

Martinez, Ruben

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9B. Boston M of Agreement 2005

Martin

2 December 2021

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Civil Action No.
05-11598-WGY

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF BOSTON, MASSACHUSETTS, ET AL.

Defendants

October 18, 2005

ORDER

The parties have filed a joint motion to enter a revised order concerning their Memorandum of Agreement and Settlement.

The three-judge court heard argument concerning this joint motion on October 17, 2005. The court understands from representations made by the City of Boston and from the United States that paragraphs 22 through 25 of the Memorandum of Agreement and Settlement are intended to and will have the effect of obtaining meaningful consultation from relevant community groups (through the Task Force and by other means) as to pre-election procedures and materials as well as to post-election critiques.

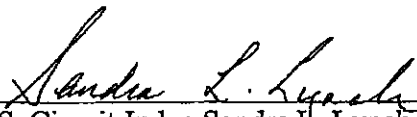
Based upon these representations and our review of the documents, we hereby order, adjudge, and decree that:

(1) The appointment of federal examiners is authorized for the City of Boston pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a), through December 31, 2008.

(2) The parties have entered into a comprehensive Memorandum of Agreement and Settlement resolving the disputes between them, a copy of which is attached, with the following modification: the last sentence of Paragraph 25 of the Agreement is stricken. The court further orders, without objection from the parties, that any substantial

modification of the Memorandum of Agreement and Settlement shall be filed contemporaneously with the court. This matter shall be placed on the Court's inactive docket, and the Court shall retain jurisdiction, through expiration of said Agreement and the Court's interlocutory order authorizing appointment of federal examiners, both to occur on December 31, 2008, at which time this matter shall be dismissed.

(3) Should there be a need to do so prior to December 31, 2008, the Department of Justice or the City of Boston, separately or together, may return to this court to resolve disputes under the Memorandum of Agreement and Settlement.



U.S. Circuit Judge Sandra L. Lynch



U.S. District Judge William G. Young



U.S. District Judge Patti B. Saris

MEMORANDUM OF AGREEMENT AND SETTLEMENT

Whereas Section 2 of the Voting Rights Act of 1965 requires that citizens be allowed to participate equally in all phases of the election process without regard to race, color or membership in a language-minority group, 42 U.S.C. § 1973, and said Section applies to all areas of the United States; and

Whereas the City of Boston has been subject to the requirements of Section 203 of the Voting Right Act, 42 U.S.C § 19733aa-1a, with respect to the Spanish language, since 1992, *see* 57 Fed. Reg. 43,213-02 (Sept. 18, 1992); and

Whereas the Voting Rights Act protects those language-minority groups against which there has been a history of discrimination in voting in the United States, and specifically defines "language minorities" or "language minority group" as including only persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage, 42 U.S.C. § 19731(c)(3); 42 U.S.C. § 1973aa-1a(e); and

Whereas the Director of the Census determined on July 26, 2002, that the City of Boston continued to be subject to Section 203 coverage under the Voting Rights Act for Spanish-heritage citizens, based on a determination that more than 10,000 citizens in the City are members of a language-minority group, specifically of Spanish heritage, who do not speak English well enough to participate effectively in an English-language election process, and the illiteracy rate of these persons as a group is higher than the national illiteracy rate, *see* 67 Fed. Reg. 48,871 (July 26, 2002); and

Whereas the Department of Justice has, since 1992, sent the City of Boston and other jurisdictions covered under Section 203 information regarding Section 203's requirements and

has met with City officials and officials of other jurisdictions to further explain these requirements; and

Whereas the City maintains that since 1992 it has undertaken to provide full and fair access to its elections to language-minority groups, including citizens of Spanish heritage, in accordance with its obligations and responsibilities under Section 203 of the Voting Rights Act, including providing minority-language assistance at a number of polling places, bilingual signage and literature relevant to the City's voting practices and procedures, and bilingual ballots; and

Whereas the Department of Justice filed a civil complaint against the City of Boston on July 29, 2005, captioned *United States of America v. City of Boston, et al.*, Civil Action No. 05-11598, claiming violations of the Voting Rights Act in regard to the City's covered language-minority voting population; and

Whereas the Department of Justice's Civil Rights Division, which has primary enforcement responsibility for the Voting Rights Act, has alleged that the City of Boston is not in compliance with Sections 2 and 203 of the Voting Rights Act and needs to take steps to ensure that all minority-language voters covered by the Act, including Spanish-speaking, Chinese-speaking, and Vietnamese-speaking voters, have equal access to the City's electoral process for all city, state, and federal elections administered in whole or in part by the City; and

Whereas the City of Boston disputes the Justice Department's allegations, and asserts it is committed to increasing its current efforts to provide covered language-minority voters equal access to the election process and to resolving whatever differences there may be with the Department of Justice regarding the manner in which it has endeavored to provide the franchise to covered language-minority groups in the City, and has entered into discussions and negotiations with the Department of Justice intent on reaching agreement as to what

improvements the City might adopt so as to satisfy the Department of Justice that the City's voting practices and procedures will fully and fairly apply to citizens of covered language-minority groups, in the same manner as they are applied to English-speaking citizens, as required by the Voting Rights Act; and

Whereas the City of Boston and the Department of Justice have reached agreement with respect to the matters set forth herein, and are desirous of working together in the future so as to ensure that covered language-minority citizens of voting age in the City of Boston are provided the same opportunity to participate in the franchise as are other voting-age citizens to the fullest extent possible;

NOW THEREFORE, for full, fair and adequate consideration given and received, it is hereby agreed as follows:

1. The City of Boston, its employees, agents, successors in office, and all persons acting in concert with it, agree to continue, as they have since at least 2002, to provide in Spanish all of those "registration or voting notices, forms, instructions, assistance or other materials or information relating to the electoral process, including ballots" that the City provides in English, so that such materials are equally available in Spanish and English, as required by Section 203 of the Voting Rights Act, as amended, 42 U.S.C. § 1973aa-1a(c), and also provide such materials and information the City may have recently begun providing, and all future such materials and information. In similar fashion, the City further agrees henceforth to provide such election materials in Chinese and Vietnamese as it provides in English in accordance with the terms of this Agreement.

2. The terms of this Agreement shall apply to all federal, state, and local elections administered by the City of Boston to the fullest extent permitted by law, which shall include elections run in whole or in part by the City for the Commonwealth of Massachusetts or any political subdivision of the Commonwealth. To insure the City's full authorization to perform its obligations and responsibilities hereunder, the City of Boston commits to seek passage by the Legislature of the Commonwealth of Massachusetts, before the next scheduled state elections on September 19, 2006, of Home Rule Legislation pursuant to the Home Rule Amendment to the Massachusetts Constitution and the Massachusetts Home Rule Procedures Act, G.L. c.43B, s.1, *et seq.*, authorizing use by the City of Chinese and Vietnamese bilingual ballots as required by this Agreement in all federal and state elections administered by the City. If said Home Rule Legislation has not been obtained 90 days prior to the September 19, 2006 elections, the City, together with the Department of Justice, will immediately file with the Court a joint petition for a declaratory order regarding the City's authority to print and distribute such bilingual ballots in said state election, while continuing the City's Home Rule initiative to similar effect. The parties agree that such an order would be necessary and appropriate under all of the circumstances.

