



City Council
AGENDA

Tuesday, November 19, 2024, 5:30 p.m.

Council Chambers, 990 Palm Street, San Luis Obispo

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INSTRUCTIONS FOR PUBLIC COMMENT:

Public Comment prior to the meeting (must be received 3 hours in advance of the meeting):

Mail - Delivered by the U.S. Postal Service. Address letters to the City Clerk's Office at 990 Palm Street, San Luis Obispo, California, 93401.

Email - Submit Public Comments via email to emailcouncil@slocity.org. In the body of your email, please include the date of the meeting and the item number (if applicable). Emails *will not* be read aloud during the meeting.

Voicemail - Call (805) 781-7164 and leave a voicemail. Please state and spell your name, the agenda item number you are calling about, and leave your comment. Verbal comments must be limited to 3 minutes. Voicemails *will not* be played during the meeting.

**All correspondence will be archived and distributed to councilmembers, however, submissions received after the deadline may not be processed until the following day.*

Public Comment during the meeting:

Meetings are held in-person. To provide public comment during the meeting, you must be present at the meeting location.

Electronic Visual Aid Presentation. To conform with the City's Network Access and Use Policy, Chapter 1.3.8 of the [Council Policies & Procedures Manual](#), members of the public who desire to utilize electronic visual aids to supplement their oral presentation must provide display-ready material to the City Clerk by 12:00 p.m. on the day of the meeting. Contact the City Clerk's Office at cityclerk@slocity.org or (805) 781-7114.

1. **CLOSED SESSION (4:30 PM to 5:30 PM)**

1.a **CALL TO ORDER**

Mayor Erica A. Stewart will call the Closed Session to order at 4:30 p.m. in the Council Hearing Room at City Hall, 990 Palm Street, San Luis Obispo.

1.b **PUBLIC COMMENT FOR CLOSED SESSION ITEMS ONLY**

Public Comment will only be accepted for items listed on the Closed Session agenda.

1.c **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code §54956.8

Property: APN: 053-041-031

Agency Negotiators:

Matt Horn, Brian Nelson, Wyatt Banker-Hix, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

Hong Doung

Under Negotiation:

Price and terms of payment

Property: APNs: 053-041-066 and 053-041-067

Agency Negotiators:

Matt Horn, Brian Nelson, Wyatt Banker-Hix, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

Walter Brothers Property Management

Under Negotiation:

Price and terms of payment

Property: APN: 053-051-033

Agency Negotiators:

Matt Horn, Brian Nelson, Wyatt Banker-Hix, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

JB Dewar

Under Negotiation:

Price and terms of payment

Property: APN: 053-051-071

Agency Negotiators:

Matt Horn, Brian Nelson, Wyatt Banker-Hix, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

Randolf Ramsey

Under Negotiation:

Price and terms of payment

Property: APN: 053-181-037

Agency Negotiators:

Matt Horn, Brian Nelson, Wyatt Banker-Hix, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

Johannah Bradley and Louise Hughan

Under Negotiation:

Price and terms of payment

Property: APN: 053-181-038

Agency Negotiators:

Matt Horn, Brian Nelson, Wyatt Banker-Hix, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

Louise Hughan

Under Negotiation:

Price and terms of payment

1.d **CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Pursuant to Government Code §54956.8

Property: APNs: 073-341-034, 073-341-036, 073-341-037, 073-341-038, and 073-341-039

Agency Negotiators:

Bob Hill, Lucia Pohlman, Greg Hermann, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

Miozzi Brothers La Cuesta Ranch, Inc.

Under Negotiation:

Price and terms of payment

Property: APNs: 076-114-002, 076-114-028, and 076-121-014

Agency Negotiators:

Bob Hill, Lucia Pohlman, Greg Hermann, Whitney McDonald,
Christine Dietrick, Markie Kersten

Negotiating Parties:

Tim and Karen Twisselman, Trustees

Under Negotiation:

Price and terms of payment

1.e **ADJOURNMENT**

The City Council will hold a Regular Meeting on November 19, 2024 at 5:30 p.m. in the Council Chambers at City Hall, 990 Palm Street, San Luis Obispo.

2. **CALL TO ORDER**

Mayor Erica A. Stewart will call the Regular Meeting of the San Luis Obispo City Council to order.

3. PLEDGE OF ALLEGIANCE

Mayor Erica A. Stewart will lead the Council in the Pledge of Allegiance.

4. PRESENTATIONS

4.a CITY MANAGER REPORT

Receive a brief report from City Manager Whitney McDonald.

5. PUBLIC COMMENT PERIOD FOR ITEMS NOT ON THE AGENDA

Not to exceed 15 minutes. The Council welcomes your input. State law does not allow the Council to discuss or take action on issues not on the agenda, except that members of the Council or staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights (Gov. Code sec. 54954.2). Staff may be asked to follow up on such items.

6. CONSENT AGENDA

Not to exceed 15 minutes. Matters appearing on the Consent Calendar are expected to be non-controversial and will be acted upon at one time. A member of the public may request the Council to pull an item for discussion. Pulled items shall be heard at the close of the Consent Agenda unless a majority of the Council chooses another time. The public may comment on any and all items on the Consent Agenda within the three-minute time limit.

Recommendation:

To approve Consent Calendar Items 6a and 6b.

6.a WAIVE READING IN FULL OF ALL RESOLUTIONS AND ORDINANCES

Recommendation:

Waive reading of all resolutions and ordinances as appropriate.

6.b CONSIDERATION OF THE 2025-26 HUMAN SERVICES GRANT FUNDING PRIORITIES

Recommendation:

As recommended by the Human Relations Commission (HRC), approve the Human Services Grants (HSG) funding priorities for the 2025-26 funding year.

7. PUBLIC HEARING AND BUSINESS ITEMS

7.a CONSIDER RECOMMENDATION TO APPROVE PRE-LITIGATION SETTLEMENT OF CALIFORNIA VOTING RIGHTS ACT DISTRICT ELECTION DEMAND (Estimated Time: 150 minutes)

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Recommendation:

1. Approve a tentative settlement agreement and related settlement documents to resolve the February 17, 2023 California Voting Rights Act District Election Demand (CVRA Demand) served on the City by Kevin Shenkman on behalf of Southwest Voter Registration Education Project (SVREP), including:
 - a. Settlement Agreement
 - b. Draft CVRA Complaint to be filed by SVREP alleging CVRA violations
 - c. Draft City Answer to Complaint denying CVRA allegations
 - d. Stipulated judgment directing transition to Citywide Single Vote Council elections, beginning November 2026
2. Authorize the Mayor, City Attorney and City Manager to execute and file documents and take administrative actions necessary to implement the Settlement Agreement.
3. Appropriate \$75,000 from the Fiscal Year 2023-24 General Fund Undesignated Fund Balance to be used for SVREP Attorneys' fees to date as described in the settlement agreement.

8. LIAISON REPORTS AND COMMUNICATIONS

Not to exceed 15 minutes. Council Members report on subcommittee assignments, listed below, and other City activities. At this time, any Council Member or the City Manager may ask a question for clarification, make an announcement, or report briefly on their activities. In addition, subject to Council Policies and Procedures, they may provide a reference to staff or other resources for factual information, request staff to report back to the Council at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov. Code Sec. 54954.2)

Mayor Stewart	Vice Mayor Pease	Council Member Francis	Council Member Marx	Council Member Shoresman
City Selection Committee	SLO Council of Government	Nacimiento Water Project	Airport Land Use	SLO Climate Coalition Liaison
Whale Rock Commission	Downtown Association Board	Community Action Partnership	Central Coast Clean Energy	Zone 9 Advisory Committee
City/University Quarterly Meeting	SLO Regional Transit Authority	Cal Poly Campus Planning Committee	Air Pollution Control District	CA Men's Colony Citizens Advisory Committee
Performing Arts Center Commission	County Water Resources Advisory Committee	Local Agency Formation Commission	Integrated Waste Management Authority	Homeless Services Oversight Committee
Visit SLO County Advisory Committee				
Regional Economic Action Coalition				

9. ADJOURNMENT

The next Regular Meeting of the City Council has been *rescheduled* to **Monday, December 9, 2024 at 5:30 p.m. in the Council Chambers at City Hall, 990 Palm Street, San Luis Obispo.** Council approved rescheduling the December 3rd Regular Meeting on October 15, 2024, during their review of the revised schedule of Council Meetings for 2024.

LISTENING ASSISTIVE DEVICES for the hearing impaired - see the Clerk.

The City of San Luis Obispo wishes to make all of its public meetings accessible to the public. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the City Clerk's Office at (805) 781-7114 at least 48 hours before the meeting, if possible. Telecommunications Device for the Deaf (805) 781-7410.

City Council meetings are televised live on Charter Channel 20 and the City's YouTube Channel: www.youtube.com/CityofSanLuisObispo. Agenda related writings or documents provided to the City Council are available for public inspection in the City Clerk's Office located at 990 Palm Street, San Luis Obispo, California during normal business hours, and on the City's website <https://www.slocity.org/government/mayor-and-city-council/agendas-and-minutes>. Persons with questions concerning any agenda item may call the City Clerk's Office at (805) 781-7114.



Department: Administration
Cost Center: 1010
For Agenda of: 12/10/2024
Placement: Consent

FROM: Greg Hermann, Deputy City Manager
Prepared By: Nestor Veloz-Passalacqua, Diversity, Equity and Inclusion Manager

SUBJECT: CONSIDERATION OF THE 2025-26 HUMAN SERVICES GRANT FUNDING PRIORITIES

RECOMMENDATION

As recommended by the Human Relations Commission (HRC), approve the Human Services Grants (HSG) funding priorities for the 2025-26 funding year.

DISCUSSION

The City's biennial review of the HSG Program, previously titled Grants-in-Aid, provides the community with the opportunity to provide early input into the grant program to ensure alignment with current community needs. Establishing funding priorities is an essential step in the grant process, which helps to ensure a transparent, equitable, and intentional application process.

Background

HSG Program Overview

The City's HSG Program is a competitive grant that provides financial support to non-profit organizations that promote the economic and social well-being of the San Luis Obispo community. Programs requesting funding must be tied to at least one funding priority, preferably the main priority as listed below, and must be compliant with the HRC bylaws.

HSG Process

The steps in the review process for the HSG program are as follows:

1. HRC Review of Grant Program Information: The HRC conducted a review of the current HSG program language on August 15, 2024, to identify potential areas that needed clarification for the applicants. This initial review allows HRC to incorporate feedback based on last grant cycle.
2. HRC Community Grant Workshop: The HRC hosted a public hearing on September 12, 2024, to inform the public about the HSG program, the purpose of the grant, the current funding priorities, and the application process. During this

hearing, HRC received community input that is included in the recommended funding priorities with the goal to align the community’s needs with the grant program. Draft minutes from this meeting can be found in Attachment A.

3. City Council Approval of 2025-26 HSG Funding Priority: Upon completion of the HSG program review by HRC and the comments from the public hearing, the City Council reviews the recommendations and approves funding priorities to take effect for the 2025-26 grant cycle.
4. HRC Preliminary Funding Recommendation & Public Hearing: Upon receipt and review of the applications for the 2025-26 grant cycle, the HRC will hold a public hearing to present the preliminary funding recommendations. Community members have the opportunity to provide public input to the commission. At the end of the hearing, the HRC will vote on their final funding recommendations to be presented to Council for approval.
5. City Council Approval of Final Recommendations: City Council will review and approve final funding recommendations for the HSG.

