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8 Walnut Creek, CA 94596
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9 Email: rafferty@gmail.com

10 Attorney for Plaintiffs
Linda Ruiz-Lozito and Bay Area Voting
11 Rights Initiative

12 IN THE SUPERIOR COURT OF CALIFORNIA
13 IN AND FOR THE COUNTY OF CONTRA COSTA

14 LINDA RUIZ-LOZITO
15 AYANA YOUNG
16 BAY AREA VOTING RIGHTS INITIATIVE

Case No.: C18-00570

Case assigned to Dept. 12 for all purposes

17 Plaintiffs,
18 vs.

**JOINT EX PARTE APPLICATION FOR
ENTRY OF JUDGMENT**

19 WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT

Date: March 6, 2019
Time: 10:00 a.m.
Dept.: 12

20 Defendants,
21 _____/

**[FEES EXEMPT PURSUANT TO
GOVERNMENT CODE SECTION 6103]**

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25 TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:

26 NOTICE IS HEREBY GIVEN that on Wednesday, **March 6, 2019** at 10:00 a.m. or as soon
27 thereafter as the matter may be heard in Department 12 of the above-entitled Court, Defendant,
28 WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT and Plaintiffs, LINDA RUIZ-LOZITO

1 and the BAY AREA VOTING RIGHTS INITIATIVE, shall apply to the Court *ex parte* for entry of
2 Stipulated Judgment.

3 LINDA RUIZ-LOZITO and BAY AREA VOTING RIGHTS INIATIVE ("Plaintiffs") have
4 agreed to stipulate to this *ex parte* order as requested by WEST CONTRA COSTA UNIFIED
5 SCHOOL DISTRICT ("Defendant").

6 This matter does not have any trial date set.

7 Notice of this *ex parte* Application has been provided to Plaintiff's counsel, as listed on the
8 accompanying proof of service.

9 This *ex parte* request is based on this Application, the Memorandum in support, the
10 Declaration of Domenic D. Spinelli, and all evidence and arguments as may be heard by the court.

11 Dated: March 5, 2019

SPINELLI, DONALD & NOTT

12
13
14 By: 

DOMENIC D. SPINELLI

ALISON W. WINTER

Attorneys for Defendant,

West Contra Costa Unified School District

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1 MEMORADUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION AND FACTUAL BACKGROUND**

3 This case involves a school district's endeavor to transition to a system of trustee-area
4 elections for school board members pursuant to the procedures set forth in California's Election
5 Code and Education Code, and Plaintiffs' lawsuit under the CVRA and FVRA.

6 **II. GOOD CAUSE EXISTS FOR AN EX PARTE FOR ENTRY OF STIPULATED**
7 **JUDGMENT**

8 The parties have come to a resolution by Stipulation and Judgment and wish to present the
9 Stipulation and Judgment for the Court's review, signature and entry to resolve and end this
10 litigation through a joint *ex parte* on March 6, 2019 at 10:00 a.m. in Department 24 of the above-
11 referenced Court.

12 Attached to this Application, as Exhibit 1, is the original Stipulation and Judgment signed
13 by the parties and their counsel for the Court's signature and two copies that the parties request the
14 Court also sign and endorse.

15 **I. CONCLUSION**

16 Based on the foregoing, and good cause showing, the parties respectfully request the Court
17 grant the instant *ex parte* request for an entry of their Stipulated Judgment.

18
19 Dated: March 5, 2019

SPINELLI, DONALD & NOTT

20
21 By: 

DOMENIC D. SPINELLI

22 ALISON W. WINTER

23 Attorneys for Defendant,

24 West Contra Costa Unified School District
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DECLARATION OF DOMENIC D. SPINELLI

1
2 1. I am an attorney at law, duly licensed to practice before all courts of the State of California,
3 and partner in the law firm of Spinelli, Donald & Nott, counsel of record for Defendants. I have
4 personal knowledge of the matters contained herein and, if called to do so, could and would testify
5 to the facts set forth below.

6 2. I notified Plaintiffs' counsel, Scott Rafferty, of my intent to file this joint application at 8:31
7 a.m. on March 4, 2019.

8 3. I then emailed this Joint Application on the afternoon of March 4, 2019 to Plaintiffs'
9 counsel, Scott Rafferty.

10
11 I declare under penalty of perjury that the foregoing is true and correct.

12 Executed this 5th day of March, 2019 at Sacramento, California.

13 
14 DOMENIC D. SPINELLI
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ORDER

The Joint Application of Plaintiffs, LINDA RUIZ-LOZITO and BAY AREA VOTING RIGHTS INITIATIVE and Defendants, WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT, for an order entering a Stipulated Judgment came for hearing on March 6, 2019 in Department 12 of the above-entitled Court.

GOOD CAUSE appearing therefore, the application is GRANTED, and IT IS SO ORDERED THAT:

Judgment be entered.

IT IS SO ORDERED.

DATED: _____

By: _____
Judge of the Superior Court

PROOF OF SERVICE

COURT: Superior Court of California, County of Contra Costa
CASE NO.: C18-00570
CASE NAME: Ruiz-Lozito, et al. v. West Contra Costa Unified School District

I am a citizen of the United States, employed in the County of Sacramento, State of California. My business address is 601 University Avenue, Suite 225, Sacramento, CA 95825. I am over the age of 18 and not a party to the above-entitled action.

I am readily familiar with Spinelli, Donald & Nott's practice for collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to said practice, each document is placed in an envelope, the envelope is sealed, the appropriate postage is placed thereon and the sealed envelope is placed in the office mail receptacle. Each day's mail is collected and deposited in a U.S. mailbox at or before the close of each day's business. (CCP Section 1013a(3) or Fed.R.Civ.P.5(a) and 4.1.)

On March 4, 2019, I caused the within **JOINT EX PARTE APPLICATION FOR ENTRY OF JUDGMENT**, the originals of which were produced on recycled paper, to be served via:

☒ E-MAIL--

By e-mailing the document(s) listed above in "PDF" format to the attorneys of record at their e-mail addresses listed below by 5:00 p.m. (PST).

Attorneys for Plaintiff	Scott Rafferty, Esq. 1913 Whitecliff Court Walnut Creek, CA 94596 Tel: 202-380-5525 rafferty@gmail.com
Plaintiff, AYANA K. YOUNG	Ayana K. Young 3000 Citrus Circle, Suite 240 Walnut Creek, CA 94598 Tel: 1.800.385.7022

☐ PERSONAL SERVICE--

By delivering by hand to the addressee addressed as follows:

☐ FEDERAL EXPRESS--

By causing delivery by Federal Express of the document(s) listed above to the person(s) at the address(es) set forth below:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on March 4, 2019, Sacramento, California.