3. The City of Boston, its employees, agents, successors in office, and all persons acting in concert with it, agree not to engage in any act or practice which has as its purpose or result the denial or abridgment of the right to vote on the basis of membership in a language-minority group in violation of Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

4. The United States agrees to move to dismiss its complaint against the City of Boston based on the City's willingness to enter into this Agreement, and, to that end, the parties hereto agree to jointly move for conditional dismissal pursuant to Rule 41(a)(2), Fed. R. Civ. P.

Minority Language Assistance

5. The City of Boston agrees to continue to make available by telephone, without cost, trained bilingual election personnel able to speak Spanish to answer voting-related questions during normal business hours, and while the polls are open on election days. In addition, the City agrees to provide like telephone assistance, without cost, through trained bilingual election personnel able to speak Chinese and Vietnamese to assist members of those language-minority groups on election days.

6. The City of Boston agrees to recruit, hire, and assign available bilingual election officers able to understand, speak, read, and write Spanish fluently to provide assistance to Spanish-speaking voters at the polls on election days. In addition, the City agrees similarly to recruit, hire, and assign available bilingual election officers to assist Chinese-speaking and Vietnamese-speaking voters at the polls on election days.

7. The City of Boston agrees to survey City employees to identify those who speak Spanish, Chinese, or Vietnamese fluently, and to allow and encourage such employees, as they can be made available to provide assistance, to serve at the polls on election day. The City further agrees to strive to find and utilize qualified bilingual persons fluent in Spanish, Chinese, or Vietnamese to serve as election officers, and, to that end, shall, among other outreach efforts, invite recommendations of names from each major political party, request each educational entity within or proximate to the City to allow and encourage selected bilingual students (as allowed by state law and as part of an educational program) to serve as election officers, even on election days that fall on school days, and receive academic credit appropriate to their service as well as all pay and benefits of election officers, and urge eligible members of the Mayor's Advisory Task Force (including its Community Liaisons and the individuals and organizations with which they

are in contact, as discussed below), also to serve as and help recruit election officers.

8. The City of Boston agrees to increase substantially its pool of bilingual election officers so as to serve all voters who need assistance in Spanish to vote. In 2000, the Census Bureau, based on data it collected, determined that 35 out of every 100 voting-age citizens of Spanish heritage in Boston were unable to speak English well enough to participate in a political process administered in English. With that information-base, and applying the Census Bureau Spanish surname list to the City's voter registration rolls -- the best current measure of the likely need for assistance by Spanish-speaking voters in Boston -- the City agrees to supplement its existing targeting program, so that any polling place in which there are, according to the Census Bureau Spanish surname list:

- (a) 100-249 registered voters with Spanish surnames, shall be staffed by at least one Spanish-speaking election officer;
- (b) 250-499 registered voters with Spanish surnames, shall be staffed by at least two Spanish-speaking election officers;
- (c) 500-999 registered voters with Spanish surnames, shall be staffed by at least three Spanish-speaking election officers; and
- (d) 1,000 or more registered voters with Spanish surnames, shall be staffed by at least four Spanish-speaking election officers.

The parties may by written agreement adjust these requirements in light of reliable information that the actual need for language assistance in a particular polling place is lesser or greater than these standards.

9. The City of Boston further agrees to provide bilingual election officers to assist at polling places serving Chinese and Vietnamese voters on a basis suited to the differing needs of

these language-minority groups. The Census Bureau reports higher rates for Chinese (50%) and Vietnamese (61%) citizens of voting age who are unable to speak English well enough to participate in elections conducted in English than it reports for their counterparts of Spanish heritage (35%). Moreover, surname lists compiled of Asian-American citizens, such as the Lauderdale-Kestenbaum List, by necessity exclude common but ethnically ambiguous surnames (such as "Lee"), so that such lists understate the actual numbers of Chinese and Vietnamese citizens. Accordingly, the Department of Justice uses a separate formula for each minority-language group, as appropriate, to measure the likely need of that group of voters for language assistance at the polls. With that information-base and to better serve the needs of its Chinese and Vietnamese citizens, the City of Boston agrees to the following commencing with the November 8, 2005 Citywide election:

(a) any polling place in which there are, according to the Lauderdale and Kestenbaum surname list:

- (1) 35-84 registered voters with Chinese surnames, shall be staffed by at least one Chinese-speaking election officer;
- (2) 85-169 registered voters with Chinese surnames, shall be staffed by at least two Chinese-speaking election officers;
- (3) 170-339 registered voters with Chinese surnames, shall be staffed by at least three Chinese-speaking election officers; and
- (4) 340 or more registered voters with Chinese surnames, shall be staffed by at least four Chinese-speaking election officers.

(b) any polling place in which there are, according to the Lauderdale and Kestenbaum surname list:

- (1) 30-74 registered voters with Vietnamese surnames, shall be staffed by at least one Vietnamese-speaking election officer;
- (2) 75-149 registered voters with Vietnamese surnames, shall be staffed by at least two Vietnamese-speaking election officers;
- (3) 150-299 registered voters with Vietnamese surnames, shall be staffed by at least three Vietnamese-speaking election officers; and
- (4) 300 or more registered voters with Vietnamese surnames, shall be staffed by at least four Vietnamese-speaking election officers.

The parties may by written agreement adjust these requirements in light of reliable information that the actual need for language assistance in a particular polling place is lesser or greater than these standards.

10. The City of Boston agrees to have available on election days bilingual persons, trained in Spanish-language election terminology and all election procedures, as appropriate, who shall be on call to travel to polling places not staffed by a bilingual election officer to provide any necessary assistance to any Spanish-speaking voter. Similarly, the City agrees to have bilingual persons trained in Chinese and Vietnamese on call on election days to provide like services as needed to assist Chinese-speaking or Vietnamese-speaking voters.

11. The City of Boston agrees to post signs prominently in English and Spanish at all polling places in the City, indicating that Spanish-speaking assistance is available by a telephone in the polling place. Similarly, the City agrees to post signs prominently in English and Chinese and in English and Vietnamese indicating that assistance in either Chinese or Vietnamese, as appropriate, is available by a telephone in the polling place.

Election officer training

12. Prior to each election, in addition to any other required state or city training, the City of Boston agrees to increase existing training of all election officers and other election personnel to be present at the polls on the legal requirements of Sections 2 and 203 of the Voting Rights Act, including making minority-language assistance and materials available to voters in an appropriate manner, applying all voting standards and practices equally, allowing voters their assistor of choice consistent with and as limited by Section 208 of the Voting Rights Act, provisional voting, the need to enforce state law prohibitions against campaigning in or near the polls, and other election-related issues, and being respectful and courteous to all voters regardless of race, ethnicity, color, or language abilities. In addition to the general training for election officers, the City of Boston agrees to train all bilingual election officers (whether they be Spanish, Chinese or Vietnamese speakers) on election terminology and voting instructions for their specific language. The City of Boston further agrees to maintain a record of which election officers attend training sessions, including the time, location, and training personnel involved.