HSG Funding Priorities for 2025-26

After completion of the Community Grant Workshop, the HRC reviewed the HSG program language and decided to make a few minor adjustments for the 2025-26 grant cycle. The HRC recommended to maintain the same funding priorities and added clarifying language to ensure potential applicants would understand the current focus of the grant program and the likelihood to be awarded funds based on that.

Human Services Grant Funding Priorities	
Previous Language	HRC Recommended Language for Fiscal Year 2025-26
<p>Main Priority: Homeless prevention including affordable and alternative housing, supportive services, and transitional housing.</p> <p>The following additional priority funding areas are <u>not</u> listed in order of importance:</p> <ul style="list-style-type: none"> • Hunger and malnutrition prevention • Supportive physical and mental health services for those in need • Services for seniors, veterans and/or people with disabilities in need 	<p>Main Priority: For the <u>2025-26 Fiscal Year</u>, the main funding priority is:</p> <p>Homelessness prevention including affordable, alternative, and transitional housing, and supportive services.</p> <p>Secondary Funding Priorities: The following secondary funding priorities are <u>not</u> listed in order of importance and <u>may receive funding if available:</u></p> <ul style="list-style-type: none"> • Hunger and malnutrition prevention

<ul style="list-style-type: none"> • Supportive, developmental, and care services for children and youth in need • Services encouraging diversity, equity, and inclusivity in marginalized communities, including access to language services. 	<ul style="list-style-type: none"> • Supportive physical and mental health services for those in need • Services for seniors, veterans and/or people with disabilities in need • Supportive, developmental, and care services for children and youth in need • Services encouraging diversity, equity, and inclusivity in marginalized communities, including access to language services.
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In addition, based on previous Council direction, language will be added to the grant webpage and program materials explaining that the HRC will first fund all qualified applications that meet the main priority. After qualified main priority applications are funded, the HRC will consider applications for the secondary funding priorities.

Previous Council or Advisory Body Action

The HRC conducted a review of the current HSG program language on August 15, 2024.

Public Engagement

As previously noted, the HRC hosted a Community Grant Workshop on September 12, 2024, to inform the public about the HSG program, the purpose of the grant, the current funding priorities, and the application process. As required, staff released a public hearing notice in advance of the hearing. Additionally, during the August 15, 2024 meeting, staff made the announcement and update about the HRC reviewing the Human Services Grant Program funding priorities.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) does not apply to the recommended action in this report, because the action does not constitute a “Project” under CEQA Guidelines Sec. 15378.

FISCAL IMPACT

Budgeted: Yes
 Funding Identified: Yes

Budget Year: 2025-26

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$150,000	\$150,000	\$	\$
State				
Federal				
Fees				
Other:				
Total	\$150,000	\$150,000	\$	\$

The City budgets \$150,000 annually from the General Fund to the HSG program. Establishing funding priorities does have an immediate fiscal impact but will aid the HRC in providing a recommendation to Council for final approval.

ALTERNATIVES

1. **Council may modify the proposed funding priorities.** Council should provide direction on specific modifications to the proposed funding priorities.
2. **Council may continue consideration of the funding priorities.** Council should provide direction to staff regarding additional information needed to decide on priorities.

ATTACHMENTS

A - HRC Approved Minutes from September 12, 2024



Human Relations Commission Minutes

September 12, 2024, 5:00 p.m.
City Hall, 990 Palm Street, San Luis Obispo

Human Relations Commissioners Present: Commissioners Mason Ambrosio, Stephanie Carlotti, Vincent DeTurris, Sierra Smith, Taryn Warrecker, Vice Chair Catuih Campos, Chair Angie Kasprzak

City Staff Present: Diversity, Equity, and Inclusion Manager Nestor Veloz-Passalacqua, Kevin Christian, Deputy City Clerk Sara Armas

1. CALL TO ORDER

A Regular Meeting of the San Luis Obispo Human Relations Commission was called to order on September 12, 2024 at 5:00 p.m. in the Council Hearing Room at City Hall, 990 Palm Street, San Luis Obispo, by Chair Kasprzak.

2. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Public Comment:

None

--End of Public Comment--

3. CONSENT

3.a CONSIDERATION OF MINUTES - AUGUST 15, 2024 HUMAN RELATIONS COMMISSION MINUTES

Motion By Commissioner Warrecker

Second By Vice Chair Campos

To approve the Human Relations Commission Minutes of August 15, 2024.

Ayes (7): Commissioner Ambrosio, Commissioner Carlotti, Commissioner DeTurris, Commissioner Smith, Commissioner Warrecker, Vice Chair Campos, and Chair Kasprzak

CARRIED (7 to 0)

4. BUSINESS ITEMS

4.a REVIEW OF THE DEI HIGH IMPACT GRANT MID-YEAR REPORTS

Commissioners provided comments on the 2023-24 DEI High Impact Grant mid-year reports per their assigned grant recipients.

Public Comment:

None

--End of Public Comment--

4.b REVIEW OF THE DEI SLO BUSINESS GRANT YEAR-END REPORTS

Commissioners provided comments and updates on the 2023-24 DEI SLO Business Grant year-end reports for the organizations according to their liaison assignments.

Public Comment:

None

--End of Public Comment--

5. PUBLIC HEARING

5.a HUMAN SERVICES GRANT (HSG) COMMUNITY NEEDS GRANT WORKSHOP

Staff provided a report on the Human Services Grant (HSG) Community Needs Grants, including clarifications on past contracts.

Public Comment:

Stephen Vines

--End of Public Comment--

Commissioners provided input for modifications to the HSG application.

Motion By Commissioner Smith

Second By Commissioner Ambrosio

Accept the draft application with the discussed modifications regarding emphasis on verbiage.

Ayes (7): Commissioners Ambrosio, Carlotti, DeTurris, Smith, Warrecker, Vice Chair Campos, and Chair Kasprzak

CARRIED (7 to 0)

6. COMMENT AND DISCUSSION

6.a STAFF & COMMISSIONER UPDATES AND AGENDA FORECAST

Diversity, Equity, and Inclusion Manager Nestor Veloz-Passalacqua provided the following update of upcoming projects:

- One hour parking vouchers are provided to Commissioners and meeting attendees
- DEI High Impact Grant Application opened July 22, 2024 and closed August 31, 2024
- 30 applications were received with 29 eligible applications for review. A total of \$642,995 is being requested
- The DEI Administrative Specialist job posting has been delayed
- A meeting with the California Department of Civil Rights (CDCR) Community Conflict Resolution Unit (CCRU) took place on July 30, 2024
- Film Screening regarding UndocuSupport DEI High Impact Grant Project September 28, 2024

Commissioner Campos reported on upcoming voting and election workshops.

Chair Kasprzak reported that the Heritage Spanish Festival in Paso Robles will be held this coming September 15, 2024.

Commissioner Smith reported that the SLO Climate Coalition has a scheduled event, September 13, 2024.

7. ADJOURNMENT

The meeting was adjourned at 6:20 p.m. The next Regular Meeting of the Human Relations Commission is scheduled for October 2, 2024 at 5:00 p.m. in the Council Hearing Room at City Hall, 990 Palm Street, San Luis Obispo.

APPROVED BY HUMAN RELATIONS COMMISSION: 10/02/2024



Department: Attorney
Cost Center: 1501, 1001, 1021
For Agenda of: 11/19/2024
Placement: Business
Estimated Time: 120 Minutes

FROM: Christine Dietrick, City Attorney
Marguerite Leoni, outside Legal Counsel

SUBJECT: CONSIDER RECOMMENDATION TO APPROVE PRE-LITIGATION SETTLEMENT OF CALIFORNIA VOTING RIGHTS ACT DISTRICT ELECTION DEMAND

RECOMMENDATION

1. Approve a tentative settlement agreement and related settlement documents to resolve the February 17, 2023 California Voting Rights Act District Election Demand (CVRA Demand) served on the City by Kevin Shenkman on behalf of Southwest Voter Registration Education Project (SVREP), including:
 - a. Settlement Agreement
 - b. Draft CVRA Complaint to be filed by SVREP alleging CVRA violations
 - c. Draft City Answer to Complaint denying CVRA allegations
 - d. Stipulated judgment directing transition to Citywide Single Vote Council elections, beginning November 2026
2. Authorize the Mayor, City Attorney and City Manager to execute and file documents and take administrative actions necessary to implement the Settlement Agreement.
3. Appropriate \$75,000 from the Fiscal Year 2023-24 General Fund Undesignated Fund Balance to be used for SVREP Attorneys' fees to date as described in the settlement agreement.

REPORT-IN-BRIEF

The purpose of this report is to seek final approval of a pre-litigation settlement package with SVREP in response to a California Voting Rights Act ("CVRA") demand letter served on the City by attorney Kevin Shenkman on behalf of his client SVREP on February 17, 2023. Staff is requesting Council confirmation that the package of settlement documents fully and accurately reflects and implements Council direction provided during closed session litigation settlement discussions and that the settlement terms are consistent with the settlement authority provided to staff by the Council. If approved, the settlement will result in the City transitioning to a "Citywide Single Vote" model for electing Councilmembers, beginning in the 2026 election cycle. In short, this would mean that the City would move from the current "vote-for-two candidates to elect two Councilmembers" model, to a "vote-for-one candidate to elect two Councilmembers" model, whereby the top two candidates receiving the most single votes are elected to Council.

The City has been served with two demand letters under CVRA since November 2019, the first of which was resolved in 2022, without litigation and with no electoral structure changes.

To date, the City of Santa Monica is the only California city to have prevailed in its defense of a CVRA litigation demand at the appellate court level (after appealing a trial court ruling against the city); however, in September 2023, the California Supreme Court reversed that appellate court victory. The litigation has been ongoing for approximately eight years and is continuing. As of the date of this report, the case has been remanded back to the trial court that originally ruled against the City of Santa Monica, prompting the city's appeal, and there is a pending motion by the plaintiffs to update and reinstate the trial court ruling against the city (see full timeline with links to court filings here: santamonica.gov - [Santa Monica Election Litigation](#)). Santa Monica has expended millions of dollars in attorneys' fees for its own defense (which would not be recoverable by the city even if it ultimately prevailed) and, at present, the city remains exposed to a prevailing party attorneys' fees award of tens of millions of dollars in the event the ruling in favor of plaintiffs ultimately becomes final.

The current demand letter served on the City of San Luis Obispo arose in the context of the Santa Monica litigation, and SVREP's attorney, Kevin Shenkman, is also the plaintiffs' counsel in the Santa Monica case. Notwithstanding that context, the City of San Luis Obispo concluded, based on its data analyses related to the first CVRA demand letter it received, and as subsequently updated, that San Luis Obispo is significantly differently situated from Santa Monica as it relates to voter equity concerns under CVRA and the ability to prove a CVRA violation under the City's current at-large election structure. Specifically, it is the City's position that the City of San Luis Obispo demographics, Latinae voter dispersion, community-wide coalition building capacity, candidate election history, and City commitments to and investments in advancing its Diversity, Equity and Inclusion Major City Goal programs support a conclusion that the City's electoral system is not encumbered by the type of discriminatory racial polarization or minority vote dilution that CVRA seeks to remediate.