JESSICA PATTON

EXHIBIT 1

1 **SPINELLI, DONALD & NOTT**
2 A Professional Corporation
3 Domenic D. Spinelli, SBN: 131192
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5 Sacramento, CA 95825
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16 Attorney for Plaintiffs
17 Linda Ruiz-Lozito and Bay Area Voting
18 Rights Initiative

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LINDA RUIZ-LOZITO
AYANA YOUNG
BAY AREA VOTING RIGHTS INITIATIVE

Case No.: C18-00570

Case assigned to Dept. 12 for all purposes

Plaintiffs,
vs.

**STIPULATION AND [PROPOSED]
JUDGMENT**

WEST CONTRA COSTA UNIFIED
SCHOOL DISTRICT

Defendants,

**[FEES EXEMPT PURSUANT TO
GOVERNMENT CODE SECTION 6103]**

The parties to the above-entitled action, Plaintiffs LINDA RUIZ-LOZITO and BAY AREA VOTING RIGHTS INITIATIVE, and Defendant, WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT, by and through their respective attorneys of record, set forth their stipulations to resolve this matter and hereby request judgment be entered under the following terms and conditions:

I. INTRODUCTION

A. This lawsuit filed on March 21, 2018, involves a challenge under both the California Voting Rights Act of 2001, Elections Code §14025 et seq: ("CVRA"), and Section 2 of the Voting Rights Act of 1965, as amended, 52 U.S.C. §10301 ("Section 2"), to the current method of the West Contra Costa Unified School District ("WCCUSD" or "Defendant") for electing its trustees. Under the current system, trustees are elected "at- large" by all of the voters in WCCUSD. Plaintiffs claim that racially polarized voting in at-large trustee elections dilutes the voting strength of Latino and African-American citizens and thereby impairs their ability to participate in the political process, to elect candidates of their choice, and to influence the outcome of elections. Plaintiffs claim that the at-large system results in a denial or abridgement of their right to vote, and that WCCUSD must elect each of its trustees from distinct trustee areas, which are mutually exclusive and collectively exhaust its territory.

B. On March 21, 2018, the Board of Trustees ("Board") for West Contra Costa Unified School District passed a resolution (Resolution No.: 64-1718), stating the Board's intent to move to trustee area elections. (See Exhibit A attached hereto.)

C. Defendant filed its Answer, generally denying the allegations and asserting affirmative defenses on July 6, 2018.

D. On August 13, 2018, the parties stipulated that the three trustee seats that were to be elected at the state-wide general election on November 6, 2018 would be for two-year terms, so that elections by trustee area could be implemented through the entire district at the state general election of November 3, 2020. (See Exhibit B attached hereto.)

E. On September 12, 2018, the Court entered an Order upon the parties' Stipulation in accordance with these terms. (See Exhibit B attached hereto.)

F. As a result of the continued negotiations, and in exchanging various proposals, the parties have agreed on a trustee area map to be used for the November 2020 election, attached hereto as Exhibit

C.

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II. PURPOSE OF THIS STIPULATION

The parties have entered into this Stipulation for the following purposes:

- A. To resolve disputes covered by this Stipulation in such a way as to avoid unnecessary, expensive, and protracted litigation;
- B. To ensure that future trustees of WCCUSD are elected from single-member trustee areas;
- C. To achieve and maintain a condition in which members of protected classes enjoy the ability to elect candidates of their choice; and
- D. To establish a fair and impartial process, providing adequate public notice and opportunity for comment to redistrict these trustee areas in 2021-22 in a manner which preserves the equality of influence by protected groups, after the upcoming census.

III. DEFINITIONS

When used in this Stipulation, the terms defined below shall have the following meanings:

- A. "Approval Date" means the date upon which the Court signs this Decree.
- B. "At-large" refers to any of the following methods of electing trustees: (1) one in which the voters of the entire jurisdiction elect the trustees; (2) one in which the candidates are required to reside within given areas of the jurisdiction and the voters of the entire jurisdiction elect the trustees; (3) one that combines at-large elections with district-based elections.
- C. "Board" means the "governing board" or "board of school trustees," as defined in Education Code §78, that governs WCCUSD and is comprised of five trustees.
- D. "Citizens of Voting Age Population" or "CVAP" refers to the estimated number of citizens who will be eighteen years of age at the time of the next trustee election, or at a stated period earlier in time, and may be based on special tabulations prepared by the Bureau of Census.
- E. "Plaintiffs" means Linda Ruiz-Lozito and Bay Area Voting Rights Initiative ("BAVRI"), an unincorporated association that includes voters who belong to protected classes.
- F. "Protected class" means a class of voters who are members of a race, color or language minority group. "Race" or "color" refers to any class of persons identifiable because of their ancestry or ethnic characteristics. Saint Francis College v. Al-Khazraji, 481 U. S. 604, 613 (1987).

1 "Language minority groups" are those specified in Section 203(e) of Federal Voting Rights Act, 52
2 U.S.C. §10503(e).

3 G. "Racially polarized voting" means voting in which there is a difference in the choice of
4 candidates or other electoral choices that are preferred by voters in a protected class, and in the
5 choice of candidates and electoral choices that are preferred by voters in the rest of the electorate.
6 Elections Code § 14026(e).

7 H. "Trustee Area-based" means a method of electing trustees in which the candidate must
8 reside within a trustee area and is elected only by voters residing within that trustee area. See
9 Elections Code §14026(b) ("District-based").

10 I. "Voter" means any person who is a United States citizen, eligible to vote in the next election
11 of trustees, and registered or pre-registered to vote within the territory of WCCUSD.

12 IV. JURISDICTION

13 The Court has jurisdiction over the parties and subject matter of this action, and venue is
14 proper in this Court. The Complaint in this action asserts claims that authorize the Court to grant
15 the injunctive relief set forth in this Stipulation and Judgment. The Court shall retain jurisdiction
16 over this matter as set forth in the Judgment.

