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7  
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9  
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SANTA CRUZ**

12 **THE PEOPLE OF THE STATE OF**  
13 **CALIFORNIA, EX REL. BILL LOCKYER,**  
14 **Attorney General of the State of California,**

15 **Petitioner/Plaintiff,**

16 **v.**

17 **COUNTY OF SANTA CRUZ; GAIL PELLERIN**  
18 **in her Official Capacity as County Clerk and**  
19 **Registrar of Voters of the County of Santa Cruz,**  
20 **and DOES 1 through 10, inclusive,**

21 **Respondents/Defendants.**

CASE NO. CV 152681

**ENFORCEABLE SETTLEMENT**  
**AGREEMENT AND**  
**STIPULATION; ORDER**

22 **GENERAL PROVISIONS**

23 1. In this action, the People of the State of California, ex rel. Bill Lockyer, Attorney  
24 General of the State of California (“Attorney General”) filed a Petition for Writ of Mandate and  
25 Complaint for Injunctive Relief (“Petition”) against the County of Santa Cruz and Gail Pellerin,  
26 in her official capacity as County Clerk and Registrar of Voters (hereafter collectively referred to  
27 as “Santa Cruz County” or “County”) to compel them to comply with state and federal  
28 architectural accessibility standards that the Attorney General contends apply to polling places  
during federal, state and local elections.

1           2.       Although Santa Cruz County denies all allegations in the petition, the parties wish  
2 to resolve their differences expeditiously, and without the burden, expense, and delay of further  
3 litigation. Therefore, they have entered into this Enforceable Settlement Agreement (hereafter  
4 “Agreement”).

5           3.       On October 17, 2005, the Attorney General filed this action against the County in  
6 Santa Cruz County Superior Court. The first cause of action is a petition for writ of mandate  
7 pursuant to California Code of Civil Procedure section 1085 to redress the County’s alleged  
8 failure to comply with California Elections Code section 12280. The second cause of action  
9 seeks injunctive relief for the County’s alleged violation of Title II of the federal Americans with  
10 Disabilities Act (“ADA”), United States Code, title 42, section 12131 et seq., and the regulations  
11 promulgated thereunder. On November 15, 2005, the County removed both causes of action to  
12 the United States District Court for the Northern District of California, Case Number 05 CV  
13 04708 RMW (hereafter “the federal action”). On February 21, 2006, the federal court granted  
14 the Attorney General’s motion to remand the first cause of action to Santa Cruz County Superior  
15 Court. This Agreement will resolve both the federal and state actions. Plaintiff will dismiss the  
16 federal action within thirty (30) days of the date that all parties execute this Agreement and the  
17 Court signs the order attached to this Agreement. Santa Cruz County agrees that the Santa Cruz  
18 County Superior Court of the State of California has subject matter jurisdiction for purposes of  
19 enforcing the terms and conditions of this Agreement.

20           4.       Santa Cruz County denies each and every allegation of the Petition that was filed  
21 in this case on October 17, 2005. For purposes of this Agreement, nothing herein will be  
22 construed as an acknowledgment, admission, or evidence of liability by Santa Cruz County of  
23 any violation of law or of any issue of law or fact, including but not limited to the ADA and  
24 California Elections Code section 12280.

25           5.       The Attorney General and Santa Cruz County stipulate and agree that this  
26 Agreement will remain in effect until March 31, 2011, unless such period of time is shortened or  
27 extended to cover subsequent elections by stipulation of the parties or by order of this Court for  
28 good cause shown. Although this is not a stipulated judgment, the parties jointly stipulate and

1 request that the Court retain jurisdiction over this case and over the parties personally until final  
2 performance of the terms and obligations of this Agreement pursuant to California Code of Civil  
3 Procedure section 664.6. For this purpose, the parties jointly stipulate and request that any  
4 applicable statute, rule, or court order affecting timely prosecution of this action, including the  
5 five-year dismissal statute set forth in Code of Civil Procedure section 583.310, will be tolled.

6 6. The Attorney General and Santa Cruz County may jointly agree in writing to  
7 make changes, modifications, and amendments to this Agreement.

8 7. This Agreement will constitute the entire integrated agreement of the parties. No  
9 prior draft or prior or contemporaneous communications, oral or written, will be relevant or  
10 admissible for purposes of determining the meaning of any provisions herein in any litigation or  
11 any other proceeding.

