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 Jackson, CA 95642 (209) 223-6366

(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Plaintiff and Cross-Defendant  
 7 COUNTY OF AMADOR

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 9 **COUNTY OF AMADOR**

10  
 11 THE COUNTY OF AMADOR, a )  
 12 political subdivision of the State of )  
 13 California, )  
 14 Plaintiff, )

Consolidated Case No.: 03-CV-3125

14 vs.

15  
 16 JERRY B. WRIGHT; ERIKA HINKEL )  
 17 WRIGHT, a.k.a., ERIKA HINKEL )  
 18 WRIGHT, individually and doing )  
 19 business as VILLA TOSCANO )  
 20 WINERY, VILLA TOSCANO, and )  
 21 VILLA TOSCANO VINEYARDS, and )  
 22 DOES ONE THROUGH TWENTY, )  
 INCLUSIVE, )  
 Defendants. )

SETTLEMENT AGREEMENT PURSUANT TO CCP 664.6

23 THE COUNTY OF AMADOR, a )  
 24 political subdivision of the State of )  
 25 California, )  
 26 Plaintiff, )

(Case No. : 04-CV-3278, Consolidated with Case No. 03-CV-3125)

26 vs.

27 JERRY B. WRIGHT, ERIKA HINKEL )  
 28 WRIGHT, a.k.a., ERIKA HINKEL )  
 WRIGHT, individually and doing )

1 business as BELLA PIAZZA )  
2 WINEREY, a.k.a., THREE LITTLE )  
3 PIGS WINERY, and DOES ONE )  
4 THROUGH TWENTY, INCLUSIVE, )  
5 Defendants. )

6 \_\_\_\_\_ )  
7 AND RELATED CROSS-ACTIONS.  
8 \_\_\_\_\_ )

10 PARTIES

12 The parties to this Settlement Agreement are the County of Amador  
13 ("Plaintiff") and Jerry B. Wright and Erika Wright, individually and doing business  
14 as Villa Toscano Winery, Villa Toscano Vineyards, Villa Toscano, and as Bella  
15 Piazza Winery, aka, Three Little Pigs Winery ("Defendants").

17 RECITALS

19 1. On November 25, 2003, the County of Amador filed its Complaint in  
20 Amador County Superior Court Action No. 03-CV-3125, seeking to enjoin  
21 Defendants from operating a restaurant at the Villa Toscano Winery. Jerry B.  
22 Wright and Erika Wright, individually and doing business as Villa Toscano  
23 Winery, Villa Toscano, and Villa Toscano Vineyards, answered the Complaint and  
24 filed a Cross-complaint against the County of Amador in Action No. 03-CV-3125,  
25 alleging various civil rights violations naming Plaintiff as a cross-defendant.

26 2. On April 1, 2004, the County of Amador filed its Complaint in

28

1 Amador County Superior Court Action No. 04-CV-3278, seeking to enjoin  
2 Defendants from operating a deli at the Bella Piazza Winery. That case was later  
3 consolidated with Amador County Superior Court Action No. 03-CV-3125.

4 3. Jerry B. Wright and Erika Wright, individually and doing business as  
5 Bella Piazza Winery, answered the Complaint and filed a Cross-complaint against  
6 the County of Amador in Action No. 04-CV-3278 alleging various civil rights  
7 violations naming Plaintiff as a cross-defendant.

8 4. Defendants have ceased the operation of the deli at Bella Piazza  
9 Winery, however Defendants deny that the deli operation violated California law,  
10 or the Amador County Code, or applicable contracts under the "Williamson Act."

11 5. Defendants maintain that they ceased deli operations for reasons  
12 unrelated to the contentions and defenses of the Complaint and Cross-Complaint.

13  
14 Plaintiff and Defendants therefore enter into the following settlement:

15 a. Defendants agree not to operate a restaurant at Villa Toscano  
16 Winery or at Bella Piazza Winery, by whatever name or format, while the  
17 land upon which the winery is situated is zoned "AG", exclusive agriculture,  
18 and is subject to a land conservation contract or contracts with Plaintiff  
19 pursuant to the Williamson Act, California Government Code §§ 51200 et.  
20 seq., and unless the land is zoned so as to allow the operation of a restaurant  
21 thereon. Attached hereto as Exhibits A and B, and made a part hereof, are  
22 the legal descriptions of the properties upon which the Villa Toscano Winery  
23 and the Bella Piazza Winery, respectively, are situated.