13. In order to be eligible to serve as an election officer, an individual must commit orally or in writing that he or she will: (1) treat all voters equally and with respect; (2) honor the candidate and other ballot choices of all voters who receive assistance in marking their ballots, and avoid making any statement or allowing any person to make any communication within or near the polls to influence any voter's ballot choice; (3) allow voters requiring assistance to choose a person to assist, consistent with Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6; and (4) offer voters provisional ballots who are entitled to such ballots under Massachusetts law and the Help America Vote Act of 2002, 42 U.S.C. § 15482(a). The Election Department shall maintain records to demonstrate that each election officer has made this

commitment.

Response to Complaints About Election Officers

14. The City of Boston agrees, at the request of and on the responsibility of the Department of Justice, to remove from the polls any election officer who the Department of Justice advises has, in its judgment, knowingly violated the requirements set forth in items one and two in Paragraph 13 of this Agreement.

15. The City of Boston, upon receipt of complaints by voters, or their representatives or agents, whether oral or written, agrees to investigate expeditiously any allegations of election-officer hostility toward minority-language voters in any election. Where there is credible evidence that election officers have engaged in inappropriate treatment of voters, the City of Boston shall continue its practice of discipline, to include termination and removal of such election officers for future elections, where appropriate.

Translation of Election Materials

16. The City of Boston agrees to employ trained translators who are familiar with Spanish-language election terminology to produce clear and accurate written translations, and also to employ trained translators who are familiar with Chinese-language and/or Vietnamese-language election terminology for the same purposes.

17. The City of Boston agrees to compile a checklist identifying each written or printed item of election information that the City of Boston makes available to the public at each polling place. The checklist shall include for each item an attestation that the election officers at the polling place posted or made available to voters these materials in each minority language, as required in this Agreement, and shall also include sufficient space for insertion of a detailed written explanation of why individual items were not posted or available. The Wardens for each

polling place must complete and sign this checklist or, where appropriate, provide written explanation for a failure to do so, before the Warden receives payment for work in the election, subject to applicable state and federal law. The City of Boston agrees to maintain a record of each failure to complete and sign the checklist.

Dissemination of Minority Language Information

18. The City of Boston agrees to disseminate all bilingual election information, materials, and announcements produced hereunder (whether in Spanish, Chinese or Vietnamese) to the same extent and on comparable terms as they are disseminated by the City in English, including distributing said bilingual election information, materials, and announcements in newspapers, radio, and/or other media that exclusively or regularly publish or broadcast information in Spanish, Chinese, or Vietnamese, as appropriate. Such election information and materials, except for ballots, need not be identical in all respects to English-language materials, but shall be in the form, frequency, and media best calculated to achieve notice and understanding equal to that provided to the English-speaking population and to provide substantially the same information.

19. The official ballot and absentee ballots shall continue to be provided bilingually in English and Spanish or, on any electronic voting machine, shall be readily available in Spanish as an option. Any audio version of the ballot on such machines shall be available in English and Spanish. Beginning January 1, 2006, official and absentee ballots shall also be provided bilingually in Chinese and English and Vietnamese and English, and on any electronic voting machine shall be readily available in Chinese and Vietnamese as an option, consistent with this Agreement. Any audio version of the ballot on such machines shall be available in Chinese and Vietnamese, as well as in English and Spanish.

20. Beginning with elections after January 1, 2006, the City agrees to provide ballots bilingual in English and Chinese and/or English and Vietnamese as agreed in Paragraph 19 above at each of the polling places staffed with at least one Chinese-speaking election officer (in the case of English-Chinese ballots) or Vietnamese-speaking election officer (in the case of English-Vietnamese ballots) as described in Paragraph 9(a) and (b) above, the number of such ballots to be equal to the number of Chinese or Vietnamese surnamed registered voters, as appropriate. After each election, the parties will evaluate whether the English and Chinese and English and Vietnamese bilingual ballots should be distributed to additional or different polling places, and make appropriate changes. For the November 8, 2005 City election, the City agrees to produce and affix a sample or facsimile ballot, as nearly identical in size and layout to the official ballot, in the Chinese language inside each voting booth in the polling places identified in Paragraph 9(a)(1) – (4) above and in Vietnamese inside each voting booth in the polling places identified in Paragraph 9(b)(1) – (4) above. The City agrees to solicit the assistance of the Advisory Task Force in the production of said sample ballots.

21. To the extent the City of Boston provides sample ballots in English to voters who request them, the City of Boston shall also provide sample ballots in Spanish to voters who request them. For the November 8, 2005 Citywide election, the City also agrees to the extent it provides sample ballots in English to use its best efforts to provide sample ballots in Chinese and Vietnamese in similar fashion to voters who request them, and agrees to provide such sample ballots on the same basis as for English for all elections thereafter.

City Elections Language Coordinator

22. The City of Boston agrees to employ an individual to coordinate the City's minority-language election programs (the "City Elections Language Coordinator") for all

elections administered in whole or in part by the City of Boston. The employment of a permanent City Elections Language Coordinator consistent with the City's employment procedures shall be completed no later than January 1, 2006, and in the interim the Election Department will consult with the Office of New Bostonians and the linguistics liaisons of Neighborhood Services to address the needs as enumerated in this Paragraph. The City of Boston further agrees to provide the City Elections Language Coordinator with all the support necessary to meet the goals of the Program. The City Elections Language Coordinator shall work under the supervision of the Chair of the Election Department. The City Elections Language Coordinator's oversight responsibilities shall include: training of bilingual election officers; recruitment and assessment of the minority-language proficiency of bilingual election officers and interpreters; coordination of translation of election information, including the Election Department's website; development of an election glossary to insure uniform use of election terminology in Spanish, Chinese, and Vietnamese; development, selection and oversight of minority-language media and other election notices, announcements and information, including effective notices of poll site information and voter assignments; and managing other aspects of the Program. To accomplish these tasks, the City shall appoint from among the members of the Mayor's Advisory Task Force a Community Liaison for each of the three language-minority communities covered by this Agreement -- the Spanish-speaking community, Chinese-speaking community, and Vietnamese-speaking community. The City of Boston further agrees to assign a full-time City employee, fully familiar with the election process within the City of Boston, who speaks Spanish to work with the Spanish Community Liaison, a comparable City employee who speaks Chinese to work with the Chinese Community Liaison, and a comparable City employee who speaks Vietnamese to work with the Vietnamese Community Liaison. These employees

shall assist the Community Liaisons in conducting outreach to their respective communities and partner with the Liaisons in aiding the City Elections Language Coordinator's achievement of his or her responsibilities.

Advisory Task Force

23. The City Elections Language Coordinator and each Community Liaison shall be members of the Mayor's Advisory Task Force that has been established to coordinate and assist efforts of the City of Boston to address concerns of the City's language-minority groups, including concerns relating to the distribution and dissemination of bilingual election materials. To fully effectuate this Agreement and to serve effectively and efficiently the varying needs of each covered language-minority group, the designated Community Liaison shall be fully able to read, write, and speak fluently the language of the language-minority group he or she has been appointed to represent. The Community Liaison, along with his or her City employee counterpart whenever possible, shall meet periodically with interested individuals and organizations that work with or serve that Community Liaison's particular covered minority-language group in the City of Boston to receive comments, input and guidance on how more effectively the City might be able to provide election materials, information, and assistance to those minority-language voters, and to publicize the City's minority-language election programs. Said meetings shall occur at least monthly through 2006, and as frequently thereafter as the Community Liaison determines is necessary to insure that the language-minority community served is being heard and its comments, input and guidance are being fully considered by the Mayor's Task Force. The Advisory Task Force shall meet regularly throughout the year to review with the City Elections Language Coordinator and the Community Liaisons the City's performance under this Agreement, and to consider comments and recommendations made by

the City Elections Language Coordinator and the Community Liaisons. At least one such meeting of the Task Force shall occur within 45 days of any city, state or federal election administered by the City, following which the City Elections Language Coordinator shall provide a written summary to the Mayor, the Chair of the Election Department, and all members of the Task Force of the discussion and any decisions reached at the meeting. Said written summary shall include a statement of reasons supporting any decision made by the Chair of the Election Department not to implement a Task Force suggestion regarding any particular voting practice or procedure.