17 V. STIPULATIONS OF THE PARTIES

- 18 1. WCCUSD is a school district organized under the laws of the State of California,
19 Education Code § 35010 et seq., located in the County of Contra Costa. WCCUSD is a
20 political subdivision within the meaning of Elections Code § 14026(c).
- 21 2. WCCUSD is governed by a five-member Board, which acts as its governing and
22 legislative body, within the meaning of Elections Code § 14028(a).
- 23 3. Elections of WCCUSD trustees have been consolidated with the statewide general
24 election, pursuant to Elections Code § 10402.5. Prior to the commencement of this case,
25 two trustees were elected in each presidential election year, and three in each non-
26 presidential election year. Consistent with Education Code § 5017, each trustee holds
27 office for a term of four years commencing on the second Friday in December next

1 succeeding his or her election. On September 12, 2018, upon application of the parties
2 to this action, this Court ordered that trustees elected on November 6, 2018 would serve
3 shortened terms, so that trustees would be elected from each of the five trustee areas on
4 November 3, 2020.


- 5 4. Board elections are conducted by an "at-large method of election" within the meaning of
6 Elections Code § 14026(a)(1). All voters, regardless of where they reside within
7 WCCUSD, vote for their preferred trustee candidates, and candidates who receive the
8 most votes are elected to Board.
- 9 5. Plaintiff Linda Ruiz-Lozito is registered to vote and resides within the boundaries of
10 WCCUSD. Plaintiff is a member of a "protected class" as the term is defined in
11 California Election Code § 14026.
- 12 6. WCCUSD acknowledges that the plaintiffs demonstrated that a protected class is
13 sufficiently large and geographically compact to constitute a majority of citizens of
14 voting age within one trustee area.
- 15 7. The community referred to in paragraph 7 is cohesive and capable of electing its
16 candidate of choice within this trustee area.
- 17 8. During the negotiation process, the parties have jointly developed the remedial map
18 attached hereto as Exhibit C, which is compliant with state and federal voting rights
19 laws, and will be used on November 3, 2020, when residents of WCCUSD will elect
20 trustees from each area using the attached remedial map. The Trustee Areas [4] and [5]
21 on this map will elect trustees to two-year terms in November of 2020. Trustee Areas
22 [1], [2], and [3] will continue to serve four-year terms.
- 23 9. WCCUSD acknowledges that if this case were to go to trial, the Plaintiffs would likely
24 prevail on their CVRA and Section 2 claims as pled in the Complaint.
- 25 10. As a result of this litigation, the Board's Resolution (Exhibit A), the Stipulation and
26 Order between the parties (Exhibit B), and the agreed and legally compliant remedial
27 map (Exhibit C), the parties agree that these elements combined provide a conversion of
WCCUSD's existing at-large method of electing trustees into a system in which each of

1 the five trustees resides within and is elected by voters within one of five distinct trustee
2 areas and remedies the allegations in Plaintiffs' Complaint.


- 3 11. WCCUSD agrees to take all necessary actions to give effect to the requirements of this
4 Stipulation and Judgment, including but not limited to, timely submissions of the
5 remedial map (**Exhibit C**) to the County Superintendent (Education Code § 5031), the
6 Supervisors (Education Code § 1002(c)), including a new order of consolidation, and
7 delivery of **Exhibit C** to the Registrar of Voters for Contra Costa County.
- 8 12. WCCUSD agrees to pay Plaintiffs' counsel, Scott Rafferty \$280,000.00 in attorney's
9 fees, costs and expenses upon entry of this Stipulation and Judgment by the Court. This
10 payment is in addition to an amount previously paid by WCCUSD of \$30,600.00 for
11 attorney's fees, costs and expenses to Mr. Rafferty. WCCUSD shall not be liable for any
12 further payments of attorney's fees, costs or expenses to Plaintiffs and their counsel,
13 unless Plaintiffs prevail in any proceeding to enforce this Stipulation and Judgment.
- 14 13. WCCUSD agrees to defend this Stipulation and Judgment against any legal attack by
15 third parties.
- 16 14. The parties further agree that the District shall establish an independent redistricting
17 commission ("Commission") to prepare trustee areas for the November 2022 election, as
18 set forth in **Exhibit D** to this Stipulation and Judgement.

19
20 Dated: February __, 2019

21 *March 4 2019*

22 By: 
23 Linda Ruiz-Lozito
24 Plaintiff

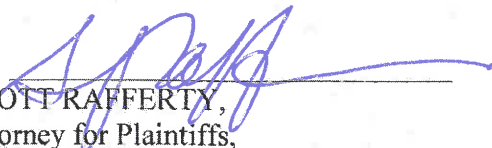
25 Dated: *March 4, 2019* February __, 2019

26 By: 
27 Bay Area Voting Rights Initiative
28 Plaintiff

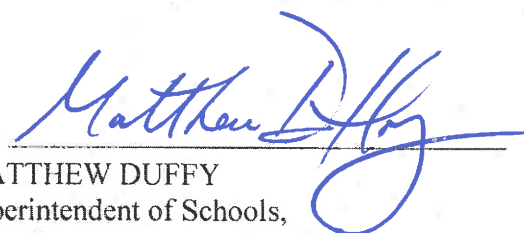
1 APPROVED AS TO FORM:

2 Dated: March 4, 2019

SCOTT RAFFERTY, ESQ.

3
4 By: 
5 SCOTT RAFFERTY,
6 Attorney for Plaintiffs,
7 Linda Ruiz-Lozito, Bay Area Voting Rights
8 Initiative

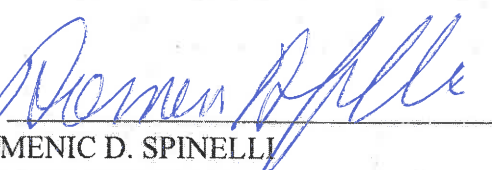
9
10 Dated: March 7, 2019

11 By: 
12 MATTHEW DUFFY
13 Superintendent of Schools,
14 West Contra Costa Unified School District

15 APPROVED AS TO FORM:

16 Dated: March 4, 2019

SPINELLI, DONALD & NOTT

17 By: 
18 DOMENIC D. SPINELLI
19 Attorneys for Defendant,
20 West Contra Costa Unified School District
21
22
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JUDGMENT

Based upon the foregoing stipulations and upon the facts and law applicable to this case, and with good cause appearing, the Court hereby orders judgment as follows:

1. It is hereby ordered adjudged and decreed that the next regular election for Defendant's Board of Education shall be "Trustee Area-based", as follows:

- A. The attached remedial map (Exhibit C), which is in compliance with state and federal voting rights laws, and which will be used for the November 3, 2020 election.
- B. In the November 3, 2020 election, the district will elect trustees from each area using the remedial map (Exhibit C).
- C. The Trustee Areas [4] and [5] on the remedial map (Exhibit C), will elect trustees to two-year terms in the November 3, 2020 election, and thereafter four-year terms commencing with the November 2022 election.
- D. Trustee Areas [1], [2], and [3] on the remedial map (Exhibit C), will serve four-year terms commencing with the November 3, 2020 election.
- E. As a result of this litigation, the Board's Resolution (Exhibit A), the Stipulation and Order between the parties (Exhibit B), and the legally compliant remedial map (Exhibit C), the Court finds that these actions combined remedy the allegations in Plaintiff's Complaint.