12 8. This Agreement is binding upon the parties hereto and by and through their  
13 officials, agents, employees, and successors. This Agreement is enforceable only by the parties.  
14 No person or entity is intended to be a third-party beneficiary of the provisions of this  
15 Agreement for purposes of any civil, criminal, or administrative action. Accordingly, no person  
16 or entity may assert any claim or rights as a beneficiary or protected class under this Agreement.

17 9. Nothing in this Agreement will be construed to limit the powers vested in the  
18 Attorney General to independently evaluate the County's compliance with the terms of this  
19 Agreement; however, during the term of this Agreement, the Attorney General will not file any  
20 new lawsuit against the County concerning state or federal laws and regulations regarding the  
21 architectural accessibility standards that apply to polling places. Any proceeding or motion  
22 initiated to enforce this Agreement or to extend the period of time that this Agreement is to  
23 remain in effect will not be considered the filing of a new lawsuit for purposes of this paragraph.

#### 24 **DEFINITIONS**

25 For purposes of this Agreement, the terms set forth herein shall have the meanings  
26 therein described below.

27 10. The terms "polling place(s)" and "polling site(s)" will mean the locations  
28 designated by the County for voting during federal, state, and local elections.

1           11.     The term “Inspector” will mean those persons whom the County has designated to  
2 serve as the persons in charge of overseeing the operations of each polling site and/or precinct.

3           12.     The term “Rover” will mean those persons whom the County has designated to  
4 serve as the persons in charge of oversight of the operations of several polling sites in different  
5 precincts.

6           13.     The term “Consultant” will mean the person whom the parties jointly stipulate  
7 and agree to oversee the performance of the conditions and obligations as set forth in this  
8 Agreement. The Attorney General and the County stipulate and agree that Jonathan Adler of  
9 Access Compliance Services will serve in the capacity of the Consultant. Any and all prior  
10 communications that Mr. Adler had with the Attorney General’s Office concerning the  
11 investigation and litigation of this matter will remain confidential. If at any time Mr. Adler can  
12 no longer serve in this capacity, then the parties will jointly select a new Consultant who has  
13 sufficient expertise in the state and federal disabled access laws, regulations, and guidelines that  
14 apply to this Agreement. If the parties cannot agree upon a proposed new Consultant, then each  
15 party will submit to the Court an application for an order appointing a new Consultant. The  
16 application may include the name and qualifications of each party’s proposed new Consultant  
17 and any opposition to the other party’s nomination. The parties herein agree that only those  
18 persons who have sufficient expertise in the state and federal disabled access laws, regulations,  
19 and guidelines that apply to this Agreement will be nominated as a new Consultant. The Court  
20 may select and appoint as the new Consultant one of the two persons nominated by the parties or  
21 a person of its own choice to fulfill the duties set forth in this Agreement.

22           14.     The term “survey” will mean the inspection of Santa Cruz County’s polling  
23 places by the Consultant and the Consultant’s employees, agents, and contractors. In  
24 conducting the surveys required by this Agreement, the Consultant will use the Checklist as  
25 defined below in paragraph 15.

26           15.     The term “Checklist” will mean a survey instrument that will be used by the  
27 Consultant to collect data and evaluate whether the County’s polling places are accessible. The  
28 Checklist that the Consultant will use for the surveys of the polling sites under this Agreement is

1 the form that is attached hereto as Exhibit A. If the United States Department of Justice (US  
2 DOJ) or the California Secretary of State revise their respective checklists or guidelines  
3 referenced in paragraph 17 for a particular election covered by this Agreement, the Consultant  
4 will make appropriate changes to the Checklist for the Consultant's survey of polling sites during  
5 that election so that the Checklist comports with the US DOJ's and the California Secretary of  
6 State's checklists or guidelines. In addition, the Checklist can be changed upon mutual  
7 agreement by the parties or pursuant to a court order.

8 16. The terms "temporary measure" or "temporary mitigation measure" will mean  
9 temporary modifications to a polling place that are implemented to remove barriers to  
10 accessibility for voters with disabilities. Some examples of temporary measures include, but are  
11 not limited to, portable ramps with edge protection and handrails where necessary, accessible  
12 parking spaces marked off by traffic cones or other means, door threshold ramps, temporary  
13 signs indicating an alternate accessible entrance or path of travel to the poll, propping open a  
14 door, and grate covers. A temporary measure for purposes of this Agreement will not include  
15 absentee ballots or curbside voting.