24. The City of Boston agrees to transmit, by electronic mail, facsimile or other means, to all interested persons and organizations, copies of all bilingual election information, announcements, and notices that are provided to the electorate and general public, together with an election glossary containing accepted election terminology in Spanish, Chinese and Vietnamese, and request that they share such information with their members, clientele, and representative language-minority groups. The Election Department shall maintain a separate list of persons and organizations interested in receiving materials and information in each language.

Evaluation of Plan

25. The parties to this Agreement recognize that regular and ongoing cooperation and reassessment may be necessary to provide the most effective and efficient bilingual election program. The City of Boston therefore agrees to evaluate each bilingual program after each election (e.g., following the 2005 preliminary election) to determine which aspects of such programs are functioning well, whether any aspects need improvement, and, if improvements are needed, how to address them. The Department of Justice shall be available to meet with the City of Boston following each election to share information it learns through its federal examiners,

and to assist the City of Boston in its ongoing assessment of its bilingual election program. This Agreement may be adjusted at any time upon written agreement of the parties.

Retention of Documents and Reporting Requirements

26. During the duration of this Agreement, the City of Boston agrees to make and maintain written records of all actions taken pursuant to this Agreement, and to make copies of such records available to the Department of Justice upon request.

27. During the duration of this Agreement, at least 30 days before each election held in whole or in part within the City of Boston, the City of Boston agrees to provide to the Assistant Attorney General, Civil Rights Division, Department of Justice, or his designee, a list of polling places to be used for such election, the precincts voting at each such polling place, the number of election officers to be appointed and assigned to serve at each polling place who are bilingual and the language(s) spoken by each such officer, and an electronic copy of the list of registered voters for such election, as known at that time. Within 30 days following certification of election results for each election, the City of Boston agrees to provide to the Assistant Attorney General, Civil Rights Division, Department of Justice, or his designee, any updated report regarding the aforesaid polling information, and further to advise said Department official on all complaints the City of Boston received before, on, or after election day concerning language or voter assistance issues. Unless otherwise specified, or as may be changed from time to time, all reports, notices or any other written communications required to be submitted under this Agreement shall be sent to the undersigned counsel at the Department of Justice, at the following address:

Voting Section
U.S. Department of Justice

Civil Rights Division
950 Pennsylvania Ave., N.W. – NWB-7254
Washington, D.C. 20530

Facsimile: (202) 307-3961

E-mail: John.K.Tanner@usdoj.gov

Preliminary Measures for the September 27, 2005 Preliminary Election

28. Given the limited amount of time between execution of this Agreement and the September 27, 2005 preliminary election, this Paragraph sets forth the City of Boston's obligations for that election and that election only. The other provisions of this Agreement will apply to all future elections, commencing with the November 8, 2005 final election, or as soon as otherwise provided in this Agreement, through expiration of this Agreement. The City of Boston shall undertake the following initial, reasonable, and practicable steps for the September 27, 2005 preliminary election:

Bilingual Election Officers

(a) While the City of Boston shall make best efforts to recruit and hire the number of bilingual, Spanish-speaking, Chinese-speaking, and Vietnamese-speaking election officers set forth in Paragraphs 8(a) - (d), 9(a)(1) - (4), and 9(b)(1) - (4) above, the City of Boston agrees to appoint at least one Spanish-speaking election officer to each polling place in the City of Boston with 100 or more Spanish-surnamed registered voters; at least one Chinese-speaking election officer to each polling place with 35 or more Chinese-surnamed registered voters; and at least one Vietnamese-speaking election officer to each polling place with 30 or more Vietnamese-surnamed voters. The parties recognize the time constraints and appreciate the challenges

involved in meeting the appointment goals set forth in this Paragraph and agree to meet and confer on a frequent basis to facilitate achievement of these requirements, and make adjustments, if necessary.

Election Officer Training

(b) Prior to the September 27, 2005 preliminary election, the City of Boston agrees to continue its existing training for all election officers to be respectful and courteous to all voters regardless of race, ethnicity, or language abilities, and to provide provisional ballots to those voters who are eligible to vote by provisional ballot.

(c) The City of Boston further agrees to instruct its wardens and bilingual election officers during election officer training that the bilingual election officers must be available to assist voters needing language assistance at all stages of the voting process – including at the sign-in table, during voting demonstrations, and while voting at the voting booths. The City of Boston also agrees to include in its instruction of all its election officers that voters needing language assistance may be given assistance by a person of the voters' choice consistent with and as limited by Section 208 of the Voting Rights Act, and that all applicable state law prohibitions against campaigning in or near the polls shall be enforced.

Signs and Ballots

(d) Signs in English and Spanish shall be posted prominently at all polling places in the City of Boston, indicating that Spanish-speaking assistance is available by a telephone in the polling place.

(e) Signs in English and Chinese shall be posted prominently at those polling places identified in Paragraph 9(a)(1) - (4) stating that Chinese-language assistance is available, if in

fact the particular polling place has bilingual staff, or explaining how voters can obtain assistance in Chinese if there is no bilingual election officer present.

(f) Signs in English and Vietnamese shall be posted prominently at those polling places identified in Paragraph 9(b)(1) - (4) stating that Vietnamese-language assistance is available, if in fact the particular polling place has bilingual staff, or explaining how voters can obtain assistance in Vietnamese if there is no bilingual election officer present.

(g) The City of Boston shall continue to provide a bilingual ballot in English and Spanish to each of the City's polling places. As time and circumstances permit, the City of Boston shall also use its best efforts to produce and affix a sample or facsimile ballot, as nearly identical in size and layout to the official ballot, in the Chinese language inside each voting booth in the polling places identified in Paragraph 9(a)(1) - (4) above and in Vietnamese inside each voting booth in the polling places identified in Paragraph 9(b)(1) - (4) above. The City agrees to solicit the assistance of the Advisory Task Force in the production of said sample ballots.

Other Provisions

29. This Agreement is final and binding between the parties and their successors in office regarding the claims raised in this action. This Agreement shall remain in effect through December 31, 2008. Either party may move this Court for such orders as may be necessary for the effectuation of the terms of this Agreement and to ensure compliance with the Voting Rights Act.

30. Each party shall bear its own costs and fees.

Agreed to this 15th day of September, 2005.