2. It is further adjudged and decreed that Defendant is permanently enjoined from imposing, applying, holding, tabulating and/or declaring the results of any further at-large elections and/or the results thereof, for any positions on its Board of Education beginning in the November 3, 2020 election.

3. It is further ordered that WCCUSD will pay Plaintiffs' counsel, Scott Rafferty, \$280,000.00 for all attorneys' fees, costs and expenses for this case upon entry of this Stipulation and Judgment. This, in addition to a previously paid amount of \$30,600.00, represents all fees, costs and expenses due and owing to Plaintiffs' and their counsel from Defendant in this action.

- 1 4. Pursuant to the parties' Stipulation and Exhibit D to this Stipulation and Judgment, the
2 District shall establish an independent redistricting commission ("Commission") to prepare
3 trustee areas for the November 2022 election.
- 4 5. It is further adjudged and decreed that this Court retains jurisdiction to interpret and enforce
5 this Stipulation and Judgment and to adjudicate any disputes regarding implementation or
6 interpretation of this Stipulation and Judgment. The Court's retained jurisdiction will end on
7 November 3, 2020.

8
9 The Clerk of the Court is directed to enter this Judgment.

10 IT IS SO ORDERED, ADJUDGED AND DECREED.

11 Dated: _____

12 Hon. Charles S. Treat
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EXHIBIT A

**West Contra Costa Unified School District
Resolution No. 64-1718
INTENT TO TRANSITION FROM AT-LARGE TO TRUSTEE-AREA BOARD
ELECTIONS**

WHEREAS, the Board of Education ("Board") of the West Contra Costa Unified School District ("District") is elected "at-large," meaning that each trustee is elected by voters of the entire District;

WHEREAS, trustees are elected in even-numbered years and serve staggered, four-year terms, such that the next election for three trustees is scheduled for November 2018, with the remaining two trustees scheduled for election in November 2020;

WHEREAS, on January 22, 2018, the District received correspondence asserting that the District's current at-large elections violate the California Voting Rights Act (Elec. Code, § 14025, *et seq.*) ("CVRA"), and demanding that the District adopt "trustee-area" elections, where each trustee must reside within the designated trustee area boundary, and is elected only by the voters in that trustee area;

WHEREAS, under the CVRA, at-large elections are impermissible if they result in racially polarized voting. Racially polarized voting is defined as "voting in which there is a difference ... in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate" (Elec. Code, § 14026, subd. (e));

WHEREAS, the District understands the importance of fair and accessible elections, and greatly values the opinions and voices of all members of the District's community;

WHEREAS, the Board has concluded that it is in the public interest to begin the process to transition from at-large to trustee-area elections;

WHEREAS, in 2016 the California Legislature amended Elections Code section 10010 to provide an updated process for school districts to transition from at-large to trustee-area elections;

WHEREAS, pursuant to Elections Code section 10010, subdivision (a)(1), the Board will hold a minimum of two public hearings prior to developing proposed trustee-area boundary maps;

WHEREAS, the District will hold a minimum of two additional public hearings to seek public input on the proposed trustee area maps developed with assistance from a demographer retained by the District (Elec. Code, § 10010, subd. (a)(2));

WHEREAS, the District will hold an additional public hearing before adopting a trustee-area map and submitting it to the Contra Costa County Committee on School District Organization ("County Committee") for consideration;

WHEREAS, Education Code sections 5019 and 5030 authorize the County Committee, upon application of the District Board, to change the method of election of the Board from at-large to trustee-area;

WHEREAS, if the County Committee approves this request to change the method of electing trustees, Education Code section 5020 requires the County Committee's resolution of approval to be submitted to the electorate for its approval;

WHEREAS, in the alternative, the District may seek a waiver of this voter approval requirement from the State Board of Education, pursuant to Education Code sections 33050-33053; and

WHEREAS, the Board intends to effectuate the change to trustee area elections in time for the November 2018 regularly scheduled Board elections. However, the Board understands that the process is complex; requires the approval of other public agencies, and must be approached with care and careful consideration, and therefore acknowledges that there is a possibility that the trustee-area elections will not be implemented until the November 2020 election.

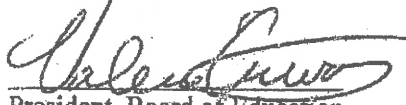
NOW, THEREFORE, BE IT RESOLVED, the Governing Board of the West Contra Costa Unified School District hereby resolves as follows:

1. The above recitals are correct and true.
2. The District shall commence the process of transition to trustee-area elections, in full compliance with all appropriate procedures and policies provided in law, including but not limited to Education Code sections 5019, 5030, and 33050, *et seq.*, and Elections Code sections 10010 and 14025, *et seq.*
3. Staff is directed to engage a demographer, legal counsel, and any other consultant deemed required to assist in the development of proposed trustee-area boundaries.
4. The District Superintendent/designee are hereby authorized and directed to take any other actions necessary to effectuate the purposes of this resolution.

PASSED AND ADOPTED by the Board of Education of the WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT, at a regular meeting of the Board of Education held on March 21 2018, by the following vote:

Ayes:	<u>4</u>
Noes:	<u>1</u>
Absent:	<u>0</u>
Abstain:	<u>0</u>

I HEREBY CERTIFY that the foregoing resolution was duly and regularly introduced, passed, and adopted by the members of the Governing Board of the West Contra Costa Unified School District, at a public meeting of said Board held on March 21 2018.


President, Board of Education
West Contra Costa Unified School District


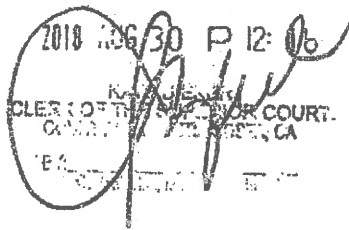

Clerk, Board of Education
West Contra Costa Unified School District

EXHIBIT B

FILED



1 SPINELLI, DONALD & NOTT
2 A Professional Corporation
3 Domenic D. Spinelli, SBN: 131192
4 Alison W. Winter, SBN: 251084
5 Evan M. McLean, SBN: 309756
6 601 University Avenue, Suite 225
7 Sacramento, CA 95825
8 Telephone: (916) 448-7888
9 Facsimile: (916) 448-6888

10 Attorneys for Defendants
11 West Contra County Unified School District

12 IN THE SUPERIOR COURT OF CALIFORNIA
13 IN AND FOR THE COUNTY OF CONTRA COSTA

Case No.: C18-00570

14 LINDA RUIZ-LOZITO
15 AYANA YOUNG
16 BAY AREA VOTING RIGHTS INITIATIVE

STIPULATION AND ~~PROPOSED~~
ORDER OF TRUSTEE ELECTIONS AND
LENGTH OF TERMS

17 Plaintiffs,

18 vs.

