

MUTUAL RELEASE AND SETTLEMENT AGREEMENT

This Mutual Release and Settlement Agreement (“Settlement Agreement”) is being made by and among Plaintiff Joseph V. Aguirre (“Plaintiff” or “Aguirre”), on the one hand, and the City of Placentia (“Defendant” or “Placentia”), on the other hand (collectively, “the Parties”).

1. Recitals

- 1.1. Pursuant to an “Amended Settlement Agreement” between the Parties dated July 19, 2016 (“Prior Settlement”), on May 1, 2018, the City considered various proposals, including what is known in this litigation as “the Olive Map,” in order to establish a district-based system for the election of city councilmembers.
- 1.2. On May 1, 2018, the City Council voted to adopt Emergency Ordinance No. O-2018-03 establishing district boundaries and incorporating the Olive Map as the relabeled “Council District Map.”
- 1.3. On June 19, 2018, the City Council also adopted Ordinance No. O-2018-02 establishing district boundaries and incorporating the Olive Map as the relabeled “Council District Map.”
- 1.4. On June 15, 2018, Plaintiff filed a complaint for breach of contract against the City in the Orange County Superior Court (Case No. 30-2018-00999734-CU-BC-NJC), alleging that the City’s adoption of the Olive Map failed to comply with the terms of the Prior Settlement (“Action”). Plaintiff thereafter filed a First Amended Complaint, the operative complaint in this Action.
- 1.5. The City denied all material substantive allegations of the First Amended Complaint, denied any liability thereunder, alleged a number of affirmative defenses, and denied that Plaintiff was or is entitled to any relief.
- 1.6. On May 31, 2019, the Parties participated in a second settlement conference after completing an unsuccessful mandatory settlement conference on March 15, 2019.
- 1.7. In order to avoid uncertainty and further costs of litigation and because of the possible exposure of the Parties to further or additional awards of attorneys’ fees following trial and potential appeals, and to achieve finality and certainty on issues of public importance relating to the system of election for members of the City Council, it is now the mutual desire of the Parties hereto to compromise and settle all of the claims and disputes among themselves and to end the litigation referred to above, and to resolve without further litigation all claims, allegations, contentions, and possible causes of action among the Parties.
- 1.8. The Parties hereto, and each of them, believe that the settlement and release contained herein constitutes a fair, reasonable, equitable, and good faith settlement of their respective claims, contentions, and disputes.

2. **Release and Settlement**

- 2.1. **Proposed Adjusted Map.** The City shall propose the 2019 Adjusted Map attached hereto as **Exhibit A** for the district elections of members of the City Council.
- 2.2. **Public Hearings Requirement.** After holding a public hearing on the proposal to adjust the boundaries as required in Elections Code 21621, the City Council shall hold a public hearing at which it votes to approve or defeat the proposal to adopt the 2019 Adjusted Map.
- 2.3. **Agreement Contingent on Map Approval.** This Settlement Agreement is contingent on approval of the 2019 Adjusted Map and shall become final and binding upon the effective date of a City ordinance adopting the 2019 Adjusted Map. In the event that the City Council does not adopt the 2019 Adjusted Map by August 30, 2019, this Settlement Agreement is null and void.
- 2.4. **Application for 2020 Elections.** If the City Council votes to approve the 2019 Adjusted Map, that Map shall apply for the 2020 elections of members of the City Council, and elections shall be held in Districts 1, 3 and 5 of the 2019 Adjusted Map on November 3, 2020. The November 3, 2020 elections in Districts 1, 3 and 5 shall be for four-year terms.
- 2.5. **Attorneys' Fees and Costs.** If the City Council votes to approve the 2019 Adjusted Map, the City shall pay Plaintiff \$138,000 in settlement of all costs, expenses, and fees associated with the litigation. The City shall pay to Plaintiff's counsel the amount set forth in this Section within thirty (30) days following the effective date of the ordinance adopting the 2019 Adjusted Map.
- 2.6. **Notifying Court.** No more than five (5) business days after the ordinance adopting the 2019 Adjusted Map becomes effective, Plaintiff shall notify the Court of the Parties' settlement of this Action.
- 2.7. **Retaining Jurisdiction.** Pursuant to Code of Civil Procedure Section 664.6, the Court shall retain jurisdiction over the Parties to enforce the Settlement Agreement until performance in full of the terms of the Settlement Agreement, including until the November 3, 2020 City Council elections are certified in accordance with law. No more than five (5) business days after the ordinance adopting the 2019 Adjusted Map becomes effective, Plaintiff shall make this request of the Court. This provision applies only to the terms of the Settlement Agreement. This provision does not apply to issues or claims arising out of actions taken by the County of Orange in conducting the City's elections, including issues or claims unrelated to the boundaries and/or election sequence of the 2019 Adjusted Map.
- 2.8. **Dismissal.** No more than five (5) business days after receipt of payment pursuant to section 2.5, Plaintiff shall file a request for dismissal of the Action in its entirety with prejudice.

