

## SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS

The parties to this SETTLEMENT AGREEMENT AND GENERAL RELEASE OF CLAIMS (“Agreement”) are Armando Sanchez, Alfred Williams and Juan Reinoso (referred to as “Plaintiffs” herein), on the one hand, and the City of West Covina, a California city and municipal corporation (sometimes referred to as “Defendant” or “City”), on the other. These persons and entity are sometimes referred to as “Parties” or “each Party” herein. The terms “Plaintiffs” and “Parties” shall also mean an individual Plaintiff or Party in all instances in which those terms are used in the provisions of this Agreement. This Agreement is effective as of the latest date written next to the signature of a Party to this Agreement.

### I. Recitals.

The purpose of this Agreement is to settle the action filed in the Los Angeles County Superior Court under the California Voting Rights Act (“CVRA”) entitled *Armando Sanchez; Alfred Williams; and Juan Reinoso v. City of West Covina, California*, Case No. BC634674 (“CVRA Lawsuit”).

The Parties desire to settle the CVRA Lawsuit and to fully and finally settle any and all matters between them arising out of, or relating to, the CVRA Lawsuit, or any claims or potential claims relating to the City’s at-large electoral system based on events or facts occurring prior to the date of this Agreement, without any further court proceedings, trial, appeal or adjudication of any issue of fact or law, and without any admission by any Party with respect to such matters, except as otherwise provided herein.

### II. Terms and Conditions of the Settlement Agreement.

In consideration of the mutual promises herein, the Parties agree:

#### 1. Ordinance for “By-district” Elections.

a. On January 17, 2017, the City Council of the City of West Covina (“City Council”) adopted Ordinance No. 2310, which would make effective a change of the City’s election system from “at-large” to “by-district,” as those terms are defined in California Elections Code Section 14026, with the whole of the City to be divided into five (5) districts and one council member to be elected by and from each district, making up a council of five members. In addition, the City Council adopted an ordinance on December 6, 2016, Ordinance No. 2303, which would change the City’s municipal elections to November of even years, beginning with the November 2018 election.

However, this ordinance is subject to approval by the County of Los Angeles, and does not become final until such approval.

b. Existing Council Members shall be permitted to complete their existing terms.

c. The first district elections will be held in November 2018 and will fill the three positions held by members of the City Council whose terms were originally scheduled to expire in November 2017 but were extended by one year by the City Council's adoption of Ordinance No. 2303, moving the City's election date to comply with SB 415. In recognition that this Settlement Agreement is entered into to resolve claims made under the CVRA, which has the purpose of ensuring fair opportunity for electoral participation of all voters in California, at least one of the three districts in which members will be elected in November 2018 shall be chosen in order to enhance the direct representation by local area residents of geographical areas of the City which have had the fewest residents elected to the city council during the past ten years. Those geographical areas ("previously under-represented districts" for purposes of this paragraph), shall be identified by the process set forth below in this paragraph. The City shall map the residential locations of members elected to the city council (based on the location of his/her residence at the time of the election) during the period 2007-2016 and count the number of occasions a person residing in each district adopted by the City Council was elected to the city council. The two districts with the lowest number of occasions of a resident being elected to the city council during the period 2007-2016 shall be the previously under-represented districts.

**2. Design and Implementation of Electoral District Map and Electoral Plan.** In adopting a map for the district-based election system, the City shall follow California's requirements for establishing voting districts, including Government Code Section 34877.5 (effective January 1, 2017). Within thirty (30) days of the execution of this Settlement Agreement, Defendant shall initiate the process of designing electoral districts pursuant to Ordinance No. 2310, by proceeding with issuance of a Request for Proposals (RFP), as provided in the West Covina Municipal Code, for demographic/mapping consultant services.

The City's RFP shall request proposals to be received by April 15, 2017. After staff review and preparation of the materials submitted, the City shall thereafter expeditiously select a districting consultant and enter into a Professional Services Agreement. The City shall endeavor to complete this process by June 6, 2017. The districting consultant shall be responsible for developing possible district maps, based on the criteria set forth in Elections Code Section 21601 and federal law, which are consistent with input from the council members and the public. To avoid all doubt, neither the residence addresses of incumbent City Council members nor the residence addresses of potential candidates shall be considered in designing the district map. A

final map and designation of the sequence for district elections will be adopted by the City Council by December 16, 2017. In considering and selecting from among the district maps, the City Council shall have authority to adopt and require such procedures for public input and participation, including notices and hearings, as are required by law and such other measures as it may determine consistent with the process and schedule specified in this paragraph.