As a result of the City's analyses, the City requested, and Mr. Shenkman and his client agreed, to toll the generally applicable statutory timelines under the CVRA in order to facilitate data sharing and discussion of alternatives to litigation or a move to district voting for City elections. At Council's direction, as part of confidential settlement negotiations, staff shared with Mr. Shenkman both election data analysis and information regarding City initiatives to advance equity. Following ongoing direction from the City Council received in Anticipated Litigation Closed Sessions, City staff, outside counsel, and Mr. Shenkman engaged in a series of information exchanges and highly constructive settlement discussions that have resulted in the settlement package that is now recommended for Council approval.

Throughout settlement discussions, the parties focused on the following:

Item 7a

1. Data based discussions and proposals regarding the efficacy of district elections to advance, in San Luis Obispo, the purpose and intent of CVRA.
2. Viable alternatives to district elections that could more effectively advance CVRA objectives in the specific context of San Luis Obispo.
3. SVREP's primary objective to achieve a structural change in the City's method of electing Councilmembers as a condition of any settlement.
4. Implementation of provisions that align with and advance City Diversity, Equity and Inclusion goals.
5. Advancement of enhanced voter education, outreach and participation goals.
6. Further refinement of the proof necessary to support a CVRA lawsuit and guidance regarding potential alternatives to district elections that was provided by the California Supreme Court decision in the *Pico Neighborhood Association and Maria Loya v. City of Santa Monica* case.
7. Dispute resolution processes designed to facilitate ongoing collaboration between the parties and avoid future litigation over disagreements in data analysis or conclusions related to future elections.
8. A mechanism (stipulated judgment) by which to assure court oversight and ongoing jurisdiction over the proposed settlement.

The components of the tentative settlement negotiated over nearly two years include:

1. Agreement that the City will transition its current at large "vote for two to elect two" Council Members election process to a single vote, "vote for one to elect two" system, to be called "Citywide Single Vote" beginning with the November 2026 election and in all subsequent elections.
2. Agreement to share data and analyses following the 2026 and 2028 elections to evaluate the effectiveness of the new system as compared to a hypothetical district election model proposed by Mr. Shenkman.
3. A process by which the Council will consider a transition to district elections if subsequent data analyses following the 2026/2028 elections supports that the purpose and objectives of CVRA are not being achieved under the Citywide Single Vote model and would be achieved under the hypothetical district election model.
4. A dispute resolution process if the parties cannot agree on the conclusions reached from 2026/2028 post-election data analyses and/or if the Council declines to implement districts that both parties concur are supported by the data analyses.
5. Limitation of costs and plaintiffs' attorneys' fees to be borne by the City related to agreed upon dispute resolution processes.

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6. Agreement that SVREP will not be required to serve a subsequent demand letter on the City, and that the City will waive any objection to the standing of SVREP to sue, in the event that all dispute resolution processes under the settlement agreement are exhausted without resolution and SVREP determines it needs to proceed with a CVRA lawsuit following the outcome of the 2026/2028 elections analyses and settlement processes.
7. City commitment to voter education and outreach efforts and programs to enhance diverse candidate and voter education, development, and participation in local elections.
8. Ability of the City to implement district elections at any time it may determine districts to be an effective structure for the City based on evolving data and demographics analysis, and to be relieved of future obligations under the settlement agreement in the event the City does transition to districts.
9. Payment of attorneys' fees (\$75,000) to SVREP to compensate for its costs of participation to date in negotiations with the City to avoid litigation.
10. Agreement to limited payments to SVREP to offset its costs of participation in future data analyses of the 2026/28 elections and support it may provide to the education and outreach efforts (not to exceed \$10,00 per election cycle).

While the Council could have approved the settlement agreement in a closed session meeting, Council instead directed staff to place the final approval of the proposed settlement on a public meeting agenda to provide transparency as to the terms of the proposed agreement and the process by which tentative agreement was reached, and to facilitate an open community discussion on this important local election process change. Staff is aware that there have been community discussions of alternatives to the Citywide Single Vote system proposed in the settlement, including the potential to consider ranked choice or cumulative voting. For reasons discussed in greater detail below, those alternatives were considered during settlement negotiations and rejected in favor of the current Citywide Single Vote proposal.

While public comment and feedback on the proposed settlement terms are being sought through this Council agenda item, it is important to keep in mind that the terms being proposed are the product of lengthy and extensive settlement negotiations focused on avoiding costly and time-consuming litigation. Any significant changes to the negotiated terms cannot be imposed upon the plaintiffs and could remove any litigation protections the City would have under the terms of the agreement. In other words, significant substantive changes to the terms of the proposed agreement may result in SVREP filing a lawsuit against the City. Additionally, the parties agree that the recommended proposal presents a mutually beneficial opportunity to enhance equity and participation among both candidates and voters in the City's local elections. Therefore, staff recommends that the Council approve the proposed settlement package.

Staff suggests that any alternatives or considerations of interest to the community that may emerge from public meeting comments be addressed via direction to staff to pursue subsequent discussions with SVREP as follow-up conversations following approval of the current negotiated settlement. Alternatively, Council could direct staff to complete further analysis and return to Council for further presentation of information regarding other alternatives, subject to ongoing compliance with the settlement terms.

POLICY CONTEXT

State Law

The California Voting Rights Act (“CVRA”), enacted in 2002, and codified as California Elections Code, Section 14027-14032, is a law enacted by the California State Legislature to provide minority groups in California a legal tool to address claims that their votes are being diluted by “at-large” elections in which all members of a community vote for all candidates for local offices. CVRA is similar to but expanded upon, and lessened the burden of proof for similar claims under, the Federal Voting Rights Act of 1965 (FVRA). CVRA makes it easier for plaintiffs under the state law to prove vote dilution than under federal law.

Under federal law, as interpreted by various court cases, a plaintiff under the FVRA must prove: that the affected minority group is sufficiently large to elect a representative of its choice; that the minority group is politically cohesive; and that white majority voters vote sufficiently as a bloc to usually defeat the minority group's preferred candidates. CVRA does not require plaintiffs to demonstrate a specific geographic district where a minority is concentrated enough to establish a majority. Rather, the CVRA invalidates not only at-large elections that prevent minority voters from electing their chosen candidates, but also those that impair the ability of minority voters to *influence* elections. “Ability to influence” is not defined under CVRA and the California Supreme Court recently declined to define the term more precisely in its ruling in a CVRA case against the City of Santa Monica.

In 2016, following a significant volume of litigation against cities under CVRA resulting in significant attorneys’ fees awards against even cities that opted to transition to district elections, the California legislature passed legislation amending Section 10010 of the Elections Code to provide a 45-day “safe harbor” limit after the receipt of a letter from potential plaintiffs in CVRA cases. The amendment prevents lawsuits during the 45-day period. If the city makes legal moves towards district elections during that 45-day period, it cannot be sued for an additional 90 days after it makes a legal declaration. The city must then hold at least two public hearings on the matter within 30 days. The amendments to Section 10010 also put a limit [initially \$30,000, increased by CPI annually, now roughly \$38,000] on the amount the city must pay to potential litigants if the city moves to district elections within the 90-day period. If a city declines to adopt a resolution of intent to transition to district elections, or thereafter fails to complete the process to implement districts, the city becomes subject to litigation and there is no limitation on the attorneys’ fees that can be recovered by the plaintiff who served the demand, if they prevail. Litigation fee awards in these cases have ranged generally in the millions of dollars. For example, the fee award in the CVRA case against the City of Highland, which was on

remedy only, was about \$1 million; the award against the City of Modesto was \$3.5 million; the award against the City of Palmdale was \$4.5 million. Plaintiffs in the CVRA action against the City of Santa Monica are reportedly seeking \$22 million for legal services through trial. The CVRA and Section 10010 also apply to charter cities, but the section's application to enable charter cities to use an ordinance to go to district elections where the charter provides for at large elections (such as would be applicable to the City of San Luis Obispo), has not been finally resolved by courts.

Santa Monica Supreme Court Case

As noted above, the California Supreme Court recently considered the scope of CVRA in the case of *Pico Neighborhood Assn. v. City of Santa Monica*, in which the Court explained “We granted plaintiffs' petition for review to determine what constitutes dilution of a protected class's ability to elect candidates of its choice or to influence the outcome of an election within the meaning of the CVRA.” *Pico Neighborhood Assn. v. City of Santa Monica*, 15 Cal. 5th 292, 310, 534 P.3d 54, 61 (2023), as modified (Sept. 20, 2023).

The Court ultimately held as follows:

A group's ability “to compete successfully at electoral politics, in short, is often dependent on how the competition is structured.” (Engstrom, *supra*, 21 Stetson L.Rev. at p. 743.) The CVRA represents the Legislature's effort to make that competition more fair. It bars the use of an at-large method of election if that method dilutes a protected class's ability to elect candidates of its choice or its ability to influence the outcome of an election. Dilution occurs when an at-large system denies a protected class the potential to elect its preferred candidate or influence the election's outcome. The plaintiff in a CVRA action must identify a lawful alternative to the existing at-large electoral system that will serve as the benchmark undiluted voting system.

A protected class has the ability to elect its preferred candidate if it would have the potential to elect that candidate, on its own or with the assistance of crossover support from other voters, under an alternative voting system; there is no additional requirement that the protected class constitute a majority or near-majority of a hypothetical district. A court presented with a dilution claim should undertake a searching evaluation of the totality of circumstances (see, e.g., Elec. Code, § 14028, subd. (e)), including the characteristics of the specific locality, its electoral history, and the design and impact of the at-large system as well as the potential impact of lawful alternative electoral systems. In predicting how many candidates are likely to run and what percentage may be necessary to win, courts may also consider the experiences of other similar jurisdictions that use district elections or some method other than traditional at-large elections.

Pico Neighborhood Assn. v. City of Santa Monica, 15 Cal. 5th 292, 324, 534 P.3d 54, 71 (2023), as modified (Sept. 20, 2023)

City Charter

The San Luis Obispo City Charter, Section 402-Election at Large, provides:

The Mayor shall be elected at the general municipal election on a general ticket from the City at large.

The Council Members shall be elected at the general municipal election from the City at large, two being selected biennially.

The Citywide Single Vote election model, as discussed in more detail in this report and reflected in the proposed settlement agreement, is still an at-large form of election and its implementation would not require a Charter amendment. In the absence of an admission of a CVRA violation (which the City denies) or court adjudication of a CVRA violation compelling the implementation of district elections as a remedial measure, implementation of district elections in the City would require a Charter amendment. Charter amendments must be approved at an election by the voters of the City.

DISCUSSION

Background

In November 2019, the City received its first CVRA demand letter from Robert Goodman, Attorney-at-Law, on behalf of his client Jamie Gomez. The letter asserted that the City of San Luis Obispo’s method of conducting elections with at-large voting may violate the California Voting Rights Act (“CVRA”) and demanded that the City Council adopt a Resolution of Intent to transition from at-large to district elections.

In response to that first demand, the City retained outside counsel with CVRA expertise, Marguerite Leoni, and worked with legal counsel and an experienced demographics consultant to perform independent demographics, vote dilution, and racially polarized voting analyses. The City also was monitoring the California Supreme Court, *Pico Neighborhood Association v. City of Santa Monica*, CVRA case, which was being litigated by Mr. Shenkman and raised issues pertaining to proof of vote dilution under CVRA that are of particular relevance to the City of San Luis Obispo.

