefits. This amount is deducted from the Class Distribution Fund pursuant to ¶81.  
18

19           108. Required W-2s and 1099 forms will be provided to payees in a timely manner as  
20 required by federal law.

21           **Auditing.**

22           109. There shall be an independent auditing process, as agreed to by the parties and/or  
23 as approved by the Court, to monitor and/or audit the data compiled by the County for accuracy  
24 and to verify the computations of amounts due made by County are accurate.  
25

26           110. In the event the auditing process identifies a problem and, after consultation with  
27 County personnel, the problem is not resolved, then Plaintiffs' counsel and Defendant's counsel  
28

1 shall be informed. If the parties' counsel cannot resolve the problem, the matter shall be resolved  
2 by the Court.

### 3 **Review of Records.**

4 111. Plaintiffs' counsel and Defendant's counsel shall be entitled to access to and  
5 copies of all records: (a) used to compile the data concerning class members, (b) programs and  
6 formulas used to calculate the payments to class members, (c) notices, mailing lists, and lists sent  
7 to IRS, and (d) other information regarding the claims and computation process.  
8

### 9 **Compliance With Schedule.**

10 112. Plaintiffs agree that until the deadline for disbursement as set forth in ¶105, the  
11 Class Distribution Fund for payments to the class for denial of benefits shall not accrue further  
12 interest payable to eligible class members beyond the specified amount of the Fund (¶81). In the  
13 event the disbursements to the eligible class members are not made by the deadline referenced in  
14 ¶105, interest shall accrue from that date at 12% per annum on the undistributed amounts of the  
15 Fund (see ¶63 above for Fund amount) and such interest shall be added *pro rata* to the amounts  
16 to be disbursed to the class members.  
17

## 18 **IX. COURT'S AUTHORITY AND ENFORCEMENT**

19 113. The existing Court orders remain in effect, except to the extent specifically  
20 modified in this Agreement. The Court retains authority to interpret and enforce this Agreement,  
21 to resolve minor ambiguities, to make reasonable modifications to which the parties agree, and to  
22 correct minor mistakes and minor technical errors, provided the purposes and intent of the  
23 Agreement are fulfilled. Subsequent to the dismissal of claims (Part X), the Court retains  
24 authority to compel specific performance of all requirements of the Agreement that are intended  
25 to be carried out after dismissal of claims. For purposes of any such enforcement action, King  
26  
27

1 County agrees that employees working half-time or more on a long-term (non-temporary) basis  
2 are entitled to enforce King County Charter §550's provisions on Career Service by showing they  
3 were misclassified as temporary or part-time non-Career Service employees.

4 **X. DISMISSAL OF CLAIMS**

5  
6 114. The claims in this action described in ¶7 shall be dismissed with prejudice after  
7 the Transition Provisions (Part V) and Compensation and Payment Provisions (Parts VI and VIII)  
8 are completed and the County's final report on its payments and compliance with these provi-  
9 sions is approved by the Court. In the event that the County repeals or amends pertinent  
10 provisions of the County Charter and/or ordinances accompanying this Agreement (see ¶41) and  
11 it then takes actions that would be contrary to the Future Relief portions of this Agreement (Part  
12 IV), the dismissal of claims is without prejudice with respect to employees affected at that time.

13  
14 DATED: October 17, 1997.

15 Approved by:

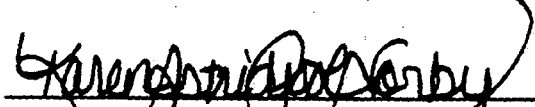
16 KING COUNTY EXECUTIVE

17   
18 RON SIMS

19 Approved as to Form:

20 NORM MALENG

21 King County Prosecuting Attorney

22   
23 KAREN A. POOL NORBY, WSBA #22067

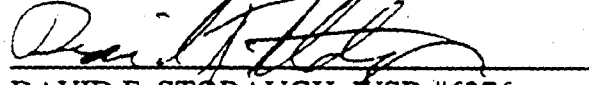
24 Senior Deputy Prosecuting Attorney  
25 Attorneys for Defendant King County

Approved by:

BENDICH, STOBAUGH & STRONG, P.C.

16   
17 JUDITH E. BENDICH, WSBA #3754

18   
19 STEPHEN K. STRONG, WSBA #6299

20   
21 DAVID F. STOBAUGH, WSB #6376  
22 Attorneys for Plaintiffs

12942

Civil Track I  
Honorable Steven Scott, Judge

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

7	MICHAEL J. LOGAN, et al.,	)	
8		)	CONSOLIDATED
9	Plaintiffs,	)	CLASS ACTIONS
10		)	NO. 93-2-20233-4 SEA
11	v.	)	
12	KING COUNTY,	)	ADDENDUM AND
		)	CLARIFICATION TO
	Defendant.	)	OCTOBER 17, 1997
		)	SETTLEMENT AGREEMENT

The parties through their respective counsel agree that there are certain minor clarifications to the October 17, 1997 Settlement Agreement that should be approved by the Court and incorporated into the Agreement. These agreed clarifications are as follows:

1. With respect to ¶44, p. 18, it is clarified that to be in Group A and Group B, the class member must be on the King County payroll as of July 31, 1997.

2. The last sentence of ¶79 is corrected to read: "These additional sums received by the named plaintiffs (\$25,500) shall be paid directly by King County, and are in addition to the \$22 million Class Distribution Fund. These additional sums to the named plaintiffs shall not be paid from, nor deducted from, the Class Distribution Fund."