AGREED TO

For UNITED STATES OF AMERICA:

For CITY OF BOSTON:



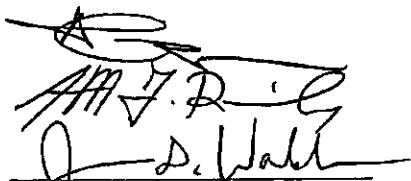
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Civil Rights Division



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Attorneys

Voting Section

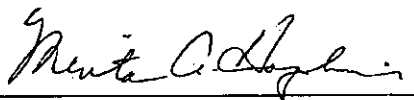
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Civil Rights Division

950 Pennsylvania Ave., N.W.

Washington, D.C. 20530

(202) 514-6346



MERITA A. HOPKINS

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10A. Sandoval NM Amended Stipulation

Martin

2 December 2021

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 SANDOVAL COUNTY, NEW MEXICO;) NO. CIV 88-1457-BB-DJS
 SANDOVAL COUNTY BOARD OF)
 COMMISSIONERS; WILLIAM SAPIEN,)
 DON LEONARD, DAVID BENCY, JACK E.)
 THOMAS, and JOSHUA MADALENA,)
 Members of the Sandoval County)
 Board of Commissioners; and)
 SALLY PADILLA, Sandoval County)
 Clerk,)
)
 Defendants.)
)
 _____)

AMENDED JOINT STIPULATION

The United States, Sandoval County ("County"), and remaining defendants, agree through their undersigned counsel to the following Joint Stipulation.

Sandoval County has been covered under Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a, for American Indians since 1975. 40 Fed. Reg. 43044 (Sept. 18, 1975); 49 Fed. Reg. 25887 (June 25, 1984); 57 Fed. Reg. 43213 (Sept. 18, 1992); 67 Fed. Reg. 48871 (July 26, 2002). At present, the County is covered under Section 203 for Navajo and Pueblo (Keres and Towa) languages. 67 Fed. Reg. 48871 (July 26, 2002). Based on information provided by the Census Bureau, the Indian reservations that triggered coverage are the Pueblos of Zia, Santo Domingo, San Felipe and Jemez, and the Navajo Nation Reservation.

Section 203 requires that all information that is provided by Sandoval County in English about voter "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots," must be provided in Keres, Towa, and Navajo to the extent that they are needed to allow language minority group members to be informed of and participate effectively in the electoral process and all voting-related activities. 42 U.S.C. § 1973aa-1a(c). The provisions of Section 203 apply to all stages of the electoral process, "including, for example the issuance, at any time during the year, of notifications, announcements, or other informational materials concerning the opportunity to register, the deadline for voter registration, the time, places and subject matters of elections, and the absentee voting process." *Attorney General's Procedures for the Implementation of the Provisions of the Voting Rights Act Regarding Language Minority Groups*, 28 C.F.R. § 55.15. Because Keres, Towa, and Navajo are historically unwritten, defendants are required to furnish oral instructions, assistance and other information relating to registration and voting in Keres, Towa, and Navajo. 42 U.S.C. § 1973aa-1a(c); see also 28 C.F.R. § 55.12(c).

In December of 1988, the United States brought this action against the State of New Mexico and Sandoval County alleging violations of Sections 2 and 203 of the Voting Rights Act for failure to provide American Indian citizens with adequate language assistance regarding all aspects of the electoral process. On March 23, 1990, the parties entered into a settlement agreement which provided for the development and implementation of a comprehensive bilingual Native American Election Information Program ("NAEIP") for the American Indian citizens of Sandoval County. A detailed description of the NAEIP was filed with the Court on April 30, 1990. On May 17, 1990, this Court ordered the County to implement the NAEIP.

The settlement required that State and County officials hire voting rights language coordinators ("VRCs") to disseminate election information in the Navajo and Keres languages. Through the VRCs, the State and/or County were required to carry out a comprehensive program to provide election information to Indians regarding every phase of the electoral process.¹

The County failed, however, to comply substantially with the terms of the NAEIP. Indeed, based primarily on the reports of federal observers who monitored election day practices and procedures at the County's predominantly Indian precincts, the United States noted continuing problems regarding dissemination of information and assistance to voters in the predominantly Indian precincts, and the utter failure to provide translator training as required by the NAEIP.

Counsel for the United States met repeatedly with County officials to resolve compliance problems without court intervention. The County improved its compliance record in some areas, but continued its overall record of indifference (and at times outright hostility) to major substantive portions of the NAEIP.

In June 1993 the United States moved to reactivate the case for continued discovery, including document production and depositions. The Court granted that motion and the ensuing discovery, including the deposition of the County Clerk, uncovered compelling evidence of the County's failure to comply with the consent decree. Based on that evidence, Sandoval County agreed to negotiate an extension and modification of the decree.

¹ Pursuant to the provisions of the settlement agreement, the case was dismissed as against the state defendants on December 31, 1990. Nevertheless, state officials pledged to continue the state program and the state has maintained an NAEIP program, staffed with Native American coordinators, since that time.

The parties filed a revised consent decree and NAEIP on August 30, 1994. The revised NAEIP included provisions designed to remedy the compliance problems with the NAEIP. Among the changes were adding Towa to the languages covered by the decree; extending the decree's duration by ten years; adding a third, full-time, Towa-speaking VRC; transferring control of the NAEIP from the County Clerk, who had been hostile to the program since its inception, to the County Attorney; the insertion of explicit language preventing interference with the VRCs' ability to travel, obtain access to County facilities, or perform other tasks in furtherance of the NAEIP; and establishing Voting Rights Act coverage for Sandoval County under Sections 3(a) (federal observers) and 3(c) (preclearance).² This Court entered the revised decree and NAEIP on September 9, 1994.

Pursuant to the Court's order, the United States assigned federal observers to monitor Sandoval County elections, and the United States conducted extensive investigations of the actions of Sandoval County in complying with the revised NAEIP and Section 203 of the Voting Rights Act from 1994 through June of 2004.

Based on information gathered from 1994 through June of 2004, the United States determined that Sandoval County, despite making some improvements, failed to implement fully the NAEIP and to furnish all instructions, assistance and other information relating to voting orally in Navajo and Keres, in violation of the Order and Section 203.

² The 1992 amendments to Section 203 made Sandoval County covered for Towa as well as Navajo and Keres. This highlighted the need for modifying the consent decree to add provisions requiring publicity and language assistance in the Towa language, and the addition of a third, Towa-speaking VRC.

The United States conferred with Sandoval County, including its County Attorney, to discuss and resolve noted compliance problems. The parties agreed that efforts to amend and extend the Order were justified. Thus, the parties moved jointly to extend and amend the Court's Order of September 9, 1994 until January 15, 2007. The Court granted that joint motion on November 5, 2004 and entered the amended and simplified consent decree ("Revised Order").

Since the November 5, 2004 extension, the United States has monitored three elections: the November 2004 general election and the 2006 primary and general elections. The United States and Sandoval County have worked cooperatively to resolve compliance problems. Notwithstanding those efforts, compliance problems remain.

Indeed, while Sandoval County has made some progress in making the election process accessible to the Native American population of the County, reports of federal observers who monitored elections have demonstrated that Sandoval County has failed to furnish all instructions, assistance and other information relating to voting orally in Keres, Towa, and Navajo, in violation of this Court's Revised Order. These failures constitute good cause to extend the consent decree.