Plaintiffs and Plaintiffs' counsel shall be given written notice of each meeting date for community meetings, information sessions, and public hearings and shall be permitted to provide input to be considered by the City Council with regard to the districting maps and electoral plans.

**3. Expenses and Attorneys' Fees.** The Parties to this Agreement shall engage in good faith negotiations to attempt to agree as to Plaintiffs' claim for attorneys' fees and costs associated with the CVRA lawsuit. If the Parties are unable to reach agreement as to that claim through negotiations, they shall engage in mediation on the issue of Plaintiffs' entitlement to and/or the amount of such attorneys' fees and costs to which Plaintiffs may be entitled as a result of the CVRA Lawsuit. Within 30 days of either side demanding mediation, mediation shall be scheduled for as prompt a date as practicable considering the schedules of both the selected mediator and necessary participants. In the event that the Parties are not able to resolve the entitlement and/or amount of fees and costs through negotiation or mediation, the Parties agree that the issue shall be determined by a final and binding arbitration process to be conducted by a mutually selected arbitrator, who may be, but is not required to be, the same person who served as the mediator. If the Parties cannot agree within thirty (30) days after the failure of mediation upon designation of an arbitrator and an arbitration process, the determination of Plaintiffs' entitlement to and/or the amount of fees and costs shall be made by an arbitrator selected pursuant to JAMS arbitration procedures from the JAMS arbitration panel for Los Angeles or Orange County, who shall proceed under JAMS arbitration rules and procedures and who shall apply California law including provisions of the CVRA applicable to awards of fees and costs.

Negotiations and proceedings pursuant to the previous paragraph shall be conducted under the following timelines. Plaintiffs' counsel shall submit to Defendant's counsel a written fee demand, with supporting documents, within forty-five (45) days of execution of this Agreement. If the Parties cannot negotiate settlement of any such fee demand within forty-five (45) days after the submission of such demand, the Parties will, within thirty (30) days, select a mutually acceptable mediator and schedule a date for a mediation to be held within sixty (60) days after the mediator's selection. The costs of any such mediator are to be split equally between the sides. If mediation does not result in settlement, Plaintiffs' may file their demand for determination as to their entitlement to fees and costs and/or the amount of any such fees and costs that may be permitted, if any,

in arbitration. Such arbitration demand shall be filed and served within sixty (60) days of the conclusion of mediation.

**4. Stay of Proceedings.** Upon execution of this Agreement, all litigation activities relating to the CVRA Lawsuit between the Parties to this Agreement other than those necessary to effectuate this Agreement or ordered by the Court, will be suspended until the Court issues a ruling on the Parties' joint request for a stay of the litigation described in this paragraph. Within fifteen (15) days after all Parties execute this Agreement, the Parties will execute and the City will file a joint stipulation advising the Court in the CVRA Lawsuit of this settlement and requesting a stay of the litigation in accordance with its terms.

**5. Dismissal with Prejudice.** Plaintiffs will dismiss with prejudice the CVRA Lawsuit after the City has satisfied the provisions of this Agreement which require (i) final adoption of a districting map and election plan as specified in paragraph 2, and (ii) determination of Plaintiffs' entitlement to fees and costs for the CVRA lawsuit. The dismissal with prejudice shall be filed within ten (10) business days after the date on which the last to occur of the above-listed events takes place.

**6. No New LawsUIT.** Plaintiffs agree that they will not file, or assist in any way (for example, and without limitation by soliciting new potential plaintiffs, referring new potential plaintiffs to Plaintiff's counsel herein, or providing pleadings, briefs, reports, discovery, investigations or any other document or matter prepared in connection with, or anticipation of the CVRA Lawsuit) to any other person to investigate, analyze, prepare for or file, another lawsuit against the City, alleging a violation of the California Voting Rights Act, Section 2 of the federal Voting Rights Act, or a voting rights violation under the Constitutions of the State of California or of the United States of America based on the facts alleged (or which could have been alleged) in the Complaint in the CVRA Lawsuit. This limitation on Plaintiffs' actions shall remain effective only so long as the City continues to utilize a district election system adopted pursuant to the provisions of paragraph 2 of this Agreement through at least the elections of November 2020.