24 b. Defendants agree that, unless Ordinance 1320 is amended to  
25 provide otherwise, the food preparation facilities at Villa Toscano Winery  
26 and Bella Piazza Winery shall be used solely for catering occasional on-  
27 premise indoor or outdoor functions incidental to the agricultural use.

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c. Defendants acknowledge that they must obtain all necessary permits for the operation of the food preparation facility at Bella Piazza Winery and at Villa Toscano Winery.

d. The operation of the food preparation facilities at Villa Toscano Winery and Bella Piazza Winery shall be brought into compliance with the terms of this settlement agreement by June 14, 2006.

e. Plaintiff and Defendants shall dismiss their respective complaints and cross-complaints (in action numbers 03-CV-3125 and 04-CV-3278) with prejudice, with each party to bear their own costs of suit and attorney fees.

f. Plaintiff and Defendants agree that the fact or terms of this settlement shall not be used as evidence in any other matter between them except a matter brought to enforce the provisions of this agreement.

g. Plaintiff and Defendants agree not to issue a press release or media release concerning this settlement. This provision shall not preclude the Plaintiff from complying with the Ralph M. Brown Act (California Government Code sections 54950 et seq.), including but not limited to sections 54957.1(a)(3) and 54953.6, copies of which are attached hereto as Exhibit "C" and made a part hereof, or in making a copy of the executed written settlement agreement available to the public upon request, pursuant to the California Public Records Act (California Government Code sections 6250 et seq.).

h. The terms of this settlement agreement are subject to approval by the Amador County Board of Supervisors and Erika Wright within twenty-one days from January 20, 2006. If either of those parties do not approve the terms of the settlement within that twenty-one day period, then there is no settlement.

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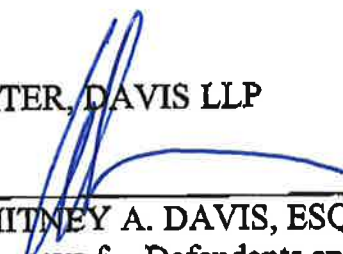
i. The Plaintiff and Defendants agree that this settlement is entered into pursuant to California Code of Civil Procedure section 664.6, and expressly adopt said provisions, which read as follows:

**“If parties to pending litigation stipulate, in a writing signed by the parties outside the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.”**

j. Plaintiff and Defendants further agree that the Superior Court of Amador County shall have continuing jurisdiction to enforce the terms of this settlement. In the event enforcement is required, the prevailing party shall be awarded attorney’s fees and costs incurred in bringing or defending such enforcement action.

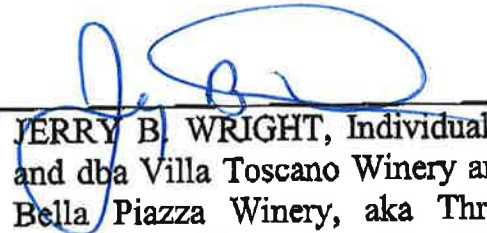
Dated: <sup>Feb</sup> January 6, 2006

CHARTER, DAVIS LLP


By:   
WHITNEY A. DAVIS, ESQ.  
Attorneys for Defendants and  
Cross-Complainants,  
Jerry B. Wright, Erika Wright aka  
Erika Hinkel Wright, individually  
and dba Bella Piazza Winery, aka  
Three Little Pigs Winery, and dba  
Villa Toscano, Villa Toscano  
Vineyards, Villa Toscano Winery

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Dated: ~~February~~ January 6, 2006


  
JERRY B. WRIGHT, Individually  
and dba Villa Toscano Winery and  
Bella Piazza Winery, aka Three  
Little Pigs Winery, and dba Villa  
Toscano, Villa Toscano Vineyards,  
Villa Toscano Winery