3. The third sentence of ¶83 is corrected to read: "A reasonable amount to cover those fees and costs is \$174,500, which shall be paid by King County to Bendich, Stobaugh & Strong . . . [to end of sentence]."

ADDENDUM AND CLARIFICATION TO  
OCTOBER 17, 1997 SETTLEMENT AGREEMENT - 1

yjb423

Bendich, Stobaugh & Strong  
Attorneys at Law  
2010 Smith Tower  
Seattle, Washington 98104

1           4       A new paragraph is added to the Settlement Agreement for clarification after ¶41  
 2 *re* Ordinances as follows: "Any employee, except for Group A employees, who continues or  
 3 begins a temporary or part-time position will, as of January 1, 1998, begin the 1998 calendar year  
 4 with zero (0) hours. Hours worked by such employees in 1997 will not be transferred to the  
 5 following year. This provision does not affect the rights of Group A and Group B-1 class  
 6 members to appeal (see ¶55), nor other rights for these class members as specified and set forth in  
 7 the Settlement Agreement."  
 8

9           A copy of this Addendum shall be appended to the October 17, 1997 Settlement Agree-  
 10 ment whenever copies are distributed.  
 11


12           DATED: October 22, 1997.

13 BENDICH, STOBAUGH & STRONG

NORM MALENG

King County Prosecuting Attorney

14  
 15   
 16 JUDITH E. BENDICH, WSBA #3754  
 17 Attorneys for Plaintiffs

18  
 19   
 20 KAREN A. POOL-NORBY, WSBA #22067  
 21 Senior Deputy Prosecuting Attorney  
 22 Attorneys for Defendant King County  
 23  
 24  
 25  
 26  
 27

12942

The Honorable Steven Scott

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

LOGAN, et al.,	)	
	)	
Plaintiffs,	)	NO. 93-2-20233-4 SEA
	)	
vs.	)	SECOND ADDENDUM AND
	)	CLARIFICATION TO OCTOBER 17,
KING COUNTY,	)	1997 SETTLEMENT AGREEMENT
	)	
Defendant.	)	
	)	
	)	

The parties through their respective counsel agree that there are certain clarifications and revisions to the October 17, 1997 Settlement Agreement that should be approved by the Court and incorporated into the Agreement. These agreed clarifications are as follows:

1. Paragraph 56, line 13, is corrected to delete the word "ABC."
2. After the last sentence of Paragraph 56, the following language is added: "Current B-1 employees who work half-time or more and either currently receive 15% in lieu of leave benefits or will receive 15% in lieu of leave benefits prior to December 31, 1997, will continue to receive this premium pay until resignation,

Norm Maleng, Prosecuting Attorney  
CIVIL DIVISION  
Employment Section  
3900 Key Tower  
700 Fifth Avenue  
Seattle, Washington 98104  
(206) 296-8820 FAX 296-0420



1 termination of employment, hire into a benefitted position, or the  
2 employee works less than half-time in a calendar year. If an  
3 employee becomes eligible to receive other compensation for leave  
4 benefits under the settlement agreement or proposed ordinances,  
5 under no circumstances shall the employee receive double recovery."

6 3. The first sentence of Paragraph 96 is corrected to read:  
7 "By February 5, 1998, the County shall announce....[to end of  
8 sentence]."

9 4. The provision of reasonable notice to potential class  
10 members is satisfied by sending notice to individuals who worked 910  
11 hours or more in a work unit in which a thirty-five hour work week  
12 is standard or 1040 hours or more in a work unit in which a forty  
13 hour work week is standard in a rolling twelve month period.

14  
15 A copy of this Addendum shall be appended to the October 17,  
16 1997 Settlement Agreement whenever copies are distributed.

17  
18 \\\

19 \\\

20 \\\

21 \\\

22 \\\

12042

1 The Court having reviewed the above clarifications hereby  
2 ORDERS that the Second Addendum and Clarification to the October 17,  
3 1997 Settlement Agreement is approved.

4 DATED: December 2, 1997.


5  
6 

7 The Honorable Steven Scott

8 Presented by:

9 NORM MALENG  
10 King County Prosecuting Attorney

BENDICH, STOBAUGH & STRONG

11 By:   
12 KAREN A. POOL NORBY  
13 WSBA No. 22067  
14 Senior Deputy Prosecuting Attorney  
15 Attorneys for King County

16 /s/ Stephen K. Strong, per  
17 By: faxed signature - attached  
18 STEPHEN K. STRONG  
19 WSBA No. 6299  
20 Attorneys for Plaintiffs

21  
22  
23  
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25

1 The Court having reviewed the above clarifications hereby  
2 ORDERS that the Second Addendum and Clarification to the October 17,  
3 1997 Settlement Agreement is approved.

4 DATED: December \_\_\_\_\_, 1997.

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The Honorable Steven Scott

Presented by:

NORM MALENG  
King County Prosecuting Attorney

BENDICH, STUBAUGH & STRONG

By: KAREN A. POOL NORBY  
WSBA No. 22067  
Senior Deputy Prosecuting Attorney  
Attorneys for King County

By: STEPHEN K. STRONG  
WSBA No. 6299  
Attorneys for Plaintiffs

SECOND ADDENDUM AND CLARIFICATION  
TO OCTOBER 17, 1997 SETTLEMENT  
AGREEMENT - 3

Norm Maleng, Prosecuting Attorney  
CIVIL DIVISION  
Employment Section  
3900 Key Tower  
700 Fifth Avenue  
Seattle, Washington 98104  
(206) 296-8820 FAX 296-0420