Accordingly, on April 4, 2007, the parties filed a joint motion to extend and modify the Court's Consent Decree through January 15, 2009. On July 20, 2007, the Court held a hearing on that motion. On July 24, 2007, the Court entered an order (Doc. No. 185) requiring the United States to file federal election observer reports for the 2004 and 2006 primary and general elections, as well as copies of letter agreements between the United States and other counties regarding programs to comply with Section 203. The Court also ordered the Defendants to file Voting Rights Coordinator reports from the 2004 and 2006 elections. The Court afforded each

party the right to respond to these filings, and ordered the parties to file a joint report setting forth any agreements they have reached as well as identifying any issues the Court needed to resolve.

On September 10, 2007, the parties filed a joint report in which they agreed that the extension and modification of the Consent Decree was necessary and appropriate under the circumstances and that no outstanding issues remained for the Court to resolve. The parties further agreed to file this amended Joint Stipulation and a streamlined NAEIP. (Doc. No. 205).

Accordingly, the parties stipulate to the following:

1. Defendants shall make all phases of the election process as accessible to the Native American populations at the Torreon, Ojo Encino, and Counselors Chapters of the Navajo Nation, as well as the Jemez, Zia, Santo Domingo, and San Felipe Pueblos, as they are to the remainder of the County's population. Accordingly, Sandoval County shall continue to provide information, publicity, and assistance in Keres, Towa, and Navajo in voter registration, voter registration cancellation, absentee voting, early voting, procedures at the polls including translation of the ballot, and training of polling officials and translators as outlined in the attached NAEIP.

2. To assist in the effectiveness of this Amended Joint Stipulation and to ensure the continued enforcement of the voting guarantees of the Voting Rights Act, as amended, 42 U.S.C. § 1973(a) and the Fourteenth and Fifteenth Amendments of the Constitution, Sandoval County should remain designated for federal observers pursuant to Section 3(a) of the Voting Rights Act. Sandoval County recognizes the authority of federal observers to observe all aspects of the voting process conducted in the polls on election day, including assistance to voters in the voting booth provided that the voter does not object to being observed.

3. Defendants acknowledge that permanent procedures need to be instituted to ensure ongoing compliance with Sections 2 and 203 of the Voting Rights Act, and the Fourteenth and Fifteenth Amendments to the Constitution. During 2008, defendant Sandoval County shall publish an operations manual to guide and govern the provision of election-related information to the County's Native American citizens. The operations manual shall incorporate appropriate terms of the revised NAEIP for use in future elections in Sandoval County.

4. This Amended Joint Stipulation shall remain in effect through January 31, 2009.

5. The Court shall retain jurisdiction to enter further relief or such other orders as may be necessary for the effectuation of the terms of this Amended Joint Stipulation and to ensure compliance with Sections 2 and 203 of the Voting Rights Act, and the Fourteenth and Fifteenth Amendments to the Constitution.

6. The revised Native American Election Information Program to be implemented by Sandoval County is attached to this Joint Stipulation.

Agreed and stipulated to on this 28nd day of September 2007.

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NATIVE AMERICAN ELECTION INFORMATION PROGRAM

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A. County Voting Rights Coordinators

1. General. Sandoval County, under the supervision of the Sandoval County Attorney acting on behalf of the Sandoval County Commission, shall continue to employ at least two full-time Voting Rights Coordinators ("VRCs"), and shall hire two permanent part-time VRCs to coordinate the Native American Election Information Program ("NAEIP") in the County. The requirements of the NAEIP shall apply to all elections held within Sandoval County which include any Native American-majority precinct located in whole or in part on the following reservations which, based on 2000 Census data, triggered the bilingual voting information requirements of Section 203 of the Voting Rights Act for Navajo and Pueblo Indians in the County: the Pueblos of Jemez, San Felipe, Santo Domingo and Zia, and the Counselors, Ojo Encino and Torreon Chapters of the Navajo Nation ("covered reservations"). These elections include primary, general and special elections, as well as elections for the Cuba, Jemez and Bernalillo Independent School Districts. The part-time VRCs shall be fluent in Keres and English. One of the full-time VRCs shall be fluent in Navajo and English, and the other full-time VRC shall be fluent in Towa and English. The Keres-fluent VRCs shall coordinate the election information programs as appropriate for Bernalillo Independent School District elections, the Navajo-fluent VRC shall coordinate the election information programs for Cuba Independent School District elections in the relevant precincts, and the Towa-fluent VRC shall coordinate the election information programs for Jemez Independent School District elections in the relevant precincts. The VRCs shall be supervised by the Sandoval County Attorney acting on behalf of the Sandoval County Commission. The duties of the VRCs shall be limited to those necessary to implement the goals and tasks specified in the NAEIP. Each VRC shall be paid a salary in

accordance with a compensation salary schedule. The provisions of the personnel ordinance of Sandoval County shall apply to the VRCs. The VRCs may be discharged only for cause, and only by the County Attorney or the County Commission.

2. Filling VRC vacancies. If a vacancy occurs in a VRC position, the County Attorney shall immediately notify the United States and shall fill the vacancy within 90 days, after consultation with Native American leaders as outlined below. During the period of vacancy the duties of the vacant position will be performed by the other VRCs. A vacancy does not relieve the County of its obligations under the NAEIP.

3. Consultation with Native American officials. To fill VRC vacancies, the County Attorney shall request from appropriate officials from Five Sandoval Indian Pueblos, Inc. ("Five Sandoval") or the Navajo Election Administration ("NEA") and the Pueblo or Navajo tribal officials of the relevant reservations in Sandoval County the names of at least two persons recommended for the respective position. The County Attorney shall seriously consider those persons, but may hire other qualified applicants. For the Keres-fluent VRC positions, recommendations shall be sought from Five Sandoval and the Governors of the Pueblos of San Felipe, Santo Domingo and Zia. For the Navajo-fluent VRC position, recommendations shall be sought from the NEA and the Presidents of the Counselors, Torreon and Ojo Encino Chapters of the Navajo Nation. For the Towa-fluent VRC, recommendations shall be sought from the Tribal Council of the Jemez Pueblo.

4. Training of VRCs. The VRCs shall be trained by the State and County in all aspects of the election process, and shall attend all election seminars conducted by the Secretary of State and/or Sandoval County Clerk. VRCs shall be fully briefed by the County Attorney concerning

their duties and responsibilities under the NAEIP. Representatives of Five Sandoval and Pueblo tribal officials of Sandoval County and the NEA and Navajo tribal officials of Sandoval County, as appropriate, shall be invited to attend these seminars and briefings.

5. Field visits. The VRCs shall, under the supervision of the County Attorney, oversee the County's NAEIP generally and visit on a regular basis each covered reservation. In the course of these visits, the VRCs shall, as necessary and among other things, disseminate election-related information (such as election dates, qualifying dates, ballot contents for upcoming elections), distribute and explain sample ballots, register voters, distribute and collect applications for voting absentee, distribute and collect absentee ballots, explain the absentee voting process, explain registration procedures and deadlines, conduct bilingual training in English and the relevant Indian language for each bilingual poll worker who will participate in the NAEIP prior to the election (using translation tapes that will be provided to each trainee), distribute translation tapes on ballot contents (including a list of candidates on the ballot), and explain the process for removing voters from the list of eligible voters. Further, the VRCs shall announce and hold regular office hours at the Satellite Election Offices (see paragraph A.12. below).