- 2.9. **Redistricting following 2020 Census.** No provision in this Settlement Agreement shall be interpreted to preclude the City from adjusting the district boundaries following the 2020 Census to comply with Section 600 of the City of Placentia Charter and Elections Code Sections 21620 *et seq.*, as may be amended.
- 2.10. **Satisfaction of Prior Settlement.** If the City Council votes to approve the 2019 Adjusted Map and the 2019 Adjusted Map is applied for the 2020 election of members of the City Council in Districts 1, 3, and 5, the City is deemed to have met all of its obligations under the Prior Settlement dated July 19, 2016 by and between the City and Plaintiff, also referred to as "Amended Settlement Agreement."

3. **General Settlement Provisions**

- 3.1. **Release of Claims.** Excepting rights arising in connection with and obligations set forth in this Settlement Agreement, each of the Parties hereto does hereby forever and fully release, acquit, and discharge each other and their respective officers, directors, stockholders, partners, employees, agents, representatives, successors, heirs, assigns, affiliates, and attorneys, and each of them, of and from any and all obligations, claims, liabilities, and demands of whatsoever character, whether known or unknown, arising out of any fact, event, or occurrence contained in the Action.

Each of the Parties agrees that this Settlement Agreement shall apply to all unknown or unanticipated results of the matters, claims, and controversies specified herein, as well as those known and anticipated, and, upon advice of legal counsel, each party hereto does hereby waive any and all rights under California Civil Code Section 1542, which section provides 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 executing the release, which if known by him or her must have materially affected his settlement with the debtor."

Plaintiff's Initials



Defendant's Initials



- 3.2. **Compromise.** This Settlement Agreement is the result of a compromise of disputed claims between the Parties.
- 3.3. **Legal Counsel Advice.** The advice of legal counsel has been obtained by each of the Parties prior to the execution of this Settlement Agreement. Each of the Parties hereby executes this Settlement Agreement voluntarily and with full knowledge of its significance and with the express intention of effecting the extinguishment of any and all obligations, liabilities, or claims arising out of the matters, claims, and controversies specified herein, except as otherwise specified herein.
- 3.4. **Assumption of Risk.** The Parties hereto, and each of them, do hereby expressly assume the risk of any mistake of fact and the risk that the true facts might be other or different from facts now known or believed to exist, and it is the express intention of each of the Parties hereto forever to settle, adjust, and compromise any and all disputes between them regarding the subject matter of this Settlement Agreement, and without regard to

who may or may not have been correct in their respective understandings of the facts or the law relating thereto.