19 WEST CONTRA COSTA UNIFIED
20 SCHOOL DISTRICT

First Amended Complaint Filed: May 17, 2017

21 Defendants,

[FEES EXEMPT PURSUANT TO
GOVERNMENT CODE SECTION 6103]

22 The parties, through their counsel of record and in pro per, agree and stipulate as follows:
23 The West Contra Costa Unified School District currently elects five members to its Board of

24 Trustees using an at-large election system.

25 On or about March 21, 2018, Defendant's Board passed a resolution intending to effectuate
26 the change to trustee area elections in time for the scheduled 2018 elections, but acknowledging a
27 possibility that trustee area elections would not be implemented until 2020.

On or about March 21, 2018, Plaintiff's filed the instant lawsuit.

28 Pursuant to Education Code Sections 35012 and 5017, school board members are ordinarily
elected to four year terms, with some of the board seats up for election at a given general election,
and the remainder of the seats up for election two years later, resulting in staggered elections.

1 In order to facilitate moving to trustee area based elections by the November 2020 general
2 election, the parties have agreed and request the Court order modifications to the terms and length
3 of terms of elected trustees as follows:


4 1. The three trustee seats, open for election in November 2018, will have a term for two
5 years only.

6 2. At the November 2020 general election, all five seats will be for trustee area
7 elections. Two or three of the five seats in the November 2020 election will be for two year terms,
8 and the remaining seats will be for four year terms (with the determination of which seats will have
9 two year terms and which will have four year terms to be made at a future date). Therefore, not all
10 five seats will be up for election every four years, keeping some continuity within the School Board
11 through election cycles and tracking the staggered Board election procedures contemplated by the
12 Education Code.

13 3. This Stipulation and Order shall take effect immediately upon signature and filing by
14 the Court. Defendant shall notify all candidates for the three school board seats for the November
15 2018 election and shall post this Order on its website.

16
17 Dated: August 6, 2018

SCOTT RAFFERTY

18
19 By: 
20 SCOTT RAFFERTY (SBN 224389),
21 Attorney for Plaintiffs,
Linda Ruiz-Lozito, Bay Area Voting Rights
Initiative

22 Dated: August 22, 2018

23 By: 
24 LINDA RUIZ-LOZITO
25 Plaintiff
26
27
28

1 Dated: August __, 2018
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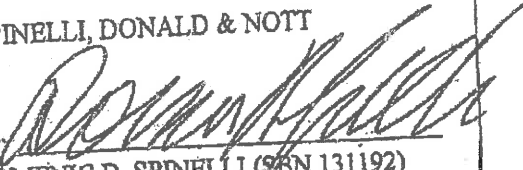
6 Dated: August 30, 2018
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13 Dated: August 30, 2018
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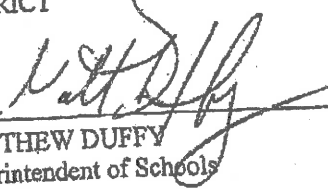
LAW OFFICE OF AYANA K. YOUNG

By: _____
AYANA K. YOUNG (SBN 261112)
Plaintiff in Pro Per

SPINELLI, DONALD & NOTT

By: 
DOMENIC D. SPINELLI (SBN 131192)
ALISON W. WINTER (SBN 251084)
EVAN M. MCLEAN (SBN 309756)
Attorneys for Defendant,
West Contra Costa Unified School District

WEST CONTRA COSTA UNIFIED SCHOOL
DISTRICT

By: 
MATTHEW DUFFY
Superintendent of Schools

1 IN THE SUPERIOR COURT OF CALIFORNIA
2 IN AND FOR THE COUNTY OF CONTRA COSTA
3

4 LINDA RUIZ-LOZITO
5 AYANA YOUNG
6 BAY AREA VOTING RIGHTS INITIATIVE

Case No.: C18-00570

~~PROPOSED~~ ORDER OF TRUSTEE
ELECTIONS AND LENGTH OF TERMS

7 Plaintiffs,
8 vs.

9 WEST CONTRA COSTA UNIFIED
10 SCHOOL DISTRICT

First Amended Complaint Filed: May 17, 2017

11 Defendants,
12
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14 ORDER

15 Having considered the parties' Stipulation and pursuant to the Court's authority under the
16 California Voting Rights Act, the Court adopts this Stipulation and makes the following orders:

17 1. The three trustee seats, open for election in November 2018, will have a term for two
18 years only.

19 2. At the November 2020 general election, all five seats will be for trustee area
20 elections, subject to approval and adoption of a trustee area map. Two or three of the five seats in
21 the November 2020 election will be for two year terms, and the remaining seats will be for four
22 year terms (with the determination of which seats will have two year terms and which will have
23 four year terms to be made at a future date). Therefore, not all five seats will be up for election
24 every four years, keeping some continuity within the School Board through election cycles and
25 tracking the staggered Board election procedures contemplated by the Education Code.

26 3. This Stipulation and Order shall take effect immediately upon signature and filing by
27 the Court. Defendant shall notify all candidates for the three school board seats for the November

28 ///

///

1 2018 election and shall post this Order on its website.

2
3 IT IS SO ORDERED.

4 Dated: 8/30/18


Hon. Charles S. Treat

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PROOF OF SERVICE

COURT: Superior Court of California, County of Contra Costa
CASE NO.: C18-00570
CASE NAME: Ruiz-Lozito, et al. v. West Contra Costa Unified School District

I am a citizen of the United States, employed in the County of Sacramento, State of California. My business address is 601 University Avenue, Suite 225, Sacramento, CA 95825. I am over the age of 18 and not a party to the above-entitled action.

I am readily familiar with Spinelli, Donald & Nott's practice for collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to said practice, each document is placed in an envelope, the envelope is sealed, the appropriate postage is placed thereon and the sealed envelope is placed in the office mail receptacle. Each day's mail is collected and deposited in a U.S. mailbox at or before the close of each day's business. (CCP Section 1013a(3) or Fed.R.Civ.P.5(a) and 4.1.)