6. Record of field visits. The VRCs, or other County officials designated by the County Attorney, shall maintain a record of the date and purpose of each visit for election-related purposes to each Pueblo community center, Navajo Chapter House, or other sites on the Pueblo and/or Navajo Indian Reservations.

7. Training of election personnel. The VRCs shall conduct the training of all poll officials, tribal election liaisons, and other election-related personnel who will participate in the NAEIP. For each election covered by the NAEIP, the VRCs shall conduct at least one formal

training session for all Keres-speaking election personnel, one formal training session for all Navajo-speaking personnel and one formal training session for all Towa-speaking personnel. Each Pueblo Governor and Navajo Chapter President whose Chapter or Pueblo is in whole or in part within Sandoval County shall be notified in writing, at least two weeks before the scheduled training, of each training session and be invited to send a representative. Training sessions shall be open to the public and shall be held at locations convenient to trainees.

8. Delivery of election information to other governmental entities. The VRCs shall coordinate the delivery of Native American election information to school districts in Sandoval County. The VRCs shall, upon request, coordinate delivery of election information to other governmental entities that conduct elections within the County.

9. NAEIP and travel budgets. Sandoval County shall establish a separate travel budget for the VRCs which shall be sufficient to cover their travel expenses incurred in carrying out their duties, obligations and responsibilities to effectively implement the NAEIP. VRCs shall be reimbursed for expenses incurred for travel incident to bona fide NAEIP business, including visits to Pueblos or Navajo Chapters and to sites for training programs. The County also shall establish a separate, itemized NAEIP budget, and shall generate quarterly reports itemizing expenditures made to implement the NAEIP.

10. Access to Clerk's Office facilities. The VRCs shall have full access to the records and facilities of the Office of the County Clerk, including access to computers. They shall have the authority to inspect, modify, update, and generate reports from all County Clerk election records, whether in computer or other form, in order to fulfill the goals of the NAEIP. The

County Clerk shall provide the VRCs or the County Attorney with updated lists of registered voters by precinct ("alpha lists") upon their request.

11. Satellite Election Offices. Sandoval County shall establish three permanent Satellite Election Offices. One office shall be established at a location within the Torreon Navajo Chapter. Another office shall be established at a location within the San Felipe, Santo Domingo or Zia Pueblo, if practicable; otherwise, the County may establish an election office for the sole use of the Keres-speaking VRC at a location within the Sandoval County Courthouse. The third office shall be established at a location within the Jemez Pueblo. The County shall be responsible for equipping, but not renting, such offices.

12. Function of Satellite Election Offices. Each Satellite Election Office shall serve as: the principal place for office hours for the VRCs; a library of written and recorded election information; and a distribution point for the dissemination of election information. The Satellite Election Office shall also serve as a site for the performance of all functions related to the election process that can be performed at the County Courthouse, including but not limited to: registering to vote or updating voter registration information; filing by residents of Chapters or Pueblos as a candidate for office; and applying for and casting an absentee ballot. The VRCs shall announce and maintain regular office hours at the Satellite Office.

13. Satellite Office equivalent to County Courthouse. Delivery of a voter registration application or performance of any other election-related task at a Satellite Election Office shall be effective in terms of all time deadlines and requirements as if the application had been delivered, or the task performed, at the County Courthouse.

14. Supplies and equipment. A supply of all forms and materials necessary to complete all functions related to the election process shall be maintained at each Satellite Election Office. Copies of all materials, information and audio or video tapes required to be disseminated pursuant to the NAEIP, including all election-related materials prepared by the State, likewise shall be available in each office, together with appropriate office supplies, typing equipment, and audio or visual equipment.

B. Intergovernmental Coordination

1. Cooperation with the State. Sandoval County and the VRCs shall request and accept all training, materials and services available from the State of New Mexico in furtherance of the implementation of the NAEIP, and shall encourage the production of such training, materials and services by the State.

2. Cooperation with other counties. The County is encouraged to work with other counties in New Mexico and neighboring states which have programs for Native American language minorities to coordinate election activities, including the development of standard terminology for the translation of election materials into Navajo and Keres.

3. Consultation with Native American officials. Sandoval County shall invite representatives of Five Sandoval, the NEA and officials of the Pueblos and Chapters within the County to assist in all phases of the NAEIP, including translations (see paragraph D.5.).

4. Cooperation with federal election observers. To assist in the effectiveness of this agreement and to enforce the voting guarantees of the Fourteenth and Fifteenth Amendments, the appointment of federal examiners for elections in Sandoval County is authorized pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. 1973(a), for at least the period of this

agreement. Sandoval County recognizes the authority of federal observers to enter and attend at any place for holding an election in the County for the purpose of observing election procedures, including entering the voting booth for the purpose of observing language assistance.

C. Tribal Election Liaisons

1. Appointment of liaisons. The Sandoval County Attorney shall request each Pueblo Governor for Zia, Santo Domingo, San Felipe, Cochiti, Santa Ana and Jemez Pueblos, and each Navajo Chapter President for the Counselors, Torreon, and Ojo Encino Chapters to identify and/or appoint at least one individual in each Navajo Chapter and Pueblo to serve as tribal election liaison(s) between the County and each Pueblo and Navajo Chapter.

2. Training of liaisons. Tribal election liaisons shall be fully trained by the VRCs in both English and in Keres, Towa or Navajo, as appropriate, in all aspects of the elections process, including absentee voting, the voter registration and purge processes, election-related deadlines, election day activities, proposed constitutional amendments and other referenda.

3. Contracting for translation assistance. Where necessary and as appropriate, the County may contract with the tribal election liaisons and/or other qualified persons to assist in the effective implementation of this bilingual election program, including for the translation of materials described in Section D below into the applicable Indian language.

4. Telephone inquiries. Telephone inquiries from VRCs, tribal election liaisons, as well as from tribal officials involved in election activities, to the County Clerk's office or a Satellite Election Office respecting election-related matters should be encouraged and shall be considered official government business and telephone charges may either be reversed or a toll-free number

provided. The County shall provide written notice to all liaisons and tribal leaders of the toll-free number or the ability to reverse charges.

D. Translations

1. Time and subject matter of translations. The following election-related materials and announcements shall be translated into Navajo and Towa and into each of the three dialects of Keres spoken in the covered reservations in Sandoval County, made available on audio and/or video tapes, and provided to the VRCs at the Satellite Election Offices by the dates specified:

- a. Detailed election calendar for each year (by January 1 of each year);
- b. State, County and school district election proclamations (by the statutory date of proclamation);
- c. Constitutional amendments and other referenda issues on the ballot (within 30 days of the date the English text is determined, and no later than the date of proclamation);
- d. A brief description of each constitutional amendment or other referendum issue on the ballot (by the date of each election proclamation);
- e. Voter registration deadlines (by January 1 of each year, with separate tapes containing deadlines for each type of election);
- f. Instructions relating to voting by absentee ballot (60 days prior to the respective qualification deadlines for primary elections for state and federal offices, primary elections for other offices, independent candidates, and write-in candidates);
- g. An explanation of the voter purge process as provided by this agreement (as soon as practicable);
- h. The offices for each election and the political party for each candidate (by the date on which the ballot is printed); and
- i. Explanations of voting procedures including the operation of voting equipment and how to cast a write-in ballot (60 days prior to the respective qualification deadlines for primary elections for state and federal offices, primary elections for other offices, independent candidates, and write-in candidates);

j. An explanation of the circumstances under which a voter may cast a provisional ballot, the circumstances under which the ballot will be counted and information regarding the free access system through which the voter may learn whether the provisional ballot was counted, and if not, the reason that the ballot was not counted (60 days prior to the respective qualification deadlines for the relevant election).

