

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release (“Agreement”) is entered into and effective this _____ day of _____, 2019, by and between LAKESIDE UNION SCHOOL DISTRICT of Kern County, California, and the SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT, a national non-profit organization (“SVREP”). DISTRICT and SVREP are collectively referenced below as the “Parties,” or individually as a “Party” with reference to the following.

RECITALS

- A. SVREP, founded in 1974, is the largest and oldest non-partisan Latino voter participation and advocacy organization in the United States. SVREP, on behalf of its network of Latino voters and activists, transmitted a demand letter to DISTRICT, dated November 28, 2018 (the “Letter”). The Letter *(i)* alleged racially polarized “at-large” voting in the DISTRICT, that has resulted in minority vote dilution and a violation by DISTRICT of the California Voting Rights Act of 2001 (the “CVRA”), and *(ii)* demanded that the DISTRICT voluntarily change its at-large election system, in favor of a by-trustee area election system.

- B. The DISTRICT had a population of 8,833 according to the 2010. A facilities study prepared in 2018, however, reflected a population loss of over 1,200 persons. In contrast, the 2012-2016 special tabulation of the American Community Survey estimated a population increase to 10,841, but with large margin of error.

- C. In February 2019, the DISTRICT adopted Resolution No. 02282019, declaring the DISTRICT’s intention to transition from at-large elections to by-trustee area elections pursuant to California Elections Code § 10010 and California Education Code § 5019. The Resolution instructed the Superintendent, in consultation with legal counsel, to discuss the timing of the establishment of trustee areas elections with counsel for SVREP.

- D. Based upon DISTRICT’s representations concerning the uncertainties regarding the 2010 Census as an accurate reflection of the current population in the District and inconsistent estimates concerning the current population of the District, that will only be accurately reflected in the 2020 census, SVREP stated its willingness to allow the DISTRICT to utilize the results of the 2020 census conducted by the United States Census Bureau to adopt and propose to the Kern County Committee on School District Organization for its approval pursuant to Education Code § 5019 a by- trustee area election system to be effective beginning with the DISTRICT’s 2022 election.

- E. The DISTRICT adopted Resolution No. 02282019 and is entering this Agreement because it wishes to avoid litigation, including the exposure to pay not only its own attorneys' fees, but also those of SVREP.
- F. The Parties intend this Agreement to be a full, complete and final settlement between the Parties of all claims and issues arising from and related to any alleged violation of the CVRA by the DISTRICT, and shall serve as the final resolution of this matter.

NOW THEREFORE, and in consideration for the promises contained herein, and other good and valuable consideration, receipt of which is acknowledged by the execution of this Agreement, and to avoid unnecessary litigation, it is agreed by and between the Parties as follows:

I. NO ADMISSION OF LIABILITY AND RELEASES

- A. **No Admission of Liability.** Neither this Agreement nor compliance with this Agreement shall in any way be construed as an admission by either Party of the truth or falsity of any allegation in the Letter related to the DISTRICT's non-compliance with the CVRA, or as an admission of any unlawful act, omission, or any other liability whatsoever on the part of either Party. Each of the Parties specifically disclaims any liability to or against the other, or against any other person or entity.
- B. **SVREP Release of Claims.** SVREP hereby and forever releases and discharges DISTRICT, as well as DISTRICT's past and present board members, officials, employees, contractors, agents, volunteers, attorneys, divisions, departments, representatives, insurers, successors in interest and assigns, and all persons acting by, through, under, or in concert with any of them (in the aggregate, and each one of "DISTRICT's Related Parties") from any and all causes of action, rights, claims, judgments, liens, indebtedness, damages, losses, liabilities, and demands of whatsoever kind or character, known or unknown, suspected to exist or not suspected to exist, anticipated or not anticipated, whether or not it has been brought before any state or federal court, or before any state or federal agency or other governmental entity (in the aggregate and each "Claim(s)"), through the date of certification of the November 3, 2020 election results and swearing-in of members of the Board of Trustees elected in that election ("Released Claim(s)"). SVREP understands and agrees that this Agreement extends to all Released Claims of every nature and kind, known or unknown, suspected, past, or present. SVREP understands and agrees that it is waiving any rights it has or may have had, to pursue any and all remedies available to it, or to any of its predecessors, successors, affiliates or related entities or persons, members, managers, partners,

employees, contractors, volunteers, agents, representatives, attorneys, and assigns (in the aggregate, and each one of "SVREP's Related Parties") in relation to any Released Claim against DISTRICT or any of DISTRICT's Related Parties. The Released Claims that SVREP releases hereunder include without limitation any Released Claim that is a "tort claim" or "government claim" under California Government Code § 910, *et seq.*, and all other Released Claims arising in contract, tort or equity under any other statute, whether federal, state or local up to the date of execution of this Agreement.