Based on analyses performed by the City’s expert consultants, the City and Mr. Goodman agreed to enter into a tolling agreement and engage in settlement discussions. That demand was ultimately resolved in November 2022 through a settlement that provided for the payment of minimal attorney’s fees, with no changes to the City’s election structure.

The City received its second demand letter from Mr. Shenkman and SVREP just a few months later. Staff and the City’s consultants evaluated the demand, consulted with the Council in closed session, updated the City’s elections data analysis and requested discussions with Mr. Shenkman that began a constructive series of negotiations leading to the current proposed settlement agreement.

Settlement Discussion Context

Although the City disputed the assertion that the City's updated demographics, racial polarization and dilution data supported a conclusion that the City was in violation of CVRA, the Council did not dismiss SVREP's demand out of hand, but rather directed staff to attempt to further explore the basis for the demand with Mr. Shenkman. Based on that direction, the parties began open discussions regarding the potential alignment between the City's Diversity Equity and Inclusion (DEI) efforts, CVRA objectives, and the voter and candidate equity objectives of Mr. Shenkman's client, SVREP.

The City initially shared an overview of its prior analysis with Mr. Shenkman and requested that he share his impressions of the City's data conclusions. Additionally, the City shared the Council's DEI objectives, as well as the City's efforts to enhance access to elected office through such steps as increasing the salary of council members, re-instituting and restructuring a Community Academy to foster interest and educate a more diverse cross section of residents about city government, and developing and funding a robust DEI program in city government, including hiring a DEI Manager and staff and funding programs to enhance diversity, awareness, and access in the community. In that context, the parties considered the demographics of the City, the relative racial and ethnic heterogeneity of its neighborhoods, the dispersion of the City's Latinae population across the City, and the consequent likelihood of significant dispute as to the ability to create meaningful opportunities for Latinae eligible voters to elect or influence the election of chosen candidates through a districting plan. The parties engaged in good faith negotiations to identify areas of alignment in objectives and measures on which SVREP and the City could agree would enhance equity in local elections and support the underlying purposes of CVRA, with an alternative to district elections.

Why Citywide Single Vote?

Citywide Single Vote contrasts with the City's current voting system, in which a voter can select as many candidates as there are open seats. As noted above, under the Citywide Single Vote methodology, City voters would have one fewer vote than the number of Council seats available. The City would continue with staggered Council elections, wherein two Council seats with four-year terms would be up for election every two years. Under the proposed new system, City voters would vote for only one candidate and the top two candidates receiving the most single votes would be elected to serve. This single vote would also occur if the City were to transition to a vote-by-district system. However, in a district system, voters would be limited to voting only for a candidate that lives in the same district in which the voter resides, and would only vote for their single Council representative every other election year because Councilmembers serve four year terms, and only one candidate would be elected for each district. In other words, a voter in one district would have no vote as to which candidate is elected in another district. Under the Citywide Single Vote structure, all voters would vote for a single Councilmember every two years and there would be no geographic barriers to Citywide coalition building to coalesce support around a single candidate.

The purpose of single voting is to prevent the same majority from controlling all of the available seats and to create opportunities for non-majority groups to build coalitions of support to elect at least one of their preferred candidates, or at a minimum to prevent the

election of a non-preferred candidate. Single voting often benefits minority groups that are not numerous enough to form a majority of the voting population. Voters from the minority group can focus their single vote on the candidate who best represents their interests, which can increase the chances that the minority group will have a voice in the election, especially if the majority is fragmented and does not unite behind a single candidate.

Single voting is a methodology that has been adopted as an alternative voting method in the United States in response to Federal Voting Rights Act challenges. Single voting (sometimes called “bullet voting” or “limited voting”) is currently used for elections in dozens of jurisdictions across the United States, including many parts of Alabama, Connecticut, Pennsylvania, and North Carolina. While not formally adopted locally, several local council candidates over the years have shared that single voting has been broadly used on an informal basis in past City elections for precisely the purpose stated above. A review of the past three City elections showed that a significant number of voters only cast one vote, even under the current structure, when they could have voted for two, which supports the anecdotal experience of local candidates and voters. In the 2022, 2020 and 2018 elections this “undervote” for City Council was 53%, 41% and 44%, respectively.

Further collaboration with the San Luis Obispo County Clerk Recorder’s Office will be necessary regarding continued consolidated administration of City elections by the County.

Why Not Districts?

The short answer to this question is that the City could not conclude that the data supports that implementation of district elections in San Luis Obispo would actually advance the voter equity objectives underlying CVRA. Additionally, the City’s analyses and conversations with Latinae leaders throughout the settlement process raised questions whether implementing districts could actually slow the broader progress on DEI goals the community has made through City DEI initiatives and investments. There were also concerns that implementing districts could fracture and inhibit ongoing citywide community coalition building in a manner that could have the unintended consequence of diminishing Latinae community influence in the City’s elections.

Additionally, due to the small number of Latinae community members and the fact that there is no concentration of community members in any particular area of the City, the traditional data analysis of voter preference yields unreliable results due to extremely high margins of error and does not yield any clear path to a likely effective districting model.

Since receiving the original Goodman/Gomez demand letter in 2019, the City’s legal counsel and demographics consultants have evaluated the City’s ability to create a majority Latinae single-member electoral district. Under the 2020 Census data, the total population of the City has grown from about 45,173 in the 2010 Census to about 47,160, or by about 1,987 people. The growth appears to be entirely in the Latinae population which increased from 6,630 to 8,755 people.

Latinae residents who are eligible to vote (“Citizens of Voting-Age” or “CVAP”) increased from an estimate of 12.58% to an estimated 13.45%, but Spanish surnamed registration¹ held steady at about 9.43% - 9.70% of registration from November of 2018 to March of 2020. Even considering the growth in Latinae population, it is not possible to create a majority Latinae eligible voter (“LCVAP”) district in the City. There are only about seven census blocks in the City that are over 50% Latinae in eligible voter population, and they are sufficiently distant from each other that highly irregular boundaries would be required to include them in a single district. These data are based on the Census Bureau estimates for the period 2015 – 2019, which were the most recent at the time of publication of the 2020 Census data. The parties agree that the strongest Latinae district that could be formed, even in a five-district election system, whereby the Mayor would no longer be directly elected, would be comprised of approximately 21% Latinae residents (see Attachment E).

The parties disagree on whether reliable evidence of statistically significant racially polarized voting or identification of clearly Latinae preferred candidates in the City’s past elections could be produced. However, even assuming sufficient evidence could be produced, the California Supreme Court recently held that

[t]he existence of racially polarized voting is not, in itself, sufficient for a vote-dilution claim under the California Voting Rights Act (CVRA) challenging a nonpartisan at-large voting system, and dilution requires a showing that the minority group has less ability to elect its preferred candidate or influence the election's outcome than it would have if the at-large system had not been adopted. Cal. Elec. Code §§ 14026(a, c), 14027.

Accordingly, we agree with the Court of Appeal that dilution is a separate element under the CVRA. To establish the dilution element, a plaintiff in a CVRA action must identify “a reasonable alternative voting practice” to the existing at-large electoral system that will “serve as the benchmark ‘undiluted’ voting practice.” (Reno v. Bossier Parish School Bd., supra, 520 U.S. at p. 480, 117 S.Ct. 1491.) Pico Neighborhood Assn. v. City of Santa Monica, 15 Cal. 5th 292, 315, 534 P.3d 54, 65 (2023), as modified (Sept. 20, 2023)

Why Not Ranked Choice or other Cumulative Voting Method?

The Secretary of State is authorized under the California Elections Code to certify voting systems. Section 19216 states, in relevant part: "If a voting system or a part of a voting system has been certified or conditionally approved by the Secretary of State, it shall not be changed or modified until the Secretary of State has been notified in writing and has determined that the change or modification does not impair its accuracy and efficiency sufficient to require a re-examination and recertification, or conditional approval, pursuant to this article." See also Elec. Code 19101. It is the position of the Secretary of State that

¹ Staff acknowledges concerns that Spanish surname registration is not a precise proxy for Latinae voter registration; however, it is nonetheless the standard methodology of identifying Latinae voters in CVRA litigation.

any voting system that has not been certified or tested for the purpose for which it is intended to be used requires at a minimum notification to the Secretary and possibly testing and certification by that office. The Secretary of State has objected to the use of voting systems to implement cumulative voting in other CVRA cases (e.g., Santa Clarita, Mission Viejo). No jurisdiction to date has proposed the use of a single vote system, which is far less complicated than cumulative voting and could be implemented in the same manner as standard district elections, with the only significant modification being a fairly simple change to the ballot instructions provided to City voters (e.g., along the lines of “vote for one; top two win”).

For these and other voter understanding and local resource constraint concerns, the San Luis Obispo County Clerk Recorder has indicated that her office’s resources could not support the City implementation of a Ranked Choice or Cumulative voting election system, even if Secretary of State approval could be obtained, which the City’s elections experts assess as unlikely. Therefore, the County Clerk Recorder could not recommend that the County administer the City’s elections, if the City proceeded with a ranked-choice or a cumulative voting system, and the City would therefore need to run its own separate elections, potentially involving a hand count of ballots. The ongoing costs and inefficiencies of doing so would be significant.

Proposed Settlement Terms

The general outline of the negotiated settlement agreement (included in full as Attachment A) is as follows:

1. SVREP will file a complaint alleging a CVRA violation against the City. Mr. Shenkman has provided a draft of the complaint to counsel for the City who has commented with suggestions and revisions which appear to be mostly acceptable to Mr. Shenkman (Attachment B).
2. The City will answer the complaint *denying liability* (Attachment C).
3. The parties will then stipulate to entry of judgment which will track the terms of the settlement and include other terms that are typical in stipulated judgments (Attachment D).
4. The City will use a single vote process (called “Citywide Single Vote” in the agreement) for its City Council elections in 2026 and 2028 (but not for the office of Mayor) and in subsequent elections if Citywide Single Vote satisfies criteria specified in the agreement as relevant under the CVRA.
5. The parties will cooperate in a voter education program concerning single voting in advance of the 2026 City Council elections.
6. The parties agree to specified criteria to evaluate the effectiveness of Citywide Single Vote on electoral outcomes and whether the Latinae preferred candidate, if any, was elected in the Citywide Single Vote system

in 2026 and/or 2028, and, if not, whether the evidence indicates the outcome likely would have been different in District 1 of the SVREP demonstration single-member district map (Attachment E).

7. The settlement agreement further provides that after the 2026 and the 2028 elections, SVREP and the City would share information about whether Citywide Single Vote satisfied the criteria in that election. If the parties agree that Citywide Single Vote has not satisfied the relevant criteria, the City Council will have the opportunity to consider adopting single-member districts for future elections. If the City Council determines to stick with Citywide Single Vote, notwithstanding the parties' agreement that Citywide Single Vote has not satisfied the relevant criteria, SVREP may sue the City immediately without further notice, safe-harbor tolling, or an attorneys' fee cap, and the City agrees not to challenge SVREP's standing to sue as an organizational plaintiff.
8. If the parties disagree whether Citywide Single Vote satisfies the relevant criteria, the matter will be referred to a referee who will receive evidence and briefing from the parties, make findings and recommendations, including potential changes to the City's electoral system, and provide a written opinion.
9. In the event the referee decides against the City, the referee's decision will be formally presented at a City Council meeting to consider making the recommended changes. If the City Council chooses not to make changes, the referee's decision would be submitted to the Superior Court judge with jurisdiction over the stipulated judgement. The Court's decision on the Referee's determination would be binding on the parties and non-appealable.
10. The City may at any time choose to transition to district elections without penalty, in which case it would no longer be bound by any of the above settlement terms.
11. The City will pay plaintiff attorneys' fees in the amounts set forth in the fiscal impact section below (with some fees certain and some fees avoidable based on the City's response to conclusions of future data analyses).