On August 30, 2018, I caused the within **STIPULATION AND [PROPOSED] ORDER OF TRUSTEE ELECTIONS AND LENGTH OF TERMS**, the originals of which were produced on recycled paper, to be served via:

[XX] E-MAIL--

By e-mailing the document(s) listed above in "PDF" format to the attorneys of record at their e-mail addresses listed below by 5:00 p.m. (PST).

Attorneys for Plaintiff	Scott Rafferty, Esq. 1913 Whitecliff Court Walnut Creek, CA 94596 Tel: 202-380-5525 rafferty@gmail.com
Plaintiff, AYANA K. YOUNG	Ayana K. Young 3000 Citrus Circle, Suite 240 Walnut Creek, CA 94598 Tel: 1.800.385.7022

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 30, 2018 Sacramento, California.


JESSICA PATTON

1 IN THE SUPERIOR COURT OF CALIFORNIA
2 IN AND FOR THE COUNTY OF CONTRA COSTA A 9:34

3
4 LINDA RUIZ-LOZITO
5 AYANA YOUNG
6 BAY AREA VOTING RIGHTS INITIATIVE

7 Plaintiffs,

8 vs.

9 WEST CONTRA COSTA UNIFIED
10 SCHOOL DISTRICT

11 Defendants,

Case No.: C18-00578

FILED
2018 SEP 14
CLERK OF THE SUPERIOR COURT
CONTRA COSTA, CA
[PROPOSED] ORDER OF TRUSTEE
ELECTIONS AND LENGTH OF TERMS
TO SUPERSEDE AUGUST 30, 2018
ORDER

First Amended Complaint Filed: May 17, 2017

12
13 ORDER

14 Having considered the parties' Stipulation of Trustee Elections and Length of Terms to
15 Supersede Court's August 30, 2018 Order, and and pursuant to the Court's authority under the
16 California Voting Rights Act and Code of Civil Procedure section 128, the Court vacates the
17 August 30, 2018 Order, adopts this Stipulation and makes the following orders:

18 1. The three trustee seats, open for election in November 2018, will have a term for two
19 years only.

20 2. At the November 2020 general election, all five seats will be for trustee area
21 elections. Two or three of the five seats in the November 2020 election will be for two year terms,
22 and the remaining seats will be for four year terms (with the determination of which seats will have
23 two year terms and which will have four year terms to be made at a future date). Therefore, not all
24 five seats will be up for election every four years, keeping some continuity within the School Board
25 through election cycles and tracking the staggered Board election procedures contemplated by the
26 Education Code.

27 3. This Stipulation and Order shall take effect immediately upon signature and filing by
28 the Court. Defendant shall notify all candidates for the three school board seats for the November

1 2018 election and shall post this Order on its website

2
3 IT IS SO ORDERED.

4 Dated: 7/12/18


Hon. Charles S. Treat

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1 PROOF OF SERVICE

2 COURT: Superior Court of California, County of Contra Costa
3 CASE NO.: C18-00570
4 CASE NAME: Ruiz-Lozito, et al, v. West Contra Costa Unified School District

5 I am a citizen of the United States, employed in the County of Sacramento, State of
6 California. My business address is 601 University Avenue, Suite 225, Sacramento, CA 95825. I
7 am over the age of 18 and not a party to the above-entitled action.

8 I am readily familiar with Spinelli, Donald & Nott's practice for collection and processing of
9 correspondence for mailing with the United States Postal Service. Pursuant to said practice, each
10 document is placed in an envelope, the envelope is sealed, the appropriate postage is placed thereon
11 and the sealed envelope is placed in the office mail receptacle. Each day's mail is collected and
12 deposited in a U.S. mailbox at or before the close of each day's business. (CCP Section 1013a(3) or
13 Fed.R.Civ.P.5(a) and 4.1.)

14 On September 4, 2018, I caused the within **STIPULATION AND [PROPOSED] ORDER**
15 **OF TRUSTEE ELECTIONS AND LENGTH OF TERMS TO SUPERSEDE COURT'S**
16 **AUGUST 30, 2018 ORDER**, the originals of which were produced on recycled paper, to be served
17 via:

18 [XX] E-MAIL-

19 By e-mailing the document(s) listed above in "PDF" format to the attorneys of record at
20 their e-mail addresses listed below by 5:00 p.m. (PST).

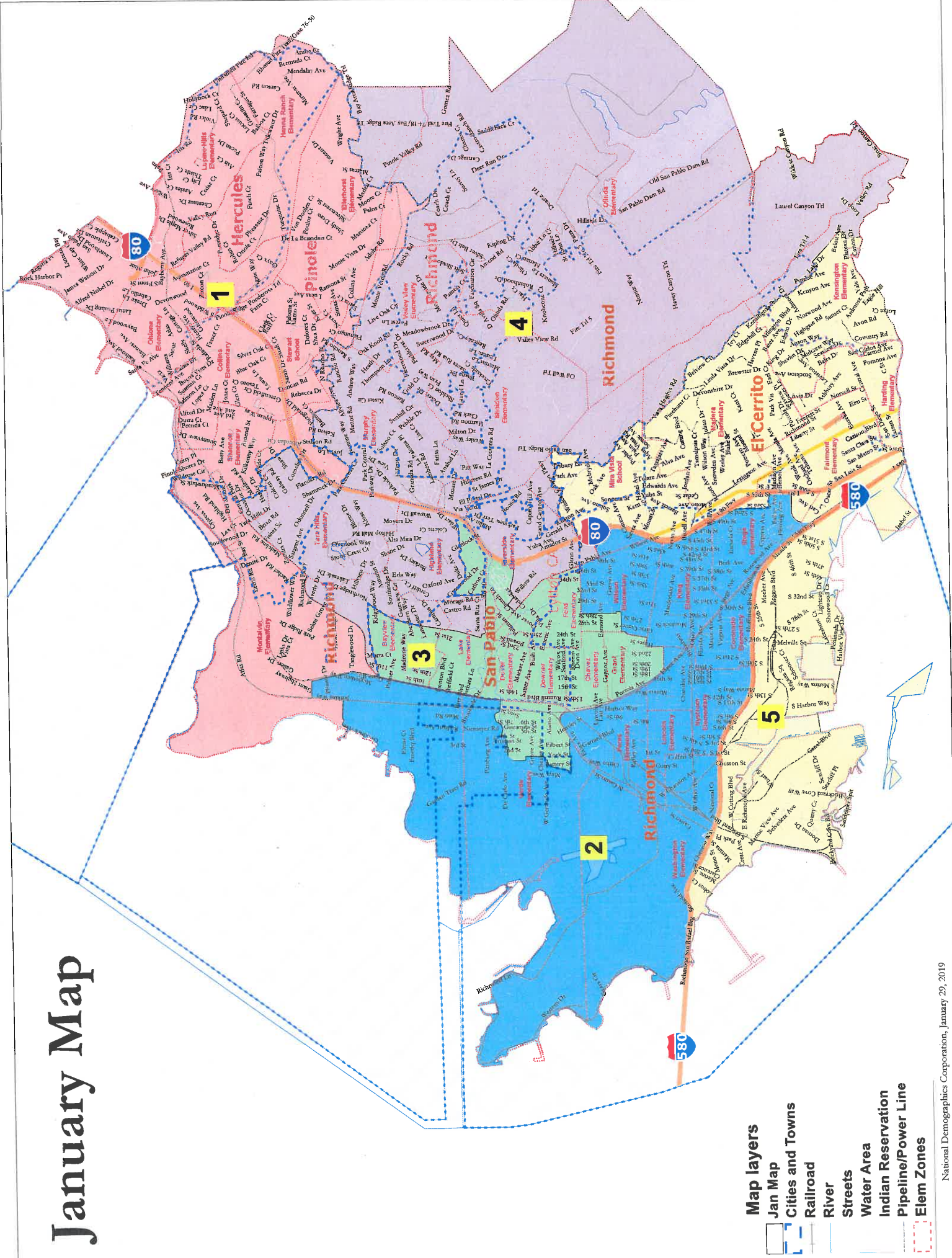
21 Attorneys for Plaintiff	22 Scott Rafferty, Esq. 23 1913 Whitecliff Court 24 Walnut Creek, CA 94596 25 Tel: 202-380-5525 26 rafferty@gmail.com
27 Plaintiff, AYANA K. YOUNG	28 Ayana K. Young 3000 Citrus Circle, Suite 240 Walnut Creek, CA 94598 Tel: 1.800.385.7022 ayana@akyounglaw.com

