

## CONDITIONAL SETTLEMENT AGREEMENT AND RELEASE

This CONDITIONAL SETTLEMENT AGREEMENT AND RELEASE ("Agreement") is entered into on this 11<sup>th</sup> day of June, 2020 ("Effective Date") by and between the GALT JOINT UNION HIGH SCHOOL DISTRICT, a public school district organized and existing under the laws of the State of California, operating within Sacramento County ("DISTRICT"), on the one hand, and Southwest Voter Registration Education Project, a non-profit corporation organized under the laws of the State of Texas and registered to conduct operations within the State of California, on behalf of itself and its network of registered voters ("Prospective Plaintiffs"), on the other hand. The above parties are referred to herein individually as "Party" and collectively as "Parties."

### RECITALS

- A. The Galt Joint Union High School District Board of Education ("Board") asserts that it is keenly aware of the importance of maintaining a fair election system, and that it has always strived to listen to all voices in the community and represent the interests of the entire community. Currently, members of the Board are elected pursuant to an "at-large" election system in which registered voters of the entire jurisdiction elect each of the members of the Board.
- B. On April 14, 2020, the District received a Notice of Violation ("Notice") of the California Voting Rights Act ("Act") from Prospective Plaintiffs, alleging that the District's at-large system of electing District Board members violates the Act and threatening suit unless the District transitions to a district-based electoral system, an election method in which a candidate must reside within an election district or "trustee area" that is a divisible part of the District and is elected only by voters residing within that election district.
- C. The District denies that the District's at-large electoral system violates the Act. Nevertheless, in recognition that litigation involves significant costs and uncertainty, the District desires to enter into this Agreement.
- D. The District desires to draw the trustee-area boundaries based on 2020 federal decennial Census data, which will not become available until 2021.
- E. The Parties now wish conditionally to resolve and settle the Notice and all attendant and potential litigation arising therefrom.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements described below, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Settling Parties hereby agree:

#### 1. Obligations of Parties

- A. At its regular meeting on June 11, 2020, the District approved Resolution No. 1920-13 stating its intent to institute a district-based election system for District Board elections by the November 2022 regular election if the Parties were agreeable to that

timeline.<sup>1</sup> The District shall take all actions necessary to transition to district-based elections beginning with the November 2022 election, and shall hold no further at-large elections (as that term is defined in the Act) for its Board after November 2020, with the sole exception of a recall election for a previously at-large elected member of the Board.

- B. Because the District adopted the resolution described in subsection A, Prospective Plaintiffs shall not bring suit against the District prior to April 1, 2022 for any cause of action related to the District's electoral system, including, but not limited to, suit seeking the implementation of district-based elections or claims related to or arising from the Notice.
- C. Within 30 days of the Board's approval of this Agreement, the District will remit a payment of \$29,851.95 to Prospective Plaintiffs as reimbursement of its costs incurred for the work product to support the Notice in fulfillment of the requirement to reimburse prospective plaintiffs' reasonable costs pursuant to Elections Code section 10010(f). The check will be made payable to Prospective Plaintiffs' attorneys-of-record – Shenkman & Hughes P.C. Pursuant to Elections Code section 10010(f)(1), Prospective Plaintiffs have made a demand for reimbursement and staff has substantiated that the documentation provided by Prospective Plaintiffs represents the demography and legal costs incurred by Prospective Plaintiffs supporting their Notice.

2. Admissibility of Agreement

This Agreement may not be introduced into or be admissible in any judicial proceeding other than a judicial proceeding to enforce the terms of this Agreement.

3. Release

- A. Subject to the performance of the Parties' obligations in this Agreement, the Parties hereby fully and finally waive, release, and permanently discharge each other (and their respective officers, employees, agents, representatives and attorneys) (the "Releasees"), from any and all past, present, or future matters, claims, demands, obligations, liens, actions or causes of action, suits in law or equity, or claims for damages or injuries, whether known or unknown, which they now own, hold or claim to have or at any time heretofore have owned, held or claimed to have held against each other by reason of any matter or thing alleged or referred to, or in any way connected with, arising out of or in any way relating to the Notice (collectively, the "Released Claims"). In connection with the release of the Released Claims, the Parties waive any and all rights that they may have under the provisions of section 1542 of the California Civil Code, which states as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT  
TO EXIST IN HIS OR HER FAVOR AT THE TIME OF**

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<sup>1</sup> The November 2022 regular election will occur on November 8, 2022.

**EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM  
OR HER MUST HAVE MATERIALLY AFFECTED HIS OR  
HER SETTLEMENT WITH THE DEBTOR.**

In the event that any waiver of the provisions of Section 1542 of the California Code provided for in this Agreement shall be judicially determined to be invalid, voidable or unenforceable, for any reason, such waiver to that extent shall be severable from the remaining provisions of this Agreement, and the invalidity, voidability or unenforceability of the waiver shall not affect the validity, effect, enforceability or interpretation of the remaining provisions of this Agreement.

- B. The Parties understand and acknowledge that the foregoing release extends to any claims or damages, without limitation, arising out of the Released Claims that may exist on the date of the execution of this Agreement, but which the Parties do not know to exist, which, if known, would have materially affected their decision to execute this Agreement, regardless of whether their lack of knowledge is a result of ignorance, oversight, error, negligence or any other cause.
- C. Each Party acknowledges and agrees that this Agreement is a compromise and settlement of their disputes and differences, and is not an admission of liability or wrongdoing by any Party.
- D. Except as provided in Section 1.C. of this Agreement, each of the Parties waives any and all claims for the recovery of any costs, expenses, or fees, including attorney fees, associated with the matters and claims released in this Agreement.