16 17. The terms "accessible" and "accessibility," when used to describe a polling place  
17 will mean that the polling place meets the standards for accessibility as set forth in the US DOJ  
18 ADA Checklist for Polling Places (February 2004) which incorporates specific provisions of the  
19 ADA Accessibility Guidelines (ADAAG) codified at 28 C.F.R. Pt. 36, App A and the Secretary  
20 of State's Accessibility Guidelines including the California Secretary of State's Polling Place  
21 Accessibility Checklist (Updated 8/11/04, Supplemented 03/17/06) and any revised version of  
22 those checklists or guidelines that may be issued by the US DOJ or the California Secretary of  
23 State. The terms "accessible" and "accessibility" will also include any conditions that are only a  
24 de minimis departure from the standards for accessibility set forth above.

25 18. The terms "substantial compliance" or "substantially compliant" will mean that  
26 each of the County's polling places are accessible as defined in paragraph 17. To the extent that  
27 a polling site is not accessible as that term is defined in paragraph 17, substantial compliance  
28 with respect to that site will be met nonetheless if the County, pursuant to paragraph 20(b)

1 below, has used its best efforts and documented those efforts to select a site that is more  
2 accessible through the use of temporary measures or otherwise and the County has requested that  
3 the California Secretary of State make a determination, based upon substantial evidence  
4 provided by the County, that no more accessible potential polling place is present within that  
5 precinct. Prior to submitting a request to the Secretary of State regarding a determination that no  
6 accessible polling site is available in a polling precinct, the County will follow the procedures set  
7 forth in paragraph 20(b) below.

### 8 **DUTIES AND RESPONSIBILITIES**

9 19. The County will ensure that all of its polling sites are in substantial compliance as  
10 that term is defined in paragraph 18 of this Agreement within the following timetable: (a) 55% of  
11 the County's polling sites will be in substantial compliance by the 2008 California Primary  
12 Election; (b) 70% of the County's polling sites will be in substantial compliance by the 2008  
13 California General Election; (c) 90% of the County's polling sites will be in substantial  
14 compliance by the 2010 California Primary Election; and, (d) 100% of the County's polling sites  
15 will be in substantial compliance by the November 2010 California General Election. With  
16 respect to subdivision (a) of this paragraph, if the state and federal 2008 California primaries are  
17 bifurcated, the County will satisfy its obligations under subdivision (a) of this paragraph during  
18 whichever primary election occurs second; however, if the second primary is an all-mail-in  
19 ballot election, then the County will satisfy its obligations in subdivision (a) of this paragraph  
20 during the first primary election. If the County has met its obligations for all of the polling sites  
21 under the terms of this Agreement at any time prior to November 2010 as determined by the  
22 Consultant and the Attorney General, then the County and the Attorney General may jointly  
23 agree, in writing, that all terms and conditions of this Agreement have been met and that the  
24 County has no further obligations under this Agreement.

25 20. In satisfying the duties set forth in paragraph 19 of this Agreement, the County  
26 will do the following:

27 (a) The County will implement all feasible temporary mitigation measures for those  
28 elements of its polling sites that are not accessible, but that can be made accessible through the

1 implementation of suitable temporary mitigation measures. If the County is unable to implement  
2 any particular temporary mitigation measure at a polling site or otherwise persuade the owner of  
3 the building to implement permanent mitigation measures, then the County will document all of  
4 its efforts in attempting to implement the temporary mitigation measure and/or the reasons that a  
5 particular mitigation measure is not possible for that polling site. In so doing, the County will  
6 give priority to implementing permanent and/or temporary mitigation measures at those polling  
7 places identified in Exhibit B hereto.

8 (b) The County will use its best efforts to select new accessible polling places for  
9 those polling places that cannot be made accessible with the implementation of temporary  
10 measures. In so doing, the County will give priority to replacing those polling places identified  
11 in Exhibit B hereto. In selecting new accessible polling sites, the County will implement the  
12 following procedures:

13 i. The County will implement an outreach program that includes the formation of an  
14 Accessible Voting Outreach Committee whose purpose is to involve members of the community  
15 in the selection and location of accessible polling places, to encourage members of the business  
16 community to offer their facilities for use as polling sites, and to encourage them to make  
17 accessibility modifications to their facilities so that they may be used as polling sites.