29 I declare under penalty of perjury under the laws of the State of California that the foregoing
30 is true and correct. Executed on September 4, 2018, Sacramento, California.

31 
32 JESSICA PATTON

EXHIBIT C

January Map



WCCUSD - Jan Map demographics

District		1	2	3	4	5	Total
Ideal	Total Pop	47,973	47,191	44,511	48,513	47,659	235,847
47,169	Deviation from ideal	804	22	-2,658	1,344	490	4,002
	% Deviation	1.70%	0.05%	-5.64%	2.85%	1.04%	8.48%
Total Pop	% Hisp	21%	46%	67%	24%	13%	34%
	% NH White	25%	9%	8%	27%	51%	24%
	% NH Black	16%	35%	13%	23%	10%	19%
	% Asian-American	35%	7%	10%	21%	24%	20%
Citizen Voting Age Pop	Total	35,654	25,844	20,496	34,257	36,520	152,771
	% Hisp	18%	25%	49%	20%	9%	22%
	% NH White	29%	17%	14%	32%	58%	32%
	% NH Black	14%	44%	17%	23%	9%	21%
	% Asian/Pac.Isl.	36%	12%	18%	22%	22%	23%
Voter Registration (Nov 2016)	Total	27,147	21,808	15,467	26,348	33,223	123,994
	% Latino est.	25%	28%	53%	21%	9%	24%
	% Spanish-Surnamed	22%	25%	47%	18%	8%	21%
	% Asian-Surnamed	11%	3%	4%	8%	9%	7%
	% Filipino-Surnamed	6%	1%	2%	3%	1%	3%
	% NH White est.	38%	16%	18%	41%	69%	41%
	% NH Black	20%	50%	21%	28%	11%	24%
Voter Turnout (Nov 2016)	Total	20,209	13,115	9,249	19,204	27,457	89,234
	% Latino est.	25%	30%	54%	20%	9%	22%
	% Spanish-Surnamed	22%	27%	49%	18%	8%	20%
	% Asian-Surnamed	10%	3%	4%	8%	10%	8%
	% Filipino-Surnamed	5%	1%	2%	2%	1%	3%
	% NH White est.	43%	19%	27%	46%	70%	47%
	% NH Black	23%	51%	30%	29%	11%	25%
Voter Turnout (Nov 2014)	Total	10,807	6,864	4,045	10,568	18,056	50,340
	% Latino est.	18%	19%	41%	14%	7%	15%
	% Spanish-Surnamed	16%	17%	37%	13%	6%	14%
	% Asian-Surnamed	9%	3%	4%	6%	9%	7%
	% Filipino-Surnamed	4%	1%	3%	2%	1%	2%
	% NH White est.	47%	22%	25%	47%	74%	51%
	% NH Black est.	21%	55%	25%	30%	9%	24%
ACS Pop. Est.	Total	49,784	49,758	46,336	49,699	49,985	245,562
Age	age0-19	21%	29%	30%	21%	18%	24%
	age20-60	56%	57%	57%	56%	55%	56%
	age60plus	23%	14%	13%	22%	26%	20%
Immigration	immigrants	32%	36%	45%	30%	25%	33%
	naturalized	69%	30%	37%	57%	54%	48%
Language spoken at home	english	56%	43%	27%	56%	68%	50%
	spanish	15%	45%	57%	22%	9%	29%
	asian-lang	21%	8%	12%	13%	13%	14%
	other lang	8%	4%	4%	8%	10%	7%
Language Fluency	Speaks Eng. "Less than Very Well"	17%	28%	38%	19%	13%	23%
Education (among those age 25+)	hs-grad	53%	53%	51%	59%	36%	50%
	bachelor	25%	12%	9%	19%	30%	20%
	graduatedegree	11%	5%	3%	9%	28%	12%
Child in Household	child-under18	29%	34%	41%	26%	23%	30%
Pct of Pop. Age 16+	employed	61%	57%	58%	59%	63%	60%
Household Income	income 0-25k	10%	28%	26%	16%	12%	18%
	income 25-50k	16%	29%	28%	20%	16%	21%
	income 50-75k	17%	18%	21%	18%	17%	18%
	income 75-200k	48%	23%	25%	39%	43%	37%
	income 200k-plus	9%	2%	1%	6%	12%	7%
Housing Stats	single family	83%	63%	70%	71%	72%	72%
	multi-family	17%	37%	30%	29%	28%	28%
	rented	26%	60%	56%	43%	38%	44%
	owned	74%	40%	44%	57%	62%	56%

Total population data from the 2010 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.