PUBLIC ENGAGEMENT

The City will use its Public Engagement and Noticing Manual to develop a comprehensive public engagement plan that will inform residents of the Citywide Single Vote update to our at-large election system. This will primarily focus on communications from the City to community members to inform them of the upcoming change and will include a mix of English and Spanish communications using paid advertisements, digital media and channels, direct mail, signage, informational meetings and in-person outreach at various events, partnering with key partner organizations and trusted messengers, and working with the local media to help raise awareness of why, when and how the change is

occurring and what people can expect.

During the course of negotiations toward settlement, City staff requested and received feedback from Latinae community leaders to understand whether they were aware of significant Latinae community interest in district elections or other electoral changes and what measures the community leaders viewed as best serving their communities.. Those consulted included representatives of the Diversity Coalition, SLO County UndocuSupport, the Latino Outreach Council, Corazon Latino and other Latinae community leaders.

None of those consulted expressed that they were receiving feedback from the communities they serve supporting district elections. In fact, there were unanimous concerns about the potential unintended adverse consequences of districts in disrupting the momentum of local DEI, education, outreach and civic inclusion initiatives, as well as the potential of districts to fragment the coalition building capacity of Latinae community groups and voters in San Luis Obispo.

CONCURRENCE

The City Clerk and DEI Manager have been involved in ongoing settlement discussions and concur with the recommendation.

ENVIRONMENTAL REVIEW

The recommended action is not a project with the potential to result in direct or indirect physical change to the environment and, therefore, does not require environmental review.

FISCAL IMPACT

Budgeted: Yes

Budget Year: 2024-25

Funding Identified: Yes

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund	\$75,000	\$75,000	\$	\$
State				
Federal				
Fees				
Other:				
Total	\$75,000	\$75,000	\$	\$

Item 7a

Costs for the current fiscal year to implement the Settlement Agreement are \$75,000 for SVREP attorneys' fees to date. This payment is proposed to come from the fiscal year 2023-24 General Fund undesignated fund balance. The current unaudited fiscal year 2023-24 fund balance is \$7,735,567. Additional commitments and recommendations for use of this funding will be presented to the Council at the February 18, 2025, meeting with the Mid-Year Budget Report.

Additional attorneys' fees, some of which are avoidable by the City depending on future data analyses and Council actions, may occur in future fiscal years, and are capped as detailed in the fee schedule below which is included in the Settlement Agreement:

\$75,000.00	SVREP Attorneys' Fees to Date
Not to Exceed \$10,000.00	Facilitation of SVREP's Participation in Analysis Following the 2026 & 2028 City Council Elections
Not to Exceed \$200,000.00 (avoidable cost)	SVREP Attorneys' Fees if Dispute Goes to Judicial Reference Process
Not to Exceed \$50,000.00 (avoidable cost)	Referee Fees
No Cap	If the matter goes to Court after the judicial reference procedures

Should the Council approve the Settlement Agreement, staff will also prepare a corresponding budget request for the 2025-27 Financial Plan to implement the additional outreach and engagement commitments included in the agreement. This will include the tasks referenced above in the Public Engagement section of the report as well as the commitment to conduct a Community Academy and/or other type of candidate education and development offering annually. The total costs for this budget request is not expected to exceed \$150,000 total for the 2025-27 Financial Plan.

The City's own costs in this matter for demographics consulting and outside counsel, for work through the end of October 2024, are just over \$216,000.

ALTERNATIVES

1. **Council could elect to proceed with implementation of single member districts**, which would foreclose a subsequent legal challenge, and eliminate the need for settlement. This alternative is not recommended due to lack of data supporting the efficacy of that remedy and, as previously discussed, potentially adverse consequences of districts given the City's current demographics and dispersion data. Mr. Shenkman would still be entitled to attorneys' fees per statute, currently approximately \$38,000.

2. ***Council could decline to approve the recommended settlement and direct staff to abandon further discussions with SVREP and decline to implement single member districts***, which would permit SVREP to sue the City to compel district election implementation. This alternative is not recommended because it would invite a lawsuit, would likely result in significant legal defense costs to the City, and could expose the City to a significant attorneys' fees award to SVREP in the event SVREP prevailed in litigation.

ATTACHMENTS

- A - Proposed Settlement Agreement
- B - Revised Complaint (referenced as Exhibit A in the Settlement Agreement)
- C - Draft Answer of the City (referenced as Exhibit B in the Settlement Agreement)
- D - Proposed Stipulated Judgment (referenced as Exhibit C in the Settlement Agreement)
- E - SVREP demonstration single-member district map, (referenced as Exhibit D in the settlement agreement)

**PRE-LITIGATION SETTLEMENT AGREEMENT
AND RELEASE OF ALL CLAIMS**

This Pre-Litigation Settlement Agreement and Release of all Claims (“Agreement” or “Settlement Agreement”) is entered into this __ day of _____, 2024 (“Effective Date”) by and among the City of San Luis Obispo (“City”), a charter city, and Southwest Voter Registration Education Project (“SVREP”), a Texas nonprofit corporation, (City and SVREP may be referred to individually herein as “Party” and collectively as the “Parties”), as full and complete settlement and compromise of the within matters, agree as follows:

WHEREAS, in or about February 2023, the City received a letter dated February 17, 2023 from attorney Kevin Shenkman of the law firm Shenkman & Hughes, PC, on behalf of SVREP and its members, asserting that the City’s at-large election system violates the California Voting Rights Act (“CVRA” Elections Code section 14025 et seq.) (“SVREP’s Claims”);

WHEREAS, SVREP and City have entered into a series of tolling agreements to toll the deadlines under Elections Code section 10010 (collectively “Tolling Agreement”);

WHEREAS, the Parties have met several times since February 2023 to, among other things, review data and discuss the relative merits of various election systems and the extent to which they might address SVREP’s Claims; and

WHEREAS, the Parties now desire to memorialize the terms of their agreement relative to the City’s election system and SVREP’s Claims,

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions set forth below, and as full and complete compromise and settlement of any and all legally applicable claims, the Parties agree as follows:

1. CVRA Litigation

SVREP shall, promptly upon full execution of this Agreement, file a lawsuit against City in the San Luis Obispo Superior Court, alleging a single cause of action for violation of the CVRA (“CVRA Action”). City will not contest SVREP’s standing to file the lawsuit and waives any affirmative defense based on standing. The complaint shall be substantially in the form attached hereto as Exhibit A. Within five court days of filing the CVRA Action, City shall file an answer generally denying the allegations in the CVRA Action. The City’s answer shall be substantially in the form attached hereto as Exhibit B. Within five court days of filing the City’s Answer, SVREP shall file the Stipulation for Entry Judgment and Proposed Judgment, attached as Exhibit C, to affect the terms of this Agreement. In the event the San Luis Obispo Superior Court refuses to enter judgment in substantially the form attached as Exhibit C, this Agreement shall be null and void and the Parties shall meet and confer in good faith regarding the CVRA action.

2. Citywide Single-vote Voting and Education Period.

a. City’s Electoral System. Subject to change in accordance with this Agreement: the City may maintain an electoral system in which four City Council members are elected at-large and the office of mayor is directly elected by the voters; City Council members are elected every two years to staggered four-year terms, with term limits of two consecutive full terms; and the Mayor is elected every two years to a two-year term, with term limits of four consecutive full terms. City may at any time implement district-based elections, as that phrase is defined in the CVRA, for

the election of its four city council members in accordance with Section 5 of this Agreement and maintain an office of Mayor directly-elected by all the voters in the City.

b. Citywide Single-vote Voting for City Elections. The Parties agree that City shall conduct its 2026 elections for its City Council members and all City Council elections thereafter utilizing Citywide Single-vote voting – a system in which all voters citywide cast a single vote, regardless of the number of seats to be elected, and the two candidates receiving the most votes are elected. Unless the City’s method of election is modified pursuant to this Agreement prior to an election, the City shall conduct that corresponding election for its city council utilizing Citywide Single-vote voting.

c. Cooperation in Outreach, Education Efforts, and Candidate Development. The Parties shall reasonably cooperate with one another between the Effective Date and November 2026 in connection with efforts to educate voters regarding the Citywide Single-vote voting system, as well as efforts to encourage voter registration and turnout directed at historically marginalized communities within the City. SVREP shall reasonably assist City upon City’s request, by providing its know-how in connection with efforts to educate voters and encourage voter registration and turnout among historically marginalized communities. City will agree to conduct a Community Academy bi-annually (every other year) and will provide another candidate education and development offering bi-annually in years alternating with Community Academy. In consultation with SVREP, the City will provide reasonable support for participants (e.g. transportation, childcare, meals) to mitigate barriers to participation.

d. In the event the County Registrar of Voters declines for any reason to conduct the City Council elections using Citywide Single-vote voting consolidated with the statewide election, the Parties shall meet and confer in good faith regarding the CVRA Action.

3. Meet and Confer and Dispute Resolution

a. Meet-and-Confer. Within ninety (90) days following the certification of the 2026 and 2028 City Council elections, if those elections are conducted utilizing Citywide Single-vote voting, the Parties shall meet and confer concerning the corresponding election and results. Specifically, the parties will work cooperatively to determine whether the election(s) demonstrated that Citywide Single-vote voting as implemented by City in the previous election(s) positively impacted the facts (set forth below), which the parties agree are relevant to analysis of a CVRA violation as alleged in the CVRA Action.

b. Relevant Facts. Citywide Single-vote voting shall be deemed to have positively impacted the relevant facts if the Latino-preferred candidate, if any, was elected in the corresponding election(s). If the Latino-preferred candidate was not elected in both of the elections, the Parties shall also consider as a relevant fact under the totality of the circumstances whether the Latino-preferred candidate would have been elected in those elections in District 1 of the SVREP demonstration single-member district map attached hereto as Exhibit D. The Parties shall endeavor to openly exchange information, data and analyses in the course of their meet and confer process, subject to protections as confidential settlement discussions from third party disclosure and admission as evidence in a later action against the City. Following the 2028 election, the City will bring forward for consideration at a public meeting an agenda item regarding implementation of by-district elections, if the relevant facts demonstrate that the Latino-preferred candidate was not elected using Citywide Single-vote voting in the 2026 and 2028 elections and that the Latino-preferred candidate would have been elected in those elections in District 1 of the SVREP demonstration single-member district map, attached hereto as Exhibit D. In the event the City

Council declines to proceed with implementation of district-based elections for City Council seats based on the relevant facts set forth herein, then SVREP may initiate CVRA litigation against the City to compel the City to implement district-based elections without the need for further demand by SVREP and without regard to the safe harbor provisions of the Elections Code, provided that SVREP shall only be entitled to recover attorneys' fees, in addition to those provided under this Agreement, that are incurred on and after any date on which the City Council, after the public meeting contemplated herein, declines to implement district-based elections as contemplated herein.

c. Initiation of Dispute Resolution. If the Parties are not able to agree, following the 2028 elections, whether the Citywide Single-vote voting implemented by City in the 2026 and 2028 elections is positively impacting the relevant facts, as set forth in subsection 3(b), the Parties shall promptly refer their disagreement to be decided through a judicial reference. The referee shall issue a written decision. The parties shall meet and confer in good faith regarding judicial reference procedures.

d. Selection of Referee. The Parties have selected Bernard N. Grofman a professor at the University of California, Irvine, to serve as Referee. In the event, for whatever reason, Professor Grofman is unavailable or unwilling to serve as the Referee, then the Parties select Nathaniel Persily, a professor at Stanford Law School, to serve as Referee. In the event, for whatever reason, Professor Persily is unavailable or unwilling to serve as the Referee, then the Parties select Christian Grose to serve as Referee. In the event, for whatever reason, Christiain Grose is unavailable or unwilling to serve as the Referee, then the Parties shall meet to identify a suitable Referee by mutual consent. If the Parties are unable to reach mutual consent, the California Superior Court (County of San Luis Obispo) shall appoint the Referee.

e. Cost of Referee. The cost of the Referee shall be borne by the City. The fees and expenses of the Referee shall not exceed \$50,000.00.