Dated: ~~February~~ January 6, 2006

  
ERIKA WRIGHT, aka Erika  
Hinkel Wright individually and dba  
Villa Toscano Winery and Bella  
Piazza Winery, aka Three Little  
Pigs Winery, and dba Villa  
Toscano, Villa Toscano Vineyards,  
Villa Toscano Winery

Dated: ~~February~~ January 6, 2006


Plaintiff and Cross-Defendant the  
County of Amador

By:   
JOHN F. HAHN, Esq.,  
Amador County Counsel,  
Attorney for Plaintiff County  
of Amador

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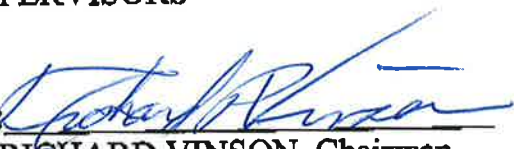
Dated: ~~January~~ <sup>February</sup> 6, 2006

ANGELO, KILDAY & KILDUFF

By:   
LAURENCE L. ANGELO, Esq.  
SBN 34528  
Attorneys for Cross-Defendant,  
COUNTY OF AMADOR

Dated: ~~January~~ <sup>February</sup> 7, 2006

AMADOR COUNTY BOARD OF SUPERVISORS

By:   
RICHARD VINSON, Chairman

ATTEST:

MARDELL ANDERSON, Clerk of the Board of Supervisors, Amador County, California



**EXHIBIT "A"**



**LEGAL DESCRIPTION OF REAL PROPERTY LOCATED AT 10600  
SHENANDOAH ROAD, PLYMOUTH, CA (Villa Toscano Winery):**

The land described herein is situated in the State of California, County of Amador, unincorporated area, and is described as follows:

Adjusted Compliance No. 1, as shown on that certain "Record of Survey Boundary Line Adjustment Map for Elizabeth Williams Being a Portion of Section 36, T. 8 N., R. 10 E., M.D.M.", filed for record on April 29, 1996, in Book 49 of Maps and Plats, at page 90, Amador County Official Records.

APN 007-100-016-000

**EXHIBIT "B"**

**LEGAL DESCRIPTION OF REAL PROPERTY LOCATED AT 19900  
SHENANDOAH SCHOOL ROAD, PLYMOUTH, CA (Bella Piazza Winery):**

The land described herein is situated in the State of California, County of Amador, unincorporated area, and is described as follows:

Parcel 1 as shown and delineated on Parcel Map No. 2303 for K.H. & M.J. Deaver and A.B. & K.L. Clifton, "Being a Portion of Section 1, T. 7 N., R. 10 E., and a Portion of Section 6, T. 7 N., R. 11 E., M.D.M., Amador County, California", filed for record December 27, 1989, in Book 44 of Maps and Plats, at page 16 et seq., Amador County Official Records.

APN 008-030-034-000.

**EXHIBIT "C"**

ENCIES  
Title 5

MEETINGS  
Div. 2

§ 54953.7

Notes of Decisions

Prohibition of recording 1

1. Prohibition of recording

Action of city council in allegedly adopting measure providing that no tape recorder or

mechanical device for purpose of obtaining tapes or recordings of council proceedings was to be permitted in council chamber was too arbitrary and capricious and too restrictive and unreasonable to be permitted. *Nevens v. City of Chino* (App. 5 Dist. 1965) 44 Cal.Rptr. 50, 233 Cal.App.2d 775.

§ 54953.6. Prohibitions or restrictions on broadcasts of proceedings of legislative body; reasonable findings

No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Added by Stats.1993, c. 1136 (A.B.1426), § 6, operative April 1, 1994; Stats.1993, c. 1137 (S.B.36), § 6, operative April 1, 1994. Amended by Stats.1994, c. 32 (S.B.752), § 6, eff. March 30, 1994, operative April 1, 1994.)

Historical and Statutory Notes

Section affected by two or more acts at the same session of the legislature, see Government Code § 9605.

Operative effect of Stats.1993, c. 1136 (A.B. 1426), see Historical and Statutory Notes under Government Code § 54952.7.

Operative effect of Stats.1993, c. 1137 (S.B.36), see Historical and Statutory Notes under Government Code § 54952.7.