C. DISTRICT's Release of Claims. DISTRICT hereby and forever releases and discharges SVREP, as well as SVREP's Related Parties, from any and all Released Claims, through the date of certification of the November 3, 2020 election results and swearing-in of members of the Board of Trustees elected in that election. DISTRICT understands and agrees that this Agreement extends to all Released Claims of every nature and kind, known or unknown, suspected, past, present or future. DISTRICT understands and agrees that it is waiving any rights it has, may have had, or may have in the future, to pursue any and all remedies available to it, or to any of DISTRICT's Related Parties, in relation to any Released Claim against SVREP or any of SVREP's Related Parties.

D. Civil Code Section 1542 Waiver. Each of the Parties hereby certifies that it has read and now expressly waives any and all rights that it may have, now or at any time in the future, pursuant to California Civil Code section 1542, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The Parties recognize and acknowledge that factors which have induced them and each of them to enter into this Agreement may turn out to be incorrect or to be different from what they had previously anticipated, and they hereby expressly assume the risks of waiving the rights provided by California Civil Code section 1542.

SVREP
Initials

DISTRICT
Initials

II. TERMS OF AGREEMENT

- A. The true and correct recitals above are incorporated by this reference in this Agreement, including the exhibit referenced therein.
- B. Consistent with the “safe harbor” law codified in California Elections Code Section 10010(f)(3), DISTRICT will pay to SVREP’s attorneys – Shenkman & Hughes - the “Settlement Proceeds,” in a lump sum payment of Thirty Thousand dollars (\$30,000.00), or a lesser amount in the event that the invoice(s) described below total a lesser amount, within no more than thirty (30) business days of DISTRICT’s receipt of: (i) this Agreement, fully executed by SVREP, and (ii) an invoice, redacted as reasonably deemed necessary by SVREP’s legal counsel in a manner consistent with attorney-client privilege, documenting the legal fees incurred by SVREP in the amount or in excess of the Settlement Proceeds.
- C. Each of the Parties accepts the releases of the other provided in Section II above, and the consideration, if any required by this Section III, as full and adequate consideration for the releases it provides and the consideration it tenders hereunder.
- D. The DISTRICT will take the following actions within the following time frames to comply with California Elections Code Section 10010 and complete its transition to district-based elections:
- 1) On or before March 31, 2021, the United States Census Bureau anticipates providing 2020 census data to the States. The DISTRICT shall monitor release of the census data from the Bureau and the State of California and shall report at each of its board meetings following the proposed release what it has learned about the status of the release and the DISTRICT’s receipt of census data.
 - 2) Within thirty (30) days of receiving the census data the DISTRICT will share it with SVREP.
 - 3) Within thirty (30) days of receiving the census data the DISTRICT will submit the data to the DISTRICT’s retained demographer.
 - 4) Prior to drawing any maps based on the census data, DISTRICT shall hold two public hearings at two successive regular board meetings to receive public input on the composition of potential trustee area maps.

- 5) On or before July 31, 2021, DISTRICT shall hold the first public meeting to present to the public the preliminary draft trustee area map options for public comment regarding the content of the trustee areas and the potential sequence of elections in the trustee areas.
- 6) On or before August 31, 2021, DISTRICT shall hold a second public hearing to present to the public the draft trustee area map options, any changes made thereto, and any new options developed for further public comment regarding the content of the trustee areas and the potential sequence of elections in the trustee areas.
- 7) On or before October 31, 2021, the DISTRICT shall hold a final public hearing to present to the public the draft trustee area map options, any changes made thereto, and any new options developed for further public comment regarding the content of the trustee areas and the potential sequence of elections in the trustee areas. After close of the public hearing, the Board of Trustees of the DISTRICT shall select a draft trustee area map, adopt the draft trustee area map by resolution, and forward the draft trustee area map to the Kern County Committee on School District Organization in accordance with Education Code § 5019.