18 ii. For each precinct in which a polling place is not accessible and cannot be made  
19 accessible with the implementation of temporary measures, the County will first assess the total  
20 number of buildings within that precinct that may be appropriate to use as polling places. In  
21 making this determination, the County need not assess buildings that are excluded by the  
22 provisions of paragraph 20(b)(iii) below, or are otherwise buildings that are prohibited by law to  
23 be used as polling places. Once the County determines the total number of buildings that are  
24 appropriate for use as a polling place within that precinct, the County will further assess which  
25 of those buildings may be available to use as potential polling places. For purposes of this  
26 Agreement, with the exception of those buildings and facilities that are required by law to make  
27 their facilities available to the County as a polling place on election days, a potential polling  
28 place will be deemed unavailable for use as a polling place if the owner, manager, or other

1 authorized agent of the facility or building will not permit the County to use the facility or  
2 building as a polling place.

3       iii. Unless information readily available to the County and the Consultant indicates  
4 otherwise, it shall be presumed that the following buildings are not appropriate to replace an  
5 existing polling place: a) single family residential properties; b) multi-family residential  
6 properties that do not contain a separate community room space; and c) non-residential buildings  
7 constructed or last substantially modified prior to July 1, 1982.

8       iv. Upon identifying potential polling sites as described in paragraph 20(b)(ii) above,  
9 prior to each election covered by this Agreement, the County will survey a reasonable  
10 percentage of those buildings and facilities appropriate and available for use as a polling site in  
11 each precinct according to the requirements of the Checklist to determine if the facilities are  
12 accessible until the County has surveyed all appropriate and available buildings and facilities in  
13 that precinct. When selecting facilities to survey as potential polling places, the County will give  
14 priority to those facilities that are required by California and/or federal law to be made available  
15 to the County for voting during an election.

16       v. The County will document all efforts taken to locate an accessible polling place  
17 within a precinct that has a polling place that is not accessible and has been identified as having  
18 architectural barriers that cannot be mitigated through the implementation of temporary or  
19 permanent accessibility measures. If the County locates a new potential polling site that appears  
20 to meet all or most of the accessibility standards for state and federal polling sites, then the  
21 County will survey that site to confirm whether it is accessible or can be made accessible  
22 through the implementation of temporary accessibility measures. If the County cannot locate a  
23 polling place within a precinct that is more accessible than the existing polling place in that  
24 precinct, then the County will request that the California Secretary of State make a  
25 determination, based upon substantial evidence provided by the County, that no more accessible  
26 potential polling place is present within that precinct. If the County has complied with its  
27 obligations under this Agreement, and is unable, despite its best efforts, to locate a facility that is  
28 more accessible for use as a polling place than the existing polling place in that precinct, then the

1 County may continue to use the existing polling place until such time as the County finds a more  
2 accessible polling place. The County's obligation to locate more accessible polling places is  
3 continuing; however, once the County has complied with the procedures outlined in paragraph  
4 20(a) through 20(b) of this Agreement with respect to a specific polling site, the County's duty  
5 to locate a more accessible polling place for that site will be limited to conducting a reasonable  
6 inquiry to determine whether a more accessible site may be available due to new construction or  
7 the alteration of an existing building or facility since the last election or if an accessible but  
8 previously unavailable polling site has become available for use as a polling site on election day.

9 21. The Attorney General has previously identified approximately forty (40) polling  
10 sites listed in Exhibit C as having slopes in the path of travel from the street or sidewalk to the  
11 polling place that exceed the maximum slope of 8.3% and/or require handrails if the slope  
12 exceeds 5%. Commencing with the first California 2008 Primary Election, for these polling  
13 places listed in Exhibit C and any new polling places that may have slopes in the path of travel  
14 from the street or sidewalk to the polling place that exceed the maximum slope of 8.3% and/or  
15 require handrails if the slope exceeds 5%, the County will implement a procedure for offering  
16 transportation to voters with disabilities from the street or sidewalk to these polling places. This  
17 procedure will constitute a temporary mitigation measure for the slopes in the path of travel from  
18 the street or sidewalk to the polling place that exceed the maximum slope of 8.3% and/or require  
19 handrails if the slope exceeds 5%. Notwithstanding this procedure, the County will use its best  
20 efforts to assess these polling sites pursuant to paragraphs 20(a) through 20(b) above.