Law Review and Journal Commentaries

Review of selected 1993 California legislation. 25 Pac.L.J. 793 (1994).

Notes of Decisions

In general 1

1. In general

Trial court abused its discretion in impliedly determining that organization, which sought injunction to prevent school district from expending funds to promote advocacy position in relation to choice-in-education initiative, was likely to prevail on merits at trial; district's expenditure of funds on television station, which broad-

cast public meeting at which school board adopted resolution opposing initiative, served purposes unrelated to advocacy of partisan position on initiative, inasmuch as all board meetings were broadcast in their entirety, and thus reasonable inference could be drawn that reason for broadcasts was to provide greater public access to meetings. *Choice-In-Education League v. Los Angeles Unified School Dist.* (App. 2 Dist. 1993) 21 Cal.Rptr.2d 303, 17 Cal. App.4th 415.

§ 54953.7. Allowance of greater access to meetings than minimal standards in this chapter

Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local

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Notes under

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§ 54957  
Note 16

v. Housing Authority of the City of Los Angeles Bd. of Comrs. (App. 2 Dist. 2003) 132 Cal.Rptr.2d 453, 107 Cal.App.4th 860. Municipal Corporations ⇨ 192

When the governing body of a public entity, in a case involving employee discipline, rejects its hearing officer's findings of fact and engages in its own fact finding, it is conducting a hearing on the charges against the employee and the employee must be given notice of the right to have the hearing conducted in open session. Morrison v. Housing Authority of the City of Los Angeles Bd. of Comrs. (App. 2 Dist. 2003) 132 Cal.Rptr.2d 453, 107 Cal.App.4th 860. Municipal Corporations ⇨ 218(8)

Personnel exception to open meetings law requires notice as a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, leaving the majority of personnel matters to be discussed freely and candidly in closed session, but permitting an employee to request an open session to defend against specific complaints or charges brought against him or her by another individual and thus to clear his or her name. Bell v. Vista Unified School Dist. (App. 4 Dist. 2000) 98 Cal.Rptr.2d 263, 82 Cal.App.4th 672, rehearing denied, review denied. Officers And Public Employees ⇨ 72.12

Public agency may hold closed session on complaints or charges against an employee without providing statutory notice to employee when sole purpose of session is to deliberate whether the complaints or charges justify disciplinary action rather than to conduct an evidentiary hearing thereon. Bollinger v. San Diego Civil Service Com. (App. 4 Dist. 1999) 84 Cal.Rptr.2d 27, 71 Cal.App.4th 568. Officers And Public Employees ⇨ 72.12

Personnel exception of Brown Act requires 24-hour written notice only when school board hears specific complaints and charges, and not when it considers the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee. Fischer v. Los Angeles Unified School Dist. (App. 2 Dist. 1999) 82 Cal.Rptr.2d 452, 70 Cal.App.4th 87, as modified, rehearing denied, review denied. Schools ⇨ 57

Because determination whether to reselect or not to reselect probationary teachers was a personnel matter and did not involve a session in which the school board would hear specific complaints or charges brought against probationary teachers by another person or employee, board was not required by Brown Act to give the probationary teachers 24-hour written notice of the right to have the complaints or charges heard in an open session. Fischer v. Los Angeles Unified School Dist. (App. 2 Dist. 1999) 82

§ 54957.1. Closed sessions; public report of action taken

(a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention of every member present thereon, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as specified below:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in

Additions or changes indicated by underlining; deletions by asterisks \* \* \*

Cal.Rptr.2d 452, 70 Cal.App.4th 87, as modified, rehearing denied, review denied. Schools ⇨ 57; Schools ⇨ 147,34(2)

17. Mandamus

Writ review was warranted with respect to challenge by city council members to discovery orders entered in action challenging unrecorded closed session of council as violative of Brown Act, in which members had been ordered to answer special interrogatories regarding their recollections of session; appellate remedies may not have been adequate once information was disclosed, and case presented question of first impression regarding Brown Act which was of general importance, and was one in which general guidelines could be laid down for future cases. Kleitman v. Superior Court (App. 6 Dist. 1999) 87 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified, review denied. Mandamus ⇨ 4(4)