2. Discussion/use of tapes at tribal meetings. The County, through the VRCs and liaisons, shall seek to ensure that the subject matter and availability of each tape is discussed in at least one tribal meeting of each covered Keres-speaking or Towa-speaking Pueblo reservation or Navajo Chapter House during the appropriate publicity period, and that either the VRC, tribal election liaison or other trained bilingual person is present to answer any questions concerning the subject matter of the tape.

3. Copies and transcripts provided to Navajo Chapters and Pueblos. A copy of each Indian language audio and/or video tape described in this agreement shall be provided to the community center for each covered Pueblo reservation and each Navajo Chapter House in Sandoval County in the appropriate language. Separate recordings shall be provided for each election-related subject matter so as to minimize the extent to which any tape recording exceeds 10 minutes in length. A library of currently applicable tapes, together with English transcripts shall be maintained at the applicable Pueblo community centers and Navajo Chapter Houses. Where translation tapes do not reflect a word-for-word translation of the original English text, the "English transcript" referred to above shall consist of the "back-translation" from the Indian language into English of the Indian language phrases used, and not the original English text.

4. Selection and use of qualified translators. Translation shall be made by qualified translators contracted with by the County for that purpose. The translators shall be selected after

consultation with the tribal officials at each Chapter and covered Pueblo reservation in Sandoval County, the NEA, and Five Sandoval. The County Attorney shall make use of any expertise available from the State and shall assist in translation of technical or complicated election-related materials.

5. Review by Pueblo and Navajo officials. To facilitate uniformity and accuracy in the translation of election materials, prior to dissemination of any translation, the County shall make available all such translations to representatives of Five Sandoval and Pueblo tribal officials or the NEA and Navajo tribal officials within Sandoval County, as appropriate, and provide them with a reasonable opportunity to review and comment concerning any matter translated. The County shall maintain a written record of any comments received and the County's response to the comments.

6. Prompt translation. The process of translation and review of any election-related material shall begin as soon as the English text is known so that tapes are available on or before the date that English language announcements or materials are available.

E. Dissemination of Election-Related Information

1. Coordination with Native American officials. The County shall coordinate publicity efforts with Pueblo and Navajo Indian tribal officials, and with the NEA and Five Sandoval. All election-related announcements, materials and information, including, but not limited to, the election calendar, state and County election proclamations, the voter information pamphlet and sample ballots, shall be made available to each covered reservation, the NEA and Five Sandoval.

2. Availability to high schools. Election-related announcements, materials, tapes and other election information shall be made available upon request to the public high schools in the County to familiarize students with all phases of the election process.

3. Radio and/or Television.

Sandoval County will air thirty-six (36) total advertisements on KANW radio during the "Native American Hour" between 7 pm and 10 pm on Monday evenings. Sandoval County will air or cause to be aired at its own expense twenty radio announcements announcing all pertinent information regarding voter registration requirements for 10 weeks prior to the close of voter registration. Sandoval County will air or cause to be aired an additional sixteen (16) announcements on the same station and at the same times for 5 weeks prior to each primary, general or special election. Each radio announcement will be aired in Navajo, Keres and Towa. In addition to announcements regarding registration, these radio announcements shall include information concerning the dates of all elections covered by the NAEIP, a list of the offices to be elected, a brief description of the topic of each ballot proposition, and the availability of trained translators at the polls and the right of each voter who requires assistance in casting a ballot to be assisted by a person of her or his choice in accordance with federal law. Announcements shall be made five times each week during at least the three weeks prior to the deadline for registration for the corresponding election.

4. Print Media. The election-related information detailed in paragraph E.3 shall be published in English on a weekly basis in the Navajo Times and newsletters, if any, of each covered reservation in Sandoval County for the publicity periods noted in that paragraph.

5. Targeting of media area. For elections which involve geographic areas less than the entire County, announcements required to be made pursuant to Paragraphs E.3 and E.4, above, shall be made in the media covering such area.

6. Demonstration of use of voting equipment. The County Clerk shall make available to the VRCs facsimiles of voting equipment or devices for their use in training tribal election liaisons and poll officials and in conducting voter education programs at Pueblo community centers and Navajo Chapter Houses.

7. Other Pueblos. The VRCs shall disseminate the election information outlined in paragraph D.1 above to the other Keres-speaking Pueblos (Cochiti and Santa Ana) and to Sandia Pueblo. Although the County is not subject to the minority language requirements of Section 203 of the Voting Rights Act with respect to the residents of these Pueblos, the VRCs shall foster and facilitate efforts by tribal election liaisons, tribal officials or other qualified persons to translate and disseminate the election information in the Keres or Tiwa language, as appropriate.

8. Monitoring. The County shall evaluate its publicity programs on an ongoing basis through consultation with the tribal election liaisons, Five Sandoval and Pueblo tribal officials, the NEA and Navajo tribal officials of Sandoval County, and the United States.

F. Absentee Voting

1. Delivering, filling out, and collecting applications on the reservations. The County shall supply applications for absentee ballots to all VRCs and tribal election liaisons. The VRCs and tribal election liaisons shall deliver applications to the Chapters and Pueblos, assist voters in filling them out, and collect applications for return to the County Clerk's Office. The VRCs and tribal election liaisons shall return completed absentee ballot applications to the County

Courthouse as soon as practicable, but no later than five (5) business days following the day on which the VRCs and/or tribal election liaisons accepted completed absentee ballot applications. Each Satellite Election Office shall have the necessary materials and personnel available during regular office hours so that an absentee or early ballot can be cast in person there and be counted as if the ballot had been cast at the County Courthouse.

2. Absentee voting at tribal meetings. The County shall provide an opportunity for Indian citizens, qualified to vote pursuant to state law, to cast absentee ballots within their precincts by ensuring that the VRCs attend the last tribal meeting prior to each primary, general, special or school board election, for each covered reservation, so that eligible persons may obtain and, if they desire, cast absentee ballots in person at that time. VRCs, tribal election liaisons, or County officials shall announce and explain personally, or through trained translators at the tribal meetings, the availability of and instructions for voting absentee. It shall be sufficient for voters on the reservations to have their absentee ballot application witnessed only by another registered voter.

3. Announcements. Announcements shall be made regarding the availability of absentee balloting, including the standards of eligibility for absentee ballots and for voting absentee, during any tribal meeting prior to the deadline for voting by absentee ballot under state law, and where such meetings fall in the absentee voting period. The availability of absentee balloting also shall be made known by posting such information prominently at the community center for each of the covered Pueblos, at each Navajo Chapter House and at trading posts or post offices on the covered reservations; by radio and/or television announcements pursuant to Paragraph