21 22. The County will ensure that it has a separate binder of information for each  
22 polling site concerning temporary mitigation measures that will be used at that polling place for  
23 each election. The binder will contain photographs showing the correct location, designation,  
24 and spacing of all temporary mitigation measures, including but not limited to cones and signage  
25 for disabled parking spaces, thresholds, mitigation related to path of travel, etc. The binder will  
26 also contain a document entitled "Standard Operating Procedure" for each polling place listing  
27 the specific accessibility mitigation measures that must be undertaken on election day. The  
28 binder will also contain a form that requires the poll worker to evaluate the temporary mitigation

1 measures in place at the polling site. The County will designate a poll worker at each polling site  
2 to complete the form at three separate times throughout the day (e.g., 9:00 a.m., 1:00 p.m., and  
3 5:00 p.m.). The purpose for having this form is to ensure that the temporary mitigation measures  
4 are maintained throughout Election Day. The County will begin compiling the binders  
5 immediately and will ensure that each of its polling sites has a binder as described herein by the  
6 November 2008 election.

7 23. Within thirty (30) days of executing this Agreement, the County will contract for  
8 the services of the Consultant. The County will pay all associated costs of the Consultant, not to  
9 exceed a total of seventy thousand dollars (\$70,000) per fiscal year that this Agreement is in  
10 effect. This seventy thousand dollar (\$70,000) sum includes the costs associated with the  
11 surveys that the Consultant will conduct during the elections covered by this Agreement. In  
12 allocating these funds for the Consultant's services, the County will take all appropriate steps to  
13 ensure that there are sufficient funds to cover the costs of the Consultant's surveys required  
14 under paragraphs 27 and 28 and the preparation of the Consultant's reports required under  
15 paragraph 31 of this Agreement. If any funds are not utilized in any fiscal year covered by this  
16 Agreement, then they will be applied and added to the seventy thousand dollars (\$70,000) that  
17 the County will make available for the following fiscal year. Any funds paid by the County to  
18 fulfill its obligations with regard to the services of the Consultant that are incurred prior to June  
19 30, 2007 will be included within the seventy thousand dollar (\$70,000) allotted expenditure for  
20 fiscal year July 1, 2007 through June 30, 2008.

21 24. Within sixty (60) days of the execution of this Agreement, the County will  
22 ensure that the Consultant conducts a minimum full-day training on state and federal disabled  
23 access laws and regulations for the accessibility of polling places for those Santa Cruz County  
24 Elections Department personnel who are responsible for selecting polling sites and/or ensuring  
25 that the County's polling places are accessible. Thereafter, within 120 days prior to each  
26 election covered by the terms of this Agreement, the County will ensure that the Consultant  
27 conducts a minimum half-day training on state and federal disabled access laws and regulations  
28 for the accessibility of polling places and on any other issues involving accessibility for those

1 Santa Cruz County Elections Department personnel who are responsible for selecting polling  
2 sites and/or ensuring that the County's polling places are accessible. Within thirty (30) days  
3 prior to each election that occurs during the term of this Agreement, the County will ensure that  
4 the Consultant conducts a training on state and federal disabled access laws and regulations for  
5 the accessibility of polling places, including the rationale for those regulations, for all polling  
6 place Inspectors and Rovers and any other personnel or volunteers the County may deem  
7 appropriate. The County may create an electronic visual and audio recording of the training  
8 conducted by the Consultant and use that recording to train all Inspectors and Rovers who are  
9 unable to attend any in-person training with the Consultant. Prior to each election that occurs  
10 during the term of this Agreement, the County will ensure that each Inspector provide training to  
11 election day Clerks on the accessibility issues presented at their particular polling place.

12 25. Within thirty (30) days of the execution of this Agreement, Santa Cruz County  
13 will develop and submit to the Consultant, for the Consultant's review and written  
14 recommendations, a proposed plan and any necessary policies or procedures that the County will  
15 follow to carry out its obligations under this Agreement. The County will finalize the plan  
16 within thirty (30) days from the date that the County submits the plan to the Consultant, and  
17 within thirty (30) days of its finalization, the County will provide a copy of the plan and the  
18 Consultant's recommendations regarding the plan to the Attorney General.

19 26. The County will confer with the Consultant on the accessibility of its polling  
20 places and the methods necessary for the County to utilize in order to select more accessible  
21 sites.

22 27. The County will ensure that the Consultant surveys the sites used by the County  
23 as polling places during each of the four elections referenced in the timetable set forth in  
24 paragraph 19 of this Agreement, evaluate the County's compliance with the provisions of the  
25 Agreement, and issue reports regarding the results of his or her surveys and evaluation. In  
26 conducting the surveys of the County's polling places during the elections covered under this  
27 Agreement, the Consultant will use the Checklist defined in paragraph 15.