EXHIBIT D

Exhibit D

INDEPENDENT REDISTRICTING COMMISSION

1. WCCUSD ("District") shall establish an independent redistricting commission ("Commission") to prepare trustee areas for 2022. To ensure that the Commission will be free of political influence and representative of the District's diversity, its seven (7) members shall be appointed by a retired judge to be selected by counsel for Plaintiff and Defendant ("Selection Judge").
2. The Superintendent shall solicit and accept written nominations for appointment to the Commission in accordance with this provision no later than January 1, 2021 to March 1, 2021. Individuals or organizations desiring to nominate persons for appointment to the Commission shall do so in writing to the Superintendent. The Superintendent shall remove from the pool any individual who does not comply with the conditions set forth in Elections Code section 23003, subdivisions (c) and (d). The Superintendent shall transmit the names and relevant information regarding all remaining nominees, along with the names of the individuals and organizations that made such nominations to the Selection Judge. The Selection Judge shall appoint seven (7) individuals to serve as members of the Commission no later than May 1, 2021. The Selection Judge shall use his/her best efforts to appoint people who will give the Commission racial, geographic, social, and ethnic diversity, and who, in its judgment, have a high degree of competency to carry out the responsibilities of the Commission and a demonstrated capacity to serve with impartiality. The Selection Judge will select one member from each current trustee area and two members from within Contra Costa County excluding the boundaries of the District. If one member from each current trustee area cannot be selected, and/or two members from within Contra Costa County excluding the boundaries of the District, the Selection Judge can select a member from within the District boundaries. The Commission shall not be

comprised entirely of members who registered to vote with the same political party preference, pursuant to Elections Code section 23003, subdivision (f). Persons who accept appointment to the Commission shall, at the time of their appointment, file a written declaration with the Clerk of the Board stating that they will not seek election as District trustee prior to 2028. Any vacancy in the Commission after the Commission is constituted shall promptly be filled by the Selection Judge, following the same procedure and using the same criteria established herein.

3. Within sixty (60) days after the members of the Commission are appointed, the Commission shall adopt a budget and submit it to the Board. The Board shall appropriate to the Commission and to the Superintendent the funds necessary for the Commission to accomplish its task, including paying for an expert demographic consultant.

4. The Commission shall conduct an open and transparent process that ensures full and meaningful public participation. The Commission shall adopt procedures sufficient to ensure that any communication it receives directly or indirectly from incumbent trustees is reduced to writing and posted on the internet. The Commission shall provide public notice of and hold five public hearings, one in each current trustee area, at which all residents will have equal opportunity to comment on the drawing of district lines. The Commission shall make every reasonable effort to afford maximum public access to its proceedings, setting times and locations that assure accessibility to members of protected classes. Notice of and translation services at each public hearing shall be provided in Spanish.

5. Members of the Commission shall comply with the terms of Election Code 23003, subdivisions (e) and (g), and shall be subject to West Contra Costa Unified School District's Conflict of Interest Code.

6. After the public hearings, and no later than October 1, 2021, the Commission shall, in consultation with its demographic consultant, prepare a preliminary map and accompanying report ("Preliminary Plan") dividing the District into five trustee areas. Those trustee areas shall be used for all future elections of Trustees, including their recall, and for filling any vacancy in the office of member of the Board until such time as new trustee areas are established for the 2032 election. The Commission shall draw the proposed district boundary lines of the District pursuant to the criteria set forth in the following order of priority:

- a. Compliance with the United States Constitution, including reasonable equality of population within each trustee area.
- b. Compliance with the Federal Voting Rights Act, first by establishing or maintaining trustee areas containing a majority of members of a protected class to the extent legally permissible, and then by considering any extent to which trustee areas containing a near majority of a protected class, or a majority of protected classes that act in coalition, would provide those protected classes with the opportunity to elect their candidates of choice and to influence elections on a basis more equal to the opportunity enjoyed by the rest of the electorate
- c. The additional requirement of state law that population be as nearly equal as possible, using the 2020 census and any population figures validated pursuant to Education Code 1002, subdivision (b), and 5019.5, subdivision (a).
- d. Trustee areas will be drawn using the factors authorized in Education Code 1002, subdivision (a): (1) Topography; (2) Geography; (3) Cohesiveness, contiguity, integrity, and compactness of territory; and (4) Respect for geographic integrity of neighborhood

and any community of interest, (including those of racial, ethnic, and language minorities) to the extent possible without violating any of the preceding provisions.

7. The Commission shall not consider the place of residence of any incumbent or political candidate in defining trustee areas. Trustee areas shall not be drawn for the purpose of favoring or discriminating against an incumbent, candidate, or political party pursuant to Elections Code 23003, subsection (k).

8. The Commission shall file the Preliminary Plan with the Superintendent, who shall make it publicly available. The Preliminary Plan shall contain a map with a depiction of the trustee areas and a report that outlines the bases on which the Commission made its decisions regarding trustee area boundaries, including its compliance with the criteria stated above. The Commission shall comply with Elections Code 23003, subdivision (j), regarding public hearings and map publication, except as otherwise set forth herein. After having heard comments from the public on the Preliminary Plan, the Commission may make any revisions. The Commission shall then approve a Recommended Plan by majority vote of all members. The Commission must file the Recommended Plan with the Superintendent by January 1, 2022.

9. The Board shall hold at least one (1) public hearing on the Recommended Plan before its adoption by the Committee. After having heard comments from the public on the Recommended Plan, the Commission may make any revisions. The Commission, possessing the power to adopt the trustee areas of the District, will then adopt a Final Districting Plan of its choosing by majority vote at a public hearing. If legally required for implementation of the Final District Map, the Board shall then promptly approve the Final Districting Map.

10. No change in the boundary or location of any district by redistricting as herein provided shall operate to abolish or terminate the term of office of any member of the Board prior to the

expiration of the term of office for which such member was elected. Until trustees elected in November 2022 take office, the map identified in Exhibit C shall be used in the application of any provision of law related to the recall of a trustee or the filling of a vacancy.

11. Pursuant to Election Code Section 23003, subdivision (l), trustee areas adopted by the Commission shall not be altered by the Board or the Commission until after the next federal decennial census occurs, unless those trustee areas have been invalidated by a final judgment or order of a court of competent jurisdiction.

12. If the Selection Judge encounters an issue related to the interpretation or implementation of the Independent Redistricting Commission agreement, the Selection Judge will seek input and agreement from the parties, the Superintendent of WCCUSD or his designee, and the Plaintiff or her designee.