4. Attorneys' Fees and Expenses.

- a. City shall pay SVREP's reasonable attorneys' fees and expenses for work up to the entry of the judgment contemplated in Section 1 above, consistent with Elections Code section 14030 and/or Code of Civil Procedure section 1021.5, in the amount of \$75,000.00. This amount is in full satisfaction of SVREP's claims for attorneys' fees, costs, and expenses, including expert fees and expenses, up to the entry of judgment contemplated in Section 1, above.
- b. City shall also pay SVREP's attorneys' fees and expenses associated with monitoring and evaluating the 2026 and 2028 elections and the effectiveness of Citywide Single-vote voting in those elections up to a maximum of \$10,000.00 for each election.
- c. In the event of a dispute pursuant to Section 3 of this Agreement and the Referee decides that SVREP is the prevailing party in such dispute, City shall also pay SVREP its reasonable attorneys' fees and expenses associated with the Dispute Resolution in an amount not to exceed \$200,000.00, as well as any attorneys' fees and expenses incurred in determining the amount of such reasonable attorneys' fees and expenses, if contested by the City. SVREP shall provide documentation of its reasonable attorneys' fees and expenses. In the event the Referee recommends remedial action, but the City Council declines to voluntarily implement that remedial action, thus necessitating presentation of the Referee's recommendation to the Superior Court, the cap on fees

and expenses expressed in this subparagraph shall apply only to those fees incurred up to the date of the Council action declining to implement the Referee's recommendation, and this agreement shall not limit any subsequent action by SVREP to recover all reasonable attorneys' fees, as determined by the court, incurred by SVREP from the date of the Council action through the date of conclusion of the judicial reference proceedings before the superior court.

- d. Payment of the attorneys' fees and costs shall be made in the form of a check or wire transfer to Shenkman & Hughes PC at 28905 Wight Rd., Malibu, CA 90265 no later than 30 days following the corresponding agreement on the amount of attorneys' fees and expenses or Referee determination of that amount.
- e. The payments provided for in this Agreement do not extinguish SVREP's attorneys' right to claim attorneys' fees and expenses pursuant to Elections Code §10010(f) in the event the City adopts a by-district election system in response to a notice pursuant to Elections Code § 10010(e) from others who are not parties to this Agreement. It is the intent of the parties that the attorneys for SVREP will be deemed first in right under Elections Code § 10010(f)(2) to the fullest extent permitted by law.
- f. Other than as set forth above, the Parties shall bear their own attorneys' fees and expenses relating to this Agreement and the subject matter thereof.

5. Notwithstanding anything to the contrary herein, City may at any time implement district-based elections, as that phrase is defined in the CVRA, for the election of its city council members and maintain a directly elected office of mayor. In the event that City chooses to implement district-based elections, rather than Citywide Single-vote voting, in either the 2026 or 2028 elections, or both, the provisions of Sections 2 and 3, above, with regard to that election, and the provisions in Section 4 concerning fees and costs associated with monitoring and evaluating the 2026 and/or 2028 elections, shall be inapplicable.

6. The Parties acknowledge and agree that any and all matters, claims and causes of action arising on or before the date of the execution of this Settlement Agreement which any Party has, has had, may have or may have had against the other Parties, including but not limited to SVREP's Claims against the City, are hereby fully compromised and settled except to the extent specifically identified in this Agreement.

7. Each Party waives and releases the other Parties from any and all rights, claims, causes of action, demands, liabilities, obligations, contracts, damages, penalties, complaints, charges, grievances, and duties, whether legal, equitable or contractual, asserted or not asserted, known or unknown, suspected to exist or not suspected to exist, which that Party now has, may have, claims to have or may claim to have against the other Parties arising prior to or on the date of this Settlement Agreement.

8. Each Party has read and understands the following statutory language of Section 1542 of the California Civil Code:

“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.”

Having been so apprised, the Party elects to waive the benefits of Section 1542, and further elects to and does assume all risks for any and all claims, whether known or unknown, suspected or not suspected, arising from the subject matter of this Settlement Agreement, including but not limited to the matters released herein, and knowingly and voluntarily releases the other Parties from any and all liability and claims arising out of such matters.

9. Except as explicitly stated herein, including in Sections 3(e) and 4, the Parties shall bear all of their own costs, expenses and attorneys' fees incurred in connection with the CVRA Action, the negotiation of this settlement agreement, and the completion of the Meet and Confer and Referee process set forth in Section 3 of this Agreement and as agreed in the parties' meet and confer regarding judicial reference procedures.

10. No part of this Settlement Agreement may be amended, modified or waived in any way unless such amendment, modification or waiver is set forth in a later writing signed by all the Parties. A modification, amendment or waiver of any one provision of this Settlement Agreement shall not be deemed to be a modification, amendment or waiver of any other provision of this Settlement Agreement.

11. The provisions of this Settlement Agreement shall be binding upon and inure to the benefit of each of the Parties and their respective successors and assigns.

12. The Parties acknowledge and agree that this Settlement Agreement is a complete expression of all of their agreements and understandings concerning the subject matter hereof, and that any prior or contemporaneous agreements, understandings or representations of the parties, whether express or implied, are no longer of any force and effect.

13. If a court of competent jurisdiction finally holds that any provision of this Settlement Agreement is invalid, illegal, or unenforceable, that holding shall not affect the validity of the other provisions of this Settlement Agreement, which shall remain in full force and effect, and this Settlement Agreement shall be construed as if the offending provision(s) had not been contained herein.

14. The laws of the State of California, without giving effect to its conflict of law provisions, shall govern any dispute, claim, action or proceeding relating to or arising out of this Agreement. Venue shall be in San Luis Obispo County.

15. This Settlement Agreement may be executed in counterparts and each counterpart, when executed, shall have the efficacy of a second original. Photographic or facsimile copies of any such signed counterparts may be used in lieu of the original for any purpose.

16. Electronic Signing: Each Party agrees that the other Parties may use an electronic signature technology, e.g., DocuSign, to expedite the execution of this Agreement.

Dated:

City of San Luis Obispo

By _____
Whitney McDonald,
City Manager, City of San Luis Obispo

Dated:

Southwest Voter Registration Education Project

By _____

Lydia Camarillo
President Southwest Voter Registration Education
Project

APPROVED AS TO FORM:

Dated:

Nielsen Merksamer Parrinello Gross & Leoni, LLP

By _____

Marguerite Mary Leoni
Special Attorneys for City of San Luis Obispo

Dated:

J. Christine Dietrick
City Attorney, City of San Luis Obispo

Dated:

Shenkman & Hughes

By _____

Kevin I. Shenkman
Attorneys for Southwest Voter Registration Education
Project

1 Kevin I. Shenkman (SBN 223315)
2 Mary R. Hughes (SBN 222622)
3 Andrea A. Alarcon (SBN 319536)
4 **SHENKMAN & HUGHES PC**
5 28905 Wight Road
6 Malibu, California 90265
7 Telephone: (310) 457-0970

8 Attorneys for Plaintiff

9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN LUIS OBISPO**

12 **SOUTHWEST VOTER**
13 **REGISTRATION EDUCATION**
14 **PROJECT;**

15 Plaintiff,

16 v.

17 **CITY OF SAN LUIS OBISPO,**
18 **CALIFORNIA; and DOES 1-100,**
19 **inclusive,**

20 Defendants.

21 **Case No.:**

22 **COMPLAINT FOR VIOLATION OF THE**
23 **CALIFORNIA VOTING RIGHTS ACT OF**
24 **2001**

25 **COMES NOW** Plaintiff Southwest Voter Registration Education Project (hereinafter
26 "SVREP" or "Plaintiff"), and allege as follows:

27 **GENERAL ALLEGATIONS**

28 1. This action is brought by Plaintiff for injunctive and declaratory relief against the City of San Luis Obispo, California, for its violation of the California Voting Rights Act of 2001 (hereinafter the "CVRA"), Cal. Elec. Code §§ 14025, et seq. Plaintiff alleges that the City of San Luis Obispo's implementation of at-large elections, in which all city voters may cast as many votes as there are open seats up for election on the City Council and an additional vote for the separately elected Mayor, has resulted in vote dilution for Latino residents and has denied them effective political participation in elections to the San Luis Obispo City Council. Specifically, Plaintiffs allege that the City of San Luis Obispo' at-large

1 method of election for electing members to its City Council prevents Latino residents from
2 electing candidates of their choice or influencing the outcome of San Luis Obispo’s City
3 Council elections.

4 2. Plaintiff alleges that, despite a Latino population of approximately 19% in the
5 City of San Luis Obispo, according to the 2020 Census, the candidates preferred by Latino
6 voters lose in elections within San Luis Obispo and this consistent pattern reveals a lack of
7 access to the political process.

8 3. Plaintiff brings this action to enjoin the City of San Luis Obispo’s continued
9 abridgment of its residents’ voting rights. Plaintiff seeks a declaration from this Court that
10 the City of San Luis Obispo’s at-large elections, for its city council, violates the CVRA.
11 Plaintiff seeks injunctive relief enjoining the City of San Luis Obispo from further imposing
12 or applying an at-large method of election. Plaintiffs do not allege at this time, and are not
13 required to prove, the City of San Luis Obispo intended to discriminate through the use of its
14 at-large method of election. Further, Plaintiff seeks injunctive relief requiring the City of San
15 Luis Obispo to implement district-based elections, or other alternative relief, as discussed in
16 *Pico Neighborhood Ass'n v. City of Santa Monica* (2023) 15 Cal. 5th 292.

17 4. Through correspondence to the City of San Luis Obispo sent in February 2023
18 via certified mail pursuant to section 10010 of the Elections Code, Plaintiff, through the
19 undersigned counsel, asserted that the City’s method of conducting elections may violate the
20 California Voting Rights Act of 2001.

21 **PARTIES**

22 5. SVREP, founded in 1974, is the largest and oldest non-partisan Latino voter
23 participation organization in the United States. SVREP was founded to ensure the voting
24 rights of minorities in the Southwest United States, and continues that mission today, now
25 operating in various states, including California. Over the course of the last few decades,
26 SVREP has been at the forefront of major social and political gains for Latinos in the U.S.
27 and throughout Latin America. While its primary mission is voter registration and education,
28 SVREP is also involved in ensuring fair elections, community organizing, and education,

1 accountability and training of community leaders and elected officials. In California, SVREP
2 has been in the forefront of efforts to enforce the California Voting Rights Act.