28 28. The County will ensure that the Consultant's surveys of Santa Cruz County's

1 polling sites will be conducted as follows:

2 (a) With respect to the California Primary Election to be held in 2008, the  
3 Consultant will survey all polling sites designated in Exhibit D and any new polling sites  
4 designated by the County for the 2008 California primary election. If the state and federal 2008  
5 California primaries are bifurcated, the Consultant will conduct a survey during whichever  
6 primary election occurs second; however, if the second primary is an all-mail-in ballot election,  
7 then the Consultant will conduct a survey during the first primary election.

8 (b) If all of the County's polling sites are not substantially compliant by the  
9 2008 California Primary Election, then the Consultant will survey all polling sites designated by  
10 the County for each subsequent election that is referenced in the timetable set forth in paragraph  
11 19 of this Agreement until the County meets all of its obligations under this Agreement. In  
12 conducting the surveys, the Consultant will survey all polling sites that were not fully accessible  
13 or in substantial compliance in the immediately preceding statewide election and any new  
14 polling sites designated by the County. Notwithstanding these provisions, the parties may  
15 mutually agree, in writing, to survey a smaller representative sample of the County's polling  
16 places.

17 29. The County will cooperate with the Consultant in his efforts to survey Santa Cruz  
18 County's polling sites under the terms of this Agreement, and will allow the Consultant to:

19 (a) Interview any person who has responsibilities related to ensuring that  
20 polling places used by the County are accessible. The County will provide suitable facilities and  
21 will arrange for such interviews to be conducted under conditions satisfactory to the Consultant.

22 (b) Request and obtain access to the records, files, statistics, reports, and other  
23 documents maintained by the County to the extent that such information is not privileged or  
24 confidential and is directly related to the matters that are set forth in this Agreement. The  
25 Consultant may obtain copies of all such relevant records, files, and papers.

26 (c) Request and obtain the County's cooperation in accessing public and  
27 private property used as polling places to conduct surveys or inspections to determine whether  
28 those properties are accessible.

1           30.     In conducting the surveys required by this Agreement, the County will allow the  
2 Consultant to use professional surveyors or other persons whom the Consultant deems to have  
3 sufficient knowledge of state and federal accessibility laws to conduct the polling site surveys on  
4 Election Day. All persons conducting the survey under the direction of the Consultant will use  
5 the Checklist to assess the polling sites' accessibility. Those completed Checklists will be  
6 returned to the Consultant who will then provide copies of those Checklists, as well as copies of  
7 the Checklists that the Consultant completes, to the Attorney General and the County within  
8 sixty days of each election.

9           31.     The County will take all appropriate steps to ensure that within sixty (60) days of  
10 each survey conducted during the elections that are referenced in the timetable set forth in  
11 paragraph 19 of this Agreement, the Consultant will prepare a report that will be sent to the  
12 Attorney General and the County. The Consultant's report will assess the County's compliance  
13 with the implementation of the County's obligations under this Agreement and the results of the  
14 survey at issue. The report will include, but is not limited to, an analysis of the results of the  
15 survey; a breakdown of the violations per polling place for each category surveyed (i.e., parking,  
16 signage, exterior access, doors and hallways, voting booths, ramps, and restrooms); a description  
17 of the nature of the violation; the percentage of overall compliance county-wide; the need, if any,  
18 for additional improvements; an analysis of the County's search for new polling sites, and any  
19 additional steps that should be taken to ensure that the polling places used for the next election  
20 are accessible.

21           32.     Upon submission of the Consultant's report, the Attorney General will review the  
22 report to determine whether the County is complying with the obligations set forth in this  
23 Agreement. If at any time the Attorney General determines that the County is not complying  
24 with its obligations, the Attorney General will so notify the County and the County will be given  
25 a reasonable amount of time not to exceed sixty (60) days to address the issues identified by the  
26 Attorney General. If the Attorney General determines that the County has not remedied the  
27 deficiencies identified by the Attorney General with respect to the County's obligations under  
28 this Agreement, the Attorney General may file a motion to enforce the Agreement with the

1 Court, using the briefing schedules set forth in Code of Civil Procedure section 1005. The scope  
2 of the motion hearing, which may be an evidentiary hearing depending on the circumstances,  
3 will be to determine whether the County has met its obligations as set forth in this Agreement. If  
4 the Court determines that the County has not performed its obligations as set forth in this  
5 Agreement, the Court will issue whatever orders it deems proper to effectuate the terms of this  
6 Agreement. Nothing in this Agreement limits the parties from seeking all available remedies  
7 under Code of Civil Procedure section 664.6.