**7. Release of Claims.** In return for the mutual promises and other consideration provided in this Agreement, the Parties, for themselves and their past, present or future heirs, beneficiaries, executors, administrators, officers, employees, directors, agents, partners, successors and assigns, including past, present or future City Council members ("Releasers"), do, upon compliance with the requirements of this Agreement, as specified above, fully release, acquit, waive and forever discharge one another, including their heirs, beneficiaries, executors, administrators, officers, employees, directors, agents, partners, successors and assigns, and their past, present or future City Council members ("Releasees"), from any and all claims, actions, causes of action, factual allegations, demands (including without limitation demands for equitable

and injunctive relief), debts, damages, costs, expenses including expert fees, losses, or attorney's fees of whatever nature involving the City's at-large electoral system, whether or not known, suspected or claimed (i) arising out of, based on, or in any way related to the facts alleged (or facts that could have been alleged) in the Complaint in the CVRA Lawsuit or (ii) the "at-large" electoral system of Defendant City, including, but not limited to Claims based upon the Constitution of the United States of America, the Constitution of the State of California, the CVRA, Section 2 of the federal Voting Rights Act, California Elections Code § 14030, or California Code of Civil Procedure § 1021.5 ("Claims"), which Claims the Releasors have or may have against the Releasees, based on events or facts occurring up to and including the date of this Agreement, except for their rights to enforce this Agreement, or as provided herein. In this Paragraph, the conjunctive includes the disjunctive.

**8. Express Waiver of All Claims Under California Civil Code Section 1542.** It is further understood and agreed that this Agreement extends to all of the above-described Claims and potential Claims, and that all rights under California Civil Code section 1542 are hereby expressly waived by the Parties for themselves and the other Releasors with respect to all such Claims. Section 1542 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 or her settlement with the debtor."

Notwithstanding these provisions of Section 1542, Plaintiffs and Defendant expressly acknowledge that this Agreement is intended to include in its effect, without limitation, all Claims as described in Paragraph 7, which they do not know or suspect to exist in their favor at the time of execution hereof and that the settlement reflected in this Agreement contemplates the extinguishment of all such Claims, except for Plaintiffs' demand for attorney's fees and costs referenced in Paragraph 3, above and except for rights to enforce this Agreement.

**9. Non-admission of Liability.** This Agreement pertains to disputed Claims under a statute, the CVRA, and is not intended to be, and shall not be construed as an admission by any Party of any violation of any statute or law or constitutional provision, or any other improper or wrongful conduct. Nor does Defendant concede, by virtue of this Agreement or otherwise, that any action taken by it was caused by or resulted from the initiation of the CVRA Lawsuit by Plaintiffs. Defendant asserts that it is entering into this Settlement Agreement to avoid the cost and expense of further litigation and not because of any violation or claimed violation as set forth in Plaintiffs' CVRA Lawsuit.

**10. Interpretation.** The interpretation of this Agreement shall be governed by the laws of the State of California and any applicable laws of the United States. This

Agreement shall be construed as though jointly prepared by the Parties and any uncertainty or ambiguity shall not be construed against any one Party.

**11. Admissibility of this Agreement and Retention of Jurisdiction.** This Agreement constitutes a compromise of disputed claims and shall not be treated as an admission of liability, or the appropriateness of any remedy, had liability been adjudicated by the Court with respect to any of the Parties at any time or for any reason. This Agreement shall not be admissible in any legal or administrative proceeding, including any between the City and the Plaintiffs or proceedings involving the City and any other party related to or acting in concert with the Plaintiffs. Notwithstanding the generality of the foregoing, the Parties agree that once it is signed by the Parties, this Agreement shall be fully binding and admissible in any judicial or administrative proceeding: (a) to enforce the terms of this Agreement pursuant to California Code of Civil Procedure section 664.6 or otherwise; (b) for breach of this Agreement's provisions; (c) and to prove the fact and terms of settlement. It is further agreed that the Court shall retain jurisdiction to enforce the terms of this Settlement Agreement pursuant to California Code of Civil Procedure section 664.6.