- 3.5. **No Reliance on Promise.** Each of the Parties has made such investigation of the facts and the law pertaining to the matters described herein and to the terms of this Settlement Agreement as he/she/it deems necessary, and none of the Parties has relied nor does rely on any promise or representation made by any of the other Parties with respect to any such matters.
- 3.6. **No Reliance on Statements.** In making and executing this Settlement Agreement, the Parties hereto, and each of them, do not rely and have not relied upon any statement or representation, oral or written, made by any of the other Parties to this Settlement Agreement with regard to any of the facts involved in any dispute or possible dispute between or among any of the Parties hereto, or with regard to the advisability of making and executing this Settlement Agreement.
- 3.7. **No Assignment or Transfer.** Each of the Parties hereto represents and warrants that no portion of any claim, right, demand, action, or cause of action which it has or might have arising out of the matters, claims, and controversies specified herein, nor any portion of any recovery or settlement to which each party might be entitled has been assigned or transferred to any other person, firm, or corporation not a party to this Settlement Agreement, in any manner, including by way of subrogation or operation of law or otherwise. In the event that any claim, demand, or suit should be made or instituted against any party or parties because of any such purported assignment, subrogation, or transfer, the party or parties from whom such purported assignment, subrogation, or transfer was alleged to have originated or occurred agrees to indemnify and hold harmless the other party or parties against such claim, suit, or demand, including the payment of all reasonable and necessary expenses of investigation, attorneys' fees, and costs.
- 3.8. **Integrated Agreement.** All agreements, covenants and representations, oral or written, of the Parties concerning the subject matter of this Settlement Agreement are contained herein. No other agreements, covenants or representations, oral or written, have been made by any party to any other party concerning the subject matter of this Settlement Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations and covenants concerning the subject matter of this Settlement Agreement are merged herein. This is a fully integrated document.
- 3.9. **Authority to Execute.** (a) Each of the Parties has read and understands the contents of this Settlement Agreement.
- (b) Each of the Parties of this Settlement Agreement and their respective attorneys, hereby represent, warrant, and agree, each to the other, that they have full power and authority to execute this Settlement Agreement, to execute and file all papers contemplated herein, to pay any sums provided for herein, and to do any and all things reasonably required to effectuate the terms of this Settlement Agreement.

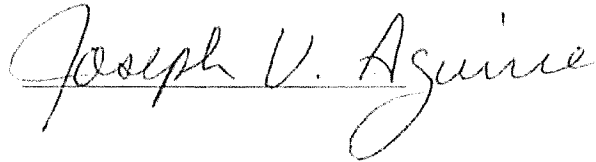
- 3.10. **Governing Law.** This Settlement Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California applicable to such instruments, persons, transactions, and subject matter which have legal contexts and relationship solely within the State of California.
- 3.11. **Severability.** If any term or provision of this Settlement Agreement, or the application thereof, to any persons or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term or provision of this Settlement Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 3.12. **Multiple Originals.** This Settlement Agreement may be executed in counterparts and shall not become effective until all Parties required to execute this Settlement Agreement have done so.
- 3.13. **Amendments to be in Writing.** This Settlement Agreement may not be amended, canceled, revoked, or otherwise modified except by written agreement executed by all of the Parties.

WHEREFORE, the Parties hereto have executed this Settlement Agreement on the dates set forth opposite their respective signatures.

Dated:

7/8/19

JOSEPH V. AGUIRRE



Dated:

July 18, 2019


CITY OF PLACENTIA




Rhonda Shader, Mayor

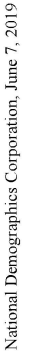
Approved as to form:

MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

By: 
Julia Gomez
Attorneys for Plaintiff

RICHARDS, WATSON & GERSHON, A Professional Corporation

By: 
Youstina N. Aziz
Special Counsel, City of Placentia



City of Placentia - 2019 Adjusted Map							
District		1	2	3	4	5	Total
	Total Pop	10,685	9,696	10,081	10,044	10,050	50,555
(Estimated After Block Splits)	Deviation from ideal	574	-415	-30	-67	-61	989
	% Deviation	5.67%	-4.11%	-0.30%	-0.66%	-0.61%	9.78%
Demographic data below are calculated based on whole, unsplit Census Blocks							
Total Pop	% Hisp	80%	37%	25%	16%	17%	36%
	% NH White	12%	43%	50%	57%	66%	45%
	% NH Black	2%	2%	3%	2%	1%	2%
	% Asian-American	5%	16%	21%	24%	14%	16%
Voting Age Pop	Total	7,651	7,651	7,592	7,730	7,480	38,104
	% Hisp	75%	34%	22%	14%	15%	32%
	% NH White	16%	46%	54%	59%	69%	49%
	% NH Black	2%	2%	3%	2%	1%	2%
	% Asian-American	6%	16%	20%	24%	14%	16%
Citizen Voting Age Pop	Total	4,005	6,819	7,162	7,341	7,252	32,578
	% Hisp	61%	28%	26%	17%	17%	27%
	% NH White	25%	51%	53%	57%	66%	53%
	% NH Black	1%	3%	2%	2%	1%	2%
	% Asian/Pac.Isl.	13%	16%	18%	23%	16%	18%
Voter Registration (Nov 2016)	Total	2,785	5,075	5,527	6,648	6,398	26,432
	% Latino est.	54%	34%	22%	17%	18%	25%
	% Asian-Surnamed	7%	8%	11%	12%	8%	10%
	% Filipino-Surnamed	2%	1%	1%	2%	1%	1%
	% Spanish-Surnamed	49%	30%	19%	16%	16%	23%
	% NH White est.	29%	54%	63%	64%	72%	60%
	% NH Black	1%	3%	2%	2%	1%	2%
Voter Turnout (Nov 2016)	Total	2,011	4,028	4,402	5,466	5,347	21,253
	% Latino	52%	32%	20%	17%	17%	24%
	% Asian-Surnamed	6%	8%	10%	11%	7%	9%
	% Filipino-Surnamed	1%	1%	1%	2%	1%	1%
	% Spanish-Surnamed	46%	29%	18%	15%	15%	21%
	% NH White est.	32%	56%	65%	66%	74%	63%
	% NH Black	1%	3%	2%	2%	1%	2%
Voter Turnout (Nov 2014)	Total	914	2,041	2,064	2,735	3,178	10,931
	% Latino	37%	22%	16%	11%	11%	16%
	% Asian-Surnamed	7%	6%	8%	8%	5%	7%
	% Filipino-Surnamed	1%	1%	1%	1%	0%	1%
	% NH White est.	43%	67%	73%	75%	84%	73%
	% NH Black est.	1%	3%	2%	1%	0%	1%
ACS Pop. Est.	Total	11,221	10,007	10,603	10,453	9,680	51,964
Age	age0-19	34%	24%	27%	25%	23%	27%
	age20-60	56%	62%	57%	52%	51%	56%
	age60plus	10%	15%	15%	23%	26%	18%
Immigration	immigrants	42%	31%	21%	23%	17%	27%
	naturalized	26%	41%	59%	63%	63%	45%
Language spoken at home	english	26%	52%	69%	69%	78%	58%
	spanish	64%	30%	14%	14%	8%	27%
	asian-lang	6%	9%	12%	12%	9%	10%
	other lang	3%	9%	5%	5%	5%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	35%	20%	10%	13%	8%	17%
Education (among those age 25+)	hs-grad	40%	49%	54%	52%	51%	49%
	bachelor	12%	20%	27%	27%	28%	23%
	graduatedegree	6%	13%	10%	13%	17%	12%
Child in Household	child-under18	45%	32%	40%	33%	29%	36%
Work (percent of pop age 16+)	employed	63%	64%	65%	60%	57%	62%
	Commute on Public Transit	7%	3%	1%	1%	1%	3%
Household Income	income 0-25k	23%	18%	11%	14%	9%	14%
	income 25-50k	29%	21%	13%	12%	14%	17%
	income 50-75k	17%	17%	16%	14%	13%	15%
	income 75-200k	26%	40%	52%	49%	51%	44%
	income 200k-plus	4%	5%	8%	12%	14%	9%
Housing Stats	single family	53%	51%	77%	85%	91%	72%
	multi-family	47%	49%	23%	15%	9%	28%
	vacant	4%	6%	4%	2%	2%	3%
	occupied	96%	94%	96%	98%	98%	97%
	rented	61%	58%	33%	21%	16%	37%
	owned	39%	42%	67%	79%	84%	63%
Total and Voting Age population data from the 2010 Decennial Census.							
Surname-based Voter Registration and Turnout data from the California Statewide Database.							
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop, Age, Immigration, and other demographics from the 2011-2015 American Community Survey and Special Tabulation 5-year data.							