3 6. At all times herein mentioned, Defendant City of San Luis Obispo, California
4 (hereinafter "San Luis Obispo") is and has been a charter city subject to the provisions of the
5 CVRA.

6 7. Plaintiff is unaware of the true names and capacities, whether individual,
7 corporate, associate, or otherwise, of defendants sued herein as Does 1 through 100,
8 inclusive, and therefore, sue said defendants by such fictitious names and will ask leave of
9 court to amend this complaint to show their true names and capacities when the same have
10 been ascertained. Plaintiff is informed and believes and thereon alleges that defendants Does
11 1 through 100, inclusive, are responsible on the facts and theories herein alleged.

12 8. Does 1 through 100, inclusive, are Defendants that have caused San Luis
13 Obispo to violate the CVRA, failed to prevent San Luis Obispo' violation of the CVRA, or
14 are otherwise responsible for the acts and omissions alleged herein.

15 9. Plaintiff is informed and believes and thereon alleges that Defendants and each
16 of them are in some manner legally responsible for the acts and omissions alleged herein, and
17 actually and proximately caused and contributed to the various injuries and damages referred
18 to herein.

19 10. Plaintiff is informed and believes and thereon alleges that at all times herein
20 mentioned each of the Defendants were the agent, partner, predecessor in interest, successor
21 in interest, and/or employee of one or more of the other Defendants, and were at all times
22 herein mentioned acting within the course and scope of such agency and/or employment.

23 **JURIDICTION AND VENUE**

24 11. All parties hereto are within the unlimited jurisdiction of this Court. The
25 unlawful acts complained of occurred in San Luis Obispo County. Venue in this Court is
26 proper.

27 **FACTUAL ALLEGATIONS**

1 12. The City of San Luis Obispo contains approximately 47,400 persons, of which
2 approximately 19% are Latino, based upon the 2020 United States Census.

3 13. The City of San Luis Obispo is governed by a city council of five members –
4 four members who serve four-year terms and a directly elected mayor who serves a two-year
5 term. The San Luis Obispo City Council serves as the governmental body responsible for the
6 policy and budgetary direction, and appointment and oversight of the City Manager
7 responsible for operations, of the City of San Luis Obispo.

8 14. The San Luis Obispo City Council members are elected pursuant to an “at-large
9 method of election,” as that term is defined by Section 14026 of the Election Code.

10 15. Vacancies to the City Council are elected on a staggered basis; as a result, every
11 two years the city electorate elects two council members as well as the mayor.

12 16. Elections conducted within the City of San Luis Obispo are characterized by
13 racially polarized voting. Racially polarized voting occurs when members of a protected
14 class as defined by the CVRA, Cal. Elec. Coed § 14025(d), vote for candidates and electoral
15 choices that are different from the rest of the electorate. Racially polarized voting exists
16 within the City of San Luis Obispo because there is a difference between the choice of
17 candidates or other electoral choices that are preferred by Latino voters and the choice of
18 candidates or other electoral choices that are preferred by voters in the rest of the electorate,
19 with the result being that Latino-preferred candidates usually lose.

20 17. Racially polarized voting is legally significant in San Luis Obispo City Council
21 elections because it dilutes the opportunity of Latino voters to elect candidates of their choice
22 or influence the outcome of those elections.

23 18. Patterns of racially polarized voting have the effect of impeding opportunities
24 for Latino voters to elect candidates of their choice to the at-large city council positions in the
25 City of San Luis Obispo or influence the outcome of those elections, where the non-Latino
26 electorate dominates elections. For several years, Latino voters have been harmed by racially
27 polarized voting.

28

1 19. The at-large multiple-vote method of election and repeated racially polarized
2 voting has caused Latino vote dilution within the City of San Luis Obispo. Where Latinos
3 and the rest of the electorate express different preferences on candidates and other electoral
4 choices, non-Latinos by virtue of their overall numerical majority among voters, defeat the
5 preferences of Latino voters.

6 20. The obstacles posed by at-large multiple-vote elections in the City of San Luis
7 Obispo, together with racially polarized voting, impair the ability of people of certain races,
8 color or language minority groups, such as Latino voters, to elect candidates of their choice or
9 to influence the outcome of elections conducted in the City of San Luis Obispo.

10 21. An alternative method of election, such as district-based elections, or an
11 alternative method of election as discussed in *Pico Neighborhood Ass'n v. City of Santa*
12 *Monica* (2023) 15 Cal.5th 292, exists that will provide an opportunity for the members of the
13 protected classes as defined by the CVRA to elect candidates of their choice or to influence
14 the outcome of the San Luis Obispo City Council elections.

15 **FIRST CAUSE OF ACTION**

16 **(Violation of California Voting Rights Act of 2001)**

17 **(Against All Defendants)**

18 22. Plaintiff incorporates by this reference paragraphs 1 through 26 as though fully
19 set forth herein.

20 23. Defendant City of San Luis Obispo is a political subdivision within the State of
21 California.

22 24. Defendant City of San Luis Obispo has employed an at-large method of
23 election, where voters of its entire jurisdiction elect all members to its City Council.

24 25. Racially polarized voting has occurred, and continues to occur, in elections for
25 members of the City Council for the City of San Luis Obispo and/or in elections
26 incorporating other electoral choices by voters of the City of San Luis Obispo, California.
27 Absent remedial measures ordered by this Court, racially polarized voting will continue to
28 plague elections held in San Luis Obispo. As a result, the City of San Luis Obispo' at-large

1 method of election is imposed in a manner that impairs the ability of protected classes as
2 defined by the CVRA to elect candidates of their choice or influence the outcome of
3 elections.

4 26. An alternative method of election, such as district-based elections, or an
5 alternative method of election as discussed in *Pico Neighborhood Ass'n v. City of Santa*
6 *Monica* exists that will provide an opportunity for the members of a protected class as defined
7 by the CVRA to elect candidates of their choice or to influence the outcome of the San Luis
8 Obispo City Council elections.

9 27. An actual controversy has arisen and now exists between the parties relating to
10 the legal rights and duties of Plaintiff and Defendants, for which Plaintiff desires a
11 declaration of rights.

12 28. Defendants' wrongful conduct has caused and, unless enjoined by this Court,
13 will continue to cause, immediate and irreparable injury to Plaintiff, and all residents of the
14 City of San Luis Obispo.

15 29. Plaintiff and the residents of the City of San Luis Obispo have no adequate
16 remedy at law for the injuries they currently suffer and will otherwise continue to suffer.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
19 follows:

20 1. For a decree that the City of San Luis Obispo's at-large method of election for
21 all or any portion of the City Council violates the California Voting Rights Act of 2001;

22 2. For preliminary and permanent injunctive relief enjoining the City of San Luis
23 Obispo from imposing or applying an at-large method of election;

24 3. For injunctive relief mandating the City of San Luis Obispo to implement
25 district-based elections, as defined by the California Voting Rights Act of 2001, employing a
26 district map tailored to remedy Defendant's violation of the California Voting Rights Act of
27 2001, or other election system tailored to eliminate the vote dilution of the City of San Luis
28 Obispo's at-large multiple-vote elections;

1 4. For injunctive relief mandating the prompt election of city council members
2 through district-based elections, or another election method tailored to remedy Defendant’s
3 violation of the California Voting Rights Act of 2001,

4 5. Other relief tailored to remedy the City of San Luis Obispo’s violation of the
5 California Voting Rights Act of 2001;

6 6. For an award of Plaintiff attorneys’ fees, costs, litigation expenses and
7 prejudgment interest pursuant to Elec. Code § 14030 and other applicable law; and

8 7. For such further relief as the Court deems just and proper.

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Respectfully submitted:

DATED: _____, 2024

SHENKMAN & HUGHES PC

By: /s/Kevin Shenkman

Kevin Shenkman
Attorneys for Plaintiff

1 [CITY OF SLO CAPTION]

**EXEMPT FROM FILING FEES
[GOV'T CODE § 6103]**

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6 **NIELSEN MERKSAMER**
7 **PARRINELLO GROSS & LEONI LLP**
8 Marguerite Mary Leoni (S.B. No. 101696)
9 Christopher E. Skinnell (S.B. No. 227093)
10 2350 Kerner Boulevard, Suite 250
11 San Rafael, California 94901
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13 Facsimile: (415) 388-6874
14 Email: mleoni@nmgovlaw.com
15 Email: cskinnell@nmgovlaw.com

16 *Attorneys for Defendant*
17 **CITY OF SAN LUIS OBISPO**

18 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **IN AND FOR THE COUNTY OF SAN LUIS OBISPO**

20 **SOUTHWEST VOTER REGISTRATION**
21 **EDUCATION PROJECT,**
22 *Plaintiff,*
23 vs.
24 **CITY OF SAN LUIS OBISPO, CALIFORNIA;**
25 **and DOES 1-100, inclusive,**
26 *Defendants.*

) Case No.
)
) **ANSWER OF DEFENDANT CITY**
) **OF SAN LUIS OBISPO TO**
) **UNVERIFIED COMPLAINT FOR**
) **VIOLATION OF THE CALIFORNIA**
) **VOTING RIGHTS ACT OF 2001**
)
) **JUDGE:**
) **DEPARTMENT:**
) **ACTION FILED:**
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1 Defendant CITY OF SAN LUIS OBISPO (hereinafter “Defendant”) answers the unverified
2 complaint of plaintiff SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT as
3 hereinafter set forth.

4 **I. GENERAL DENIAL**

5 1. Pursuant to Section 431.30(d) of the California Code of Civil Procedure, Defendant
6 generally and specifically denies each and every allegation, statement, matter, and thing set forth in
7 and alleged in the unverified complaint, and specifically denies that Defendant has violated the
8 California Voting Rights Act of 2001 (California Elections Code § 14025 *et seq.*, hereinafter the
9 “Act”) and denies that Plaintiffs are entitled to the relief prayed for or any relief whatsoever against
10 Defendant.

11 **II. AFFIRMATIVE DEFENSES**

12 2. For Defendant’s separate and additional affirmative defenses to the cause of action
13 alleged in the unverified complaint, and without admitting that Defendant has the burden of proof
14 on any of these defenses, Defendant alleges as follows:

15 **FIRST AFFIRMATIVE DEFENSE**

16 (Failure to State a Cause of Action, Elec. Code § 14027)

17 3. The cause of action contained in the Complaint fails to allege facts demonstrating
18 dilution of the ability of Latino voters to elect chosen candidates or influence the outcome of
19 elections.

20 **SECOND AFFIRMATIVE DEFENSE**

21 (Failure to State a Cause of Action, Elec. Code § 14028)

22 4. The cause of action contained in the Complaint fails to allege facts demonstrating
23 racially polarized voting sufficient to state a cause of action against Defendant.

24 **THIRD AFFIRMATIVE DEFENSE**

25 (Failure to State a Cause of Action, Elec. Code § 14028)

26 5. The cause of action contained in the Complaint fails to allege facts demonstrating
27 Latino-preferred candidates, including candidates who are themselves Latino, fail to win election
28

1 to the City Council.