18. Disclosure of proceedings by members

Disclosure of closed session proceedings by the members of a legislative body necessarily destroys the closed session confidentiality which is inherent in Brown Act, and thus is prohibited. Kleitman v. Superior Court (App. 6 Dist. 1999) 87 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified, review denied. Municipal Corporations ⇨ 92

Brown Act does not provide for the compelled disclosure of the personal recollections of members of a legislative body regarding unrecorded closed sessions upon allegation or proof of a Brown Act violation. Kleitman v. Superior Court (App. 6 Dist. 1999) 87 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified, review denied. Municipal Corporations ⇨ 92

Members of city council could not be compelled under Brown Act to answer interrogatories regarding their personal recollections of closed session of city council, during which prospective real estate transaction was discussed, in action by city resident who alleged that closed session violated Brown Act. Kleitman v. Superior Court (App. 6 Dist. 1999) 87 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified, review denied. Pretrial Procedure ⇨ 271

Provision of Evidence Code under which public entity is privileged to refuse to disclose official information when the privilege is properly claimed and disclosure is forbidden by a state statute necessarily includes Brown Act's prohibition of disclosure of closed session proceedings of a public agency except as provided by Act. Kleitman v. Superior Court (App. 6 Dist. 1999) 87 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified, review denied. Witnesses ⇨ 216(1)

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(3) Approv 54956.9, at ar settlement is

(A) If the report its act during which

(B) If fina settlement b approval, anc

(4) Dispos reported as : agency claim agreed upon

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(c) The business d amendmen

(d) Not otherwise

(e) No : on behalf body in an

(f) This subdivisio (Added by

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## GOVERNMENT CODE

70 Cal.App.4th 87, as modified, rehearing denied. Schools = 57; Schools =

is warranted with respect to challenge by persons to discovery orders entered in action recorded closed session of council as violation, in which members had been ordered to interrogatories regarding their recollection. Appellate remedies may not have been available if information was disclosed, and case precludes first impression regarding Brown Act's general importance, and was one in which it could be laid down for future cases. Superior Court (App. 6 Dist. 1999) 87 Cal. App.4th 324, as modified, review denied. = 3(4)

of proceedings by members of closed session proceedings by the membership body necessarily destroys the closed session which is inherent in Brown Act, and d. Kleitman v. Superior Court (App. 6 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified. Municipal Corporations = 92) does not provide for the compelled disclosure of recollections of members of a legislative body unrecorded closed sessions upon allegation of a Brown Act violation. Kleitman v. Superior Court (App. 6 Dist. 1999) 87 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified, review denied. Municipal = 92

by council could not be compelled under Brown Act interrogatories regarding their presence at closed session of city council, during which real estate transaction was discussed, in incident who alleged that closed session violated. Kleitman v. Superior Court (App. 6 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified. Pretrial Procedure = 271)

Disclosure Code under which public entity is required to disclose official information when properly claimed and disclosure is forbidden necessarily includes Brown Act's disclosure of closed session proceedings of a meeting as provided by Act. Kleitman v. Superior Court (App. 6 Dist. 1999) 87 Cal.Rptr.2d 813, 74 Cal.App.4th 324, as modified, review denied. Witnesses

by action taken in closed session and pursuant to Section 54956.8 shall be

shall report that approval and the time at which the closed session is held. The local agency shall disclose the substance of the action by any person, as soon as the other

person from seeking appellate review or the result of a consultation during which the closed session is held, and the substance of the litigation. Announcement need not identify the direction to initiate or intervene in proceedings by asterisks \* \* \*

## GOVERNMENT CODE

## § 54957.1

an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as specified below:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in paragraph (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(Added by Stats.2005, c. 72 (A.B.138), § 14, eff. July 19, 2005.)

## Historical and Statutory Notes

## 2005 Legislation

Sections 16 and 17 of Stats.2005, c. 72 (A.B.138), provide:

"SEC. 16. The Legislature finds and declares that Sections 54954.2 and 54957.1 of the Government Code are necessary to implement and reasonably within the scope

Additions or changes indicated by underline; deletions by asterisks \* \* \*