III. GENERAL PROVISIONS

- A. **Each Party to Bear Own Fees and Costs.** Except as provided in Section II.B. of this Agreement, each Party shall bear their own costs, expenses and attorneys' fees incurred in connection with the proceedings and/or events resulting in this Agreement, or in connection with any other claims made or investigated by either Party against the other in any forum (civil, criminal, administrative or quasi-administrative) up to the date of this Agreement, and each of the Parties hereto expressly waives any claim for recovery of any such costs, expenses or attorneys' fees from the other Party. Except as specified above in Section II.B., the attorneys for all Parties to this Agreement do likewise expressly waive any claim for recovery of costs, expenses and/or attorneys' fees from the opposing Party. Neither Party shall be deemed a "prevailing party" by virtue of executing this Agreement.
- B. **No Prior Assignments.** SVREP represents that it has not assigned or transferred, or purported to assign or transfer, to any person or entity, any Claim or any portion thereof or interest therein against DISTRICT.
- C. **Enforcement.** This Agreement is made and entered into in the State of California and shall be governed, interpreted, and enforced under the laws of the State of California, and applicable Federal Law. To the extent that any Party brings an


action to enforce the terms of this Agreement, such action shall be filed and prosecuted in the Superior Court of California, in and for Kern County. The Parties further agree that this Agreement may be used as evidence in any subsequent proceeding in which either of the Parties alleges a breach of this Agreement or seek to enforce the terms, conditions, provisions, or obligations.

- D. **Covenant to Effectuate Agreement.** Each Party hereto agrees to do all things and execute and deliver all instruments and documents necessary to fulfill and effect the provisions of this Agreement and to protect the respective rights of the Parties to this Agreement.
- E. **Waiver of Terms of Agreement.** No waiver by any Party of any breach of any term or provision of this Agreement shall be construed to be, nor be, a waiver of any preceding, concurrent or succeeding breach of the same, or any other term or provision hereof. No waiver shall be binding unless in writing and signed by the Party to be charged or held bound. It is further understood and agreed that if, at any time, a breach of any term of this Agreement is asserted by any Party hereto, that Party shall have the right to seek specific performance of that term and/or any other necessary and proper relief, including, but not limited to, damages.
- F. **No Duress or Undue Influence.** The Parties represent and agree that they have carefully read and fully understand all of the provisions of this Agreement, and that they are voluntarily, without any duress or undue influence on the part of or on behalf of any Party, entering into this Agreement.
- G. **Entire Agreement.** This Agreement contains all of the terms and conditions agreed upon by the Parties hereto regarding the subject matter of this Agreement. Any prior agreements, promises, negotiations, or representations, either oral or written, relating to the subject matter of this Agreement, not expressly set forth in this Agreement, are of no force or effect.
- H. **Interpretation.** This Agreement has been jointly negotiated. The language in this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any of the Parties, regardless of the initial drafting of this Agreement by DISTRICT.
- I. **Severability.** In the event that any one or more provisions of the Agreement shall be declared to be illegal, invalid, unenforceable, and/or void by a court of competent jurisdiction, such provision or portion of this Agreement shall be deemed to be severed and deleted from this Agreement but this Agreement shall in all other respects remain unmodified and continue in force and effect.


- J. **Authority.** Each of the persons executing this Agreement on behalf of a Party warrants that they are duly authorized to execute this Agreement on behalf of that Party, and that by so executing this Agreement the Party in question is formally bound to the provisions of this Agreement.
- K. **Execution of Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, or a facsimile or digital transmission of this Agreement, including signatures, shall be deemed to constitute evidence of the Agreement having been executed.

IN WITNESS WHEREOF, the Parties hereto have executed the Settlement Agreement and General Release.

**SOUTHWEST VOTER REGISTRATION
EDUCATION PROJECT**

Dated: June 27, 2019 By: 
Lydia Camarillo, Its President

APPROVED AS TO FORM:


Shenkman & Hughes
By: Kevin I. Shenkman,
Attorneys for Southwest Voter
Registration Education Project

LAKESIDE UNION SCHOOL DISTRICT

Dated: _____ By: _____
_____, Superintendent
Lakeside Union School District

SIGNATURES CONTINUE ON NEXT PAGE

APPROVED AS TO FORM:

Schools Legal Service
By: Grant Herndon
Attorneys for Lakeside Union School District

APPROVED AS TO FORM:

Nielsen Merksamer Parrinello Gross &
Leoni LLP
By: Marguerite Mary Leoni
Attorneys for Lakeside Union School District