**12. After Execution of Agreement, Each Party to Bear Own Attorney's Fees, Costs and Expenses.** After execution of this Agreement, and subject to compliance with the provisions of this Agreement (including Paragraph 3 related to the determination of Plaintiffs' entitlement to fees and costs), after attorneys' fees and costs are agreed to by the Parties or found to be proper and ordered as specified herein, each Party will bear its/her/his/their own costs, expenses and attorneys' fees of whatever nature or cause, except that in the event district elections are not implemented for the West Covina City Council as provided for herein for any reason, Plaintiffs shall retain their rights to claim recovery of attorneys' fees and costs, if any, pursuant to California Elections Code section 14030, Code of Civil Procedure Section 1021.5, or any other applicable statute or doctrine, for work performed after the execution of this Agreement and relating to enforcement of this Agreement. Notwithstanding anything to the contrary herein, if Plaintiffs are found to be entitled to attorneys' fees and costs consistent with paragraph 3 above, Plaintiffs shall also be entitled to recover from Defendant: (1) their reasonable attorneys' fees and costs incurred in connection with recovering their attorneys' fees and costs, and (2) attorneys' fees and costs incurred in connection with monitoring and addressing the development of the district map and Defendant's compliance with this Agreement so long as said amount does not exceed \$7,500.

**13. Enforcement of Agreement.** In the event that any action or motion in law or equity is initiated by any Party to enforce the provisions of this Agreement, to obtain a declaration of rights and obligations in conjunction therewith, or otherwise arising out of this Agreement, other than those referenced in paragraph 12 above, each Party shall bear their own attorneys' fees in connection therewith, unless it is determined that the other Party materially breached this Agreement.

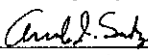
14. **Execution in Counterparts.** This Agreement may be executed in counterparts, and facsimile or scanned signatures will have the same force and effect as the original.

15. **Entire Agreement.** The Parties acknowledge that no representations, inducements, promises or agreements, oral or otherwise, have been made by any Party or anyone acting on behalf of a Party which are not embodied herein, and that no other agreement, representation, inducement or promise not contained in this Agreement shall be valid or binding. Any modification, waiver or amendment of this Agreement will be effective only if it is in writing and signed by the Party to be charged.

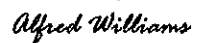
16. **Representation by Counsel.** Each of the Parties expressly acknowledges and represents that he/she/it has been represented by counsel in the negotiations culminating in this Agreement. Each of the Parties has read this Agreement, reviewed the same with counsel, and fully understands the meaning and effect of each and every provision of this Agreement, in particular the meaning and effect of the releases and the waiver of rights under California Civil Code section 1542. The signatories below also represent that they each have authority to execute this Settlement Agreement on behalf of the Party for whom/which they are signing.

17. **Severability.** If any term of this Agreement is declared invalid for any reason, that determination shall not affect the validity of the remainder of the Agreement. The remaining parts of this Agreement shall remain in effect as if the Agreement had been executed without the invalid term.

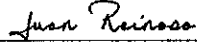
Dated 2/17/2017, 2017

DocuSigned by:  
By:   
Armando Sanchez

Dated 2/17/2017, 2017

DocuSigned by:  
By:   
Alfred Williams

Dated 2/17/2017, 2017

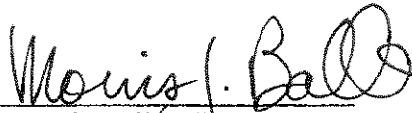
DocuSigned by:  
By:   
Juan Reinoso

Dated 2-21, 2017

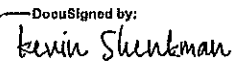
By:   
Chris Freeland, City Manager  
On behalf of the City of West Covina

Approved as to form and content:

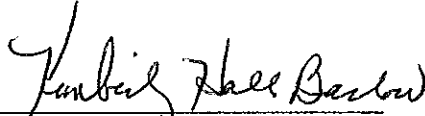
Dated 2/17, 2017

By:   
Morris Baller, Esq.  
Counsel for Plaintiffs

Dated 2/16/2017, 2017

By: <sup>DocuSigned by:</sup>   
ES4700842310421  
Kevin Shenkman, Esq.  
Counsel for Plaintiffs

Dated 2-21-17, 2017

By:   
Kimberly Hall Barlow, Esq.  
Counsel for Defendant City of West  
Covina