2 FOURTH AFFIRMATIVE DEFENSE

3 (As-Applied Violation of the Fourteenth Amendment to the United States Constitution and
4 Article I, § 7, of the California Constitution)

5 6. The Act is unconstitutional as applied to Defendant pursuant to the provisions of Section 1
6 of the Fourteenth Amendment to the United States Constitution, and to the provisions of Section 7
7 of Article I of the California Constitution.

8 PRAYER

9 WHEREFORE, Defendant prays for judgment that:

- 10 1. That Plaintiff takes nothing by its Complaint;
- 11 2. For entry of Judgment against Plaintiff and in favor of Defendant; and
- 12 3. That Defendant be awarded its costs of suit and attorneys' fees; and
- 13 4. That the Court order such further relief to Defendant as deemed just and proper.

14 Dated: November ____, 2024

CITY SAN LUIS OBISPO

15 By: _____

16 Christine A. Dietrick
17 City Attorney

18 NIELSEN MERKSAMER
19 PARRINELLO GROSS & LEONI LLP

20 By: _____

21 Marguerite Mary Leoni
22 Christopher E. Skinnell

23 *Attorneys for Defendant*
24 City of San Luis Obispo

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN LUIS OBISPO

SOUTHWEST VOTER REGISTRATION
EDUCATION PROJECT,

Plaintiff,

vs.

CITY OF SAN LUIS OBISPO,
CALIFORNIA; and DOES 1-100, inclusive,

Defendants.

Case No.

STIPULATED JUDGMENT

JUDGE:

DEPARTMENT:

ACTION FILED:

Plaintiff SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT and
Defendant CITY OF SAN LUIS OBISPO, CALIFORNIA, a public entity (“Defendant”), having
stipulated to all terms and conditions set forth herein, and having requested the Court to make and
enter a Judgment consistent with said stipulation, the Court renders its judgment as follows:

STIPULATED JUDGMENT

CASE NO. _____

EXHIBIT C TO SETTLEMENT AGREEMENT

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1. Citywide Single-vote Voting and Education Period.
- a. City’s Electoral System. Subject to change a set forth below: the City may maintain an electoral system in which four City Council members are elected at-large and the office of mayor is directly elected by the voters; City Council members are elected every two years to staggered four-year terms, with term limits of two consecutive full terms; and the Mayor is elected every two years to a two-year term, with term limits of four consecutive full terms. City may at any time implement district-based elections, as that phrase is defined in the CVRA, for the election of its four city council members in accordance with Section 4 of this Stipulated Judgment and maintain an office of Mayor directly-elected by all the voters in the City.
- b. Citywide Single-vote Voting for City Elections. The City shall conduct its 2026 elections for its City Council members and all City Council elections thereafter utilizing Citywide Single-vote voting – a system in which all voters citywide cast a single vote, regardless of the number of seats to be elected, and the two candidates receiving the most votes are elected. Unless the City’s method of election is modified pursuant to this Stipulated Judgment prior to an election, the City shall conduct that corresponding election for its city council utilizing Citywide Single-vote voting.
- c. Cooperation in Outreach, Education Efforts, and Candidate Development. The Parties shall reasonably cooperate with one another between the Effective Date and November 2026 in connection with efforts to educate voters regarding the Citywide Single-vote voting system, as well as efforts to encourage voter registration and turnout directed at historically marginalized communities within the City. SVREP shall reasonably assist City upon City’s request, by providing its know-how in connection with efforts to educate voters and encourage voter registration and turnout among historically marginalized communities. City will conduct a Community Academy bi-annually (once every other year) and will provide another candidate education and development offering bi-annually in years alternating with Community Academy. In consultation with SVREP, the City will provide

STIPULATED JUDGMENT CASE NO. _____

1 reasonable support for participants (e.g. transportation, childcare, meals) to mitigate barriers
2 to participation.

3 d. In the event the County Registrar of Voters declines for any reason to conduct the
4 City Council elections using Citywide Single-vote voting consolidated with the statewide
5 election, the Parties shall meet and confer in good faith regarding the CVRA Action.

6 2. Meet and Confer and Dispute Resolution.

7 a. Meet-and-Confer. Within ninety (90) days following the certification of the 2026
8 and 2028 City Council elections, if those elections are conducted utilizing Citywide Single-
9 vote voting, the Parties shall meet and confer concerning the corresponding election and
10 results. Specifically, the parties will work cooperatively to determine whether the election(s)
11 demonstrated that Citywide Single-vote voting as implemented by City in the previous
12 election(s) positively impacted the facts (set forth below), which are relevant to analysis of a
13 CVRA violation as alleged in the CVRA Action.

14 b. Relevant Facts. Citywide Single-vote voting shall be deemed to have positively
15 impacted the relevant facts if the Latino-preferred candidate, if any, was elected in the
16 corresponding election(s). If the Latino-preferred candidate, if any, was not elected in both
17 of the elections, the Parties shall also consider as a relevant fact under the totality of the
18 circumstances whether the Latino-preferred candidate would have been elected in those
19 elections in District 1 of the SVREP demonstration single-member district map, attached as
20 Exhibit D to the Pre-Litigation Settlement Agreement And Release Of All Claims between
21 the Parties. The Parties shall endeavor to openly exchange information, data and analyses in
22 the course of their meet and confer process, subject to protections as confidential settlement
23 discussions from third party disclosure and admission as evidence in a later action against
24 the City. Following the 2028 election, the City will bring forward for consideration at a
25 public meeting an agenda item regarding implementation of by-district elections, if the
26 relevant facts demonstrate that the Latino-preferred candidate was not elected using
27 Citywide Single-vote voting in the 2026 and 2028 elections and that the Latino-preferred

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candidate would have been elected in those elections in District 1 of the SVREP demonstration single-member district map, attached hereto as Exhibit D. In the event the City Council declines to proceed with implementation of district-based elections for City Council seats based on the relevant facts set forth herein, then SVREP may initiate CVRA litigation against the City to compel the City to implement district-based elections without the need for further demand by SVREP and without regard to the safe harbor provisions of the Elections Code, provided that SVREP shall only be entitled to recover attorneys' fees, in addition to those provided under this Stipulated Judgment, that are incurred on and after any date on which the City Council, after the public meeting contemplated herein, declines to implement district-based elections as contemplated herein.

c. Initiation of Dispute Resolution. If the Parties are not able to agree, following the 2028 elections, whether the Citywide Single-vote voting implemented by City in the 2026 and 2028 elections is positively impacting the relevant facts, as set forth in subsection 2(b), above, the Parties shall promptly refer their disagreement to be decided through a judicial reference. The referee shall issue a written decision. The parties shall meet and confer in good faith regarding judicial reference procedures.

d. Selection of Referee. The Parties have selected Bernard N. Grofman a professor at the University of California, Irvine, to serve as Referee. In the event, for whatever reason, Professor Grofman is unavailable or unwilling to serve as the Referee, then the Parties select Nathaniel Persily, a professor at Stanford Law School, to serve as Referee. In the event, for whatever reason, Professor Persily is unavailable or unwilling to serve as the Referee, then the Parties select Christian Grose to serve as Referee. In the event, for whatever reason, Christiain Grose is unavailable or unwilling to serve as the Referee, then the Parties shall meet to identify a suitable Referee by mutual consent. If the Parties are unable to reach mutual consent, the court shall appoint the Referee.

e. Cost of Referee. The cost of the Referee shall be borne by the City. The fees and expenses of the Referee shall not exceed \$50,000.00.

STIPULATED JUDGMENT

CASE NO. _____

EXHIBIT C TO SETTLEMENT AGREEMENT

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3. Attorneys' Fees and Expenses.

a. City shall pay SVREP's reasonable attorneys' fees and expenses for work up to the entry of this stipulated Judgment consistent with Elections Code section 14030 and/or Code of Civil Procedure section 1021.5, in the amount of \$75,000.00. This amount is in full satisfaction of SVREP's claims for attorneys' fees, costs, and expenses, including expert fees and expenses, up to the entry of this Stipulated Judgment.

b. City shall also pay SVREP's attorneys' fees and expenses associated with monitoring and evaluating the 2026 and 2028 elections and the effectiveness of Citywide Single-vote voting in those elections up to a maximum of \$10,000.00 for each election.

c. In the event of a dispute pursuant to Section 2, above, and the Referee decides that SVREP is the prevailing party in such dispute, City shall also pay SVREP its reasonable attorneys' fees and expenses associated with the Dispute Resolution in an amount not to exceed \$200,000.00, as well as any attorneys' fees and expenses incurred in determining the amount of such reasonable attorneys' fees and expenses, if contested by the City. SVREP shall provide documentation of its reasonable attorneys' fees and expenses. In the event the Referee recommends remedial action, but the City Council declines to voluntarily implement that remedial action, thus necessitating presentation of the Referee's recommendation to the Superior Court, the cap on fees and expenses expressed in this subparagraph shall apply only to those fees incurred up to the date of the Council action declining to implement the Referee's recommendation, and this judgment shall not limit any subsequent action by SVREP to recover all reasonable attorneys' fees, as determined by the court, incurred by SVREP from the date of the Council action through the date of conclusion of the judicial reference proceedings before the superior court.

d. Payment of the attorneys' fees and costs shall be made in the form of a check or wire transfer to Shenkman & Hughes PC at 28905 Wight Rd., Malibu, CA 90265 no later than 30 days following the corresponding agreement on the amount of attorneys' fees and expenses or Referee determination of that amount.

STIPULATED JUDGMENT CASE NO. _____

1 e. Other than as set forth above, the Parties shall bear their own attorneys' fees and
2 expenses relating to this action and the subject matter thereof.

3 4. District-based Elections.

4 Notwithstanding anything to the contrary herein, City may at any time implement district-
5 based elections, as that phrase is defined in the CVRA, for the election of its city council members
6 and maintain a directly elected office of mayor. In the event that City chooses to implement
7 district-based elections, rather than Citywide Single-vote voting, in either the 2026 or 2028
8 elections, or both, the provisions of Sections 1 and 2, above, with regard to that election, and the
9 provisions in Section 3 concerning fees and costs associated with monitoring and evaluating the
10 2026 and/or 2028 elections, shall be inapplicable.

11 5. The Court shall retain jurisdiction to enforce the terms of this Stipulated Judgment and the
12 Settlement Agreement pursuant to Code of Civil Procedure Section 664.6.

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14 Dated: _____

15 HON. _____
16 JUDGE, SUPERIOR COURT OF THE
17 STATE OF CALIFORNIA IN AND FOR
18 THE COUNTY OF ORANGE

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28 STIPULATED JUDGMENT CASE NO. _____

District	1	2	3	4	5
Population_B20	9136	9379	9276	9771	9597
% Deviation	-3.14%	-0.56%	-1.65%	3.59%	1.75%
% LATPOP_B20	29.14%	17.16%	13.98%	14.69%	18.25%
% WHIPOP_B20	56.59%	69.68%	73.4%	70.32%	67.74%
% LATVAP_B20	25.46%	14.69%	12.31%	13.1%	16.45%
% WHIVAP_B20	60.6%	73.13%	75.46%	72.16%	69.52%
% lcvap_D21	21.33%	12.86%	8.53%	12.88%	17.55%
% wcvap_D21	70.21%	78.38%	82.14%	75.99%	70.33%
% bcvap_D21	1.46%	2.42%	1.92%	1.85%	2.84%
% acvap_D21	6.27%	5.54%	6.82%	7.7%	8.27%
% acovap_D21	0.89%	0.8%	0.62%	1.69%	0.91%

