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January 18, 2022

Mayor and Council
City of Santa Barbara

Sent via Email

Re: Breach of Stipulated Agreement Establishing District Elections in City of Santa Barbara

Dear Mayor Rowse and Members of the Council:

This letter is to place the City of Santa Barbara on notice that it is out of compliance with the stipulated agreement establishing district elections in the City of Santa Barbara, that this breach places the City of Santa Barbara in significant jeopardy with respect to any district map it might adopt; and requesting that the activities of the Independent Redistricting Commission be postponed to allow counsel to confer with respect to the subject matter of this letter.

Two Majority Latino Eligible Voters Districts Required by Stipulated Agreement

The Stipulation for Entry of Order and Judgment in the matter of *Banales et. al. v. City of Santa Barbara*, Santa Barbara Superior Court Case No. 1468167, established district elections in the City of Santa Barbara and could not be more clear that two majority Latino eligible voters districts are required in the district mapping process following the 2020 decennial census.

The preamble Recitals to The Stipulation for Entry of Order and Judgment at page 2, line 10 contains the following: "WHEREAS the Parties are agreed it is their intention that the electoral district map to be adopted for the November 2015 election will include two electoral districts in which Latino eligible voters constitute a majority of eligible voters, tailored to the greatest extent possible consistent with traditional redistricting law, so as to address any issue of vote dilution;". And, the terms of the Order and Judgment unmistakably make clear in Paragraph 2 that: **"The intent of the Parties is the electoral district map shall include two electoral districts in which Latino eligible voters constitute a majority of the eligible voters" (lines 12-14)**

Even more significantly for the issue at hand, Paragraph 8 of the Stipulation for Entry and Order of Judgment--which concerns redistricting after the 2020 census--clearly states: **"The Independent Redistricting Commission shall adopt a redistricting map ... in accordance with the criteria set forth in Paragraph 2**

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above" (at lines 8-10). So, the Commission is bound by the judgment to fulfill the intent of the parties and "include two electoral districts in which Latino eligible voters constitute a majority of eligible voters".

The terms of the judgment are more particular as to this requirement. Paragraph 8 further provides that "(t)he electoral district map ***shall be redrawn, if necessary, to bring it into compliance with the criteria set forth in Paragraph 2 above*** after receipt of the results of the 2020 Census as set forth in this paragraph." The import of this language is that the Districts drawn in 2015 to constitute majority minority districts (Districts 1 and 3) are to remain unchanged in the redistricting process. That is, unless the existing district (by virtue of Census data) has fallen below majority minority status. In such a case, it would be "necessary" to redraw the district such that it would exceed the 50% +1 Latino eligible voter status as required under the judgment.

These same provisions were mirrored throughout the Settlement Agreement and General Release of Claims which accompanied the Stipulation for Entry of Order and Judgment in March 2015. It is abundantly clear that a redistricting map that does not include the two electoral districts in which Latino eligible voters continue to constitute a majority of the eligible voters is violative of the Stipulation for Entry of Order and Judgment.

We would add that preliminary analysis by the Santa Barbara County District Elections Committee indicates that it should be possible to retain two majority Latino eligible voters districts in the City of Santa Barbara. The City Consultant's "NDC Plan 102" draws a District 1 map with a Latino Citizen Voting Age Population (CVAP) of 51%, and the boundaries of the current District 3 possess a Latino CVAP of 45%. While a more complete analysis would require further data, it should be possible to increase the 45% Latino CVAP in the 3rd District with boundary changes adjacent to the current district's boundaries.

Potential Liability of City of Santa Barbara for Breach of Stipulated Agreement

Pursuant to the California Voting Rights Act, in any legal action stemming from a breach of the CVRA, the prevailing party is entitled to full recompense for legal and demographic costs, which have often been substantial in cases around the state.

We are very concerned that the criteria for drawing district maps promulgated and published by the City of Santa Barbara does not state--nor even mention--the centrality of the Stipulated Agreement establishing district elections in the City of Santa Barbara to the district mapping process. A January 8, 2022, document of 11 pages prepared by National Demographics Corporation on behalf of the City of Santa Barbara titled "City of Santa Barbara 2021-22 Redistricting" and released and distributed by the City of Santa Barbara makes no reference at all to the



requirement in the Stipulated Court Judgment that district maps following the 2020 decennial census include two electoral districts in which Latino eligible voters constitute a majority of the eligible voters.

Request that Hearing on District Elections Be Postponed to Allow Counsel to Confer

As a result of the very serious issues with respect to the City of Santa Barbara's current redistricting process for establishing district maps following the 2020 decennial census, we respectfully request that any hearings on district elections be postponed to allow counsel to confer. To continue with the hearings at this time in light of the very serious breach of the Stipulated Agreement establishing district elections in the City of Santa Barbara without a return to the beginning to restructure the process would violate the judgment and court orders which concluded the *Banales* litigation.

We would note that there is no reason to proceed expeditiously with redrawing of City Council districts at this time since the next City Council election is not scheduled until November 2024.

Thank you for your consideration of this critical issue. We look forward to working with you to resolve the issues presented in a way that would not require judgment enforcement litigation which would be time-consuming for all parties and costly for the City. I look forward to hearing from the City Attorney, Mr. Calonne, in the near future.

Sincerely,

Hon. Frank J. Ochoa (Ret.)
Counsel for Plaintiffs

CC: Ariel Calonne

City Attorney, City of Santa Barbara

Rebecca Bjork

Interim City Manager, City of Santa Barbara

Honorable Members of the Independent Redistricting Commission

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