4. Representations and Warranties

- A. Prospective Plaintiffs hereby represent and warrant to the District, as of the Effective Date, as follows:
  - i. They have not heretofore assigned or transferred, or purported to assign or transfer, to any party not named herein any Released Claim, or any part or portion thereof.
  - ii. To the best of their knowledge, there are no legal actions, suits or similar proceedings pending and served, or threatened in writing against the Prospective Plaintiffs that would adversely affect their ability to consummate the transactions contemplated in this Agreement. To the best of their knowledge, Prospective Plaintiffs are not aware of any existing claims nor of any facts that might give rise to any claims of any type or nature against the District, whether asserted or not, that have not been fully released and discharged by the release set forth in this Agreement.
  - iii. Prospective Plaintiffs have freely entered into this Agreement and are not entering into this Agreement because of any duress, fear, or undue influence; this Agreement is being entered into in good faith.

- iv. Prospective Plaintiffs have made such investigation of the facts pertaining to this Agreement as they deem necessary.
  - v. Prospective Plaintiffs have, prior to the execution of this Agreement, obtained the advice of independent legal counsel of their own selection regarding the substance of this Agreement and the claims released herein.
- B. In executing this Agreement, Prospective Plaintiffs acknowledge, represent, and warrant to the District that they have not relied upon any statement or representation of any District officer, agent, employee, representative, or attorney regarding any facts not expressly set forth within this Agreement. In entering into this Agreement, Prospective Plaintiffs assume the risk of any misrepresentations, concealment or mistake, whether or not they should subsequently discover or assert for any reason that any fact relied upon by them in entering into this Agreement was untrue, or that any fact was concealed from them, or that their understanding of the facts or of the law was incorrect or incomplete.
- C. The representations and warranties of each of the Parties set forth in this Section and elsewhere in this Agreement will survive the execution and delivery of this Agreement and are a material part of the consideration to the District in entering into this Agreement.

5. Interpretation

- A. The Parties have cooperated in the drafting and preparation of this Agreement and, in any construction or interpretation to be made of this Agreement, the same shall not be construed against any Party. This Agreement is the product of bargained for and arm's length negotiations between the Parties and their counsel. This Agreement is the joint product of the Parties.
- B. This Agreement is an integrated contract and sets forth the entire agreement between the Parties with respect to the subject matter contained herein. All agreements, covenants, representations and warranties, express or implied, oral or written, of the Parties with regard to such subject matter are contained in this Agreement. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made or relied on by either Party.
- C. This Agreement may not be changed, modified or amended except by written instrument specifying that it amends such agreement and signed by both Parties. No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision whether or not similar, nor shall any waiver be deemed a continuing waiver; and no waiver shall be implied from delay or be binding unless executed in writing by the party making the waiver.
- D. All of the covenants, releases and other provisions herein contained in favor of the persons and entities released are made for the express benefit of each and all of the said persons and entities, each of which has the right to enforce such provisions.

- E. This Agreement shall be binding upon and inure to the benefit of each of the Parties, and their respective representatives, officers, employees, agents, heirs, devisees, successors and assigns.

6. Further Cooperation

Each Party shall perform any further acts and execute and deliver any further documents that may be reasonably necessary or appropriate to carry out the provisions and intent of this Agreement. Except as expressly stated otherwise in this Agreement, actions required of the Parties or any of them will not be unreasonably withheld or delayed, and approval or disapproval will be given within the time set forth in this Agreement, or, if no time is given, within a reasonable time. Time will be of the essence of actions required of any of the Parties.

7. No Third Party Beneficiaries

Nothing in this Agreement is intended to benefit any third party or create a third party beneficiary. This Agreement will not be enforceable by any person not a Party to this Agreement.

8. Enforced Delay (Force Majeure)

- A. Performance by either Party shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, acts of terrorism, epidemic, quarantine, casualties, acts of God, or other similar circumstances beyond the reasonable control of the Parties and which substantially interferes with the ability of a Party to perform its obligations under this Agreement.
- B. An extension of time for any such cause (a "Force Majeure Delay") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Party within thirty (30) days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the Party claiming such delay and interference delivers to the other Party written notice describing the event, its cause, when and how such Party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Either Party claiming a Force Majeure Delay shall deliver such written notice within thirty (30) days after it obtains actual knowledge of the event. The time for performance will be extended for such period of time as the cause of such delay exists but in any event not longer than for such period of time.

9. Governing Law; Venue

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California, without regard to any otherwise applicable principles of conflicts of laws. Any action arising out of this Agreement must be commenced in the state courts

of the State of California, County of Sacramento, and each party hereby consents to the jurisdiction of the above courts in any such action and to venue in the State of California, County of Sacramento, and agrees that such courts have specific personal jurisdiction over each of them.

10. Counterparts

This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

11. Effectiveness

This Agreement shall become effective immediately following execution by each of the Parties and ratification by the Galt Joint Union High School District Board of Education as required by Education Code section 17604.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below ("Date of Execution").

**PROSPECTIVE PLAINTIFFS:**

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

**DISTRICT:**

Galt Joint Union High School District

By: \_\_\_\_\_  
Duly Authorized Representative

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

Attorneys for Prospective Plaintiff:

\_\_\_\_\_

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

\_\_\_\_\_

Attorneys for District:

Atkinson, Andelson, Loya, Ruud & Romo

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

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