8 33. Within thirty (30) days of the execution of this Agreement, the County will pay to  
9 the Attorney General costs in the amount of seventy five thousand dollars (\$75,000) for all costs  
10 the Attorney General has incurred to date in this action (Santa Cruz County Superior Court Case  
11 Number 152681) and the federal action (U.S. District Court for the Northern District of  
12 California Case Number 05 CV 04708 RMW). This sum shall be paid by submitting to counsel  
13 for the Attorney General a check made payable to the "California Department of Justice." These  
14 costs will be deposited in the Department of Justice Public Rights Division Law Enforcement  
15 Special Fund that is established under Government Code section 12530. Each party will bear  
16 their own attorneys' fees incurred in this action (Santa Cruz County Superior Court Case  
17 Number 152681) and the federal action (U.S. District Court for the Northern District of  
18 California Case Number 05 CV 04708 RMW) and the County will bear its own costs incurred in  
19 this action and the federal action.

20 34. The parties jointly stipulate and agree that this action, *People v. County of Santa*  
21 *Cruz*, Santa Cruz County Case No. CV 152681, will be stayed, except for purposes of enforcing  
22 the Agreement and/or seeking all appropriate orders or a judgment to enforce this Agreement  
23 under Code of Civil Procedure section 664.6, until such time as the County fulfills its obligations  
24 under this Agreement.

25 **IT IS SO STIPULATED.**

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Dated:

COUNTY OF SANTA CRUZ

By: \_\_\_\_\_  
JANET K. BEAUTZ  
Its: Chair, County of Santa Cruz Board of Supervisors

Dated:

By: \_\_\_\_\_  
GAIL PELLERIN, In her Official Capacity as County Clerk and Registrar of Voters of the County of Santa Cruz

Dated:

EDMUND G. BROWN JR.  
Attorney General of the State of California  
JAMES M. HUMES  
Chief Deputy Attorney General  
TOM GREENE  
Chief Assistant Attorney General  
LOUIS VERDUGO, JR.  
Senior Assistant Attorney General  
ANGELA SIERRA  
Supervising Deputy Attorney General  
NANCY A. BENINATI  
Deputy Attorney General

By: \_\_\_\_\_

**APPROVED AS TO FORM AND CONTENT:**

Dated:

DANA McRAE, COUNTY COUNSEL

By: \_\_\_\_\_  
JASON M. HEATH  
Assistant County Counsel

Attorneys for the County of Santa Cruz and GAIL PELLERIN in her Official Capacity as County Clerk and Registrar of Voters of the County of Santa Cruz

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Dated:

EDMUND G. BROWN JR.  
Attorney General of the State of California  
JAMES M. HUMES  
Chief Deputy Attorney General  
TOM GREENE  
Chief Assistant Attorney General  
LOUIS VERDUGO, JR.  
Senior Assistant Attorney General  
ANGELA SIERRA  
Supervising Deputy Attorney General

By: \_\_\_\_\_  
NANCY A. BENINATI  
Deputy Attorney General

Attorneys for Plaintiff/Petitioner The People  
of the State of California

**ORDER**

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2           On October 18, 2006, December 8, 2006, and February 20, 2007, the parties conducted a  
3 judicially supervised mediation in Department 8 of the Santa Cruz County Superior Court which  
4 resulted in the Agreement set forth above. This action will be stayed during the term that this  
5 Agreement is in effect, or until such time that the County fulfills its obligations under this  
6 Agreement. The stay of this action will not affect the parties' ability to file motions with the  
7 Court or to obtain orders or a judgment to enforce this Agreement under Code of Civil Procedure  
8 section 664.6 as provided in this Agreement. The Court will retain jurisdiction of this action to  
9 enforce the terms and obligations of the Agreement and until final performance by the County.  
10 Any and all applicable statutes, rules, or court orders affecting timely prosecution of this action,  
11 including the five-year dismissal statute set forth in Code of Civil Procedure section 583.310,  
12 will be tolled.

13 **IT IS SO ORDERED.**

14  
15  
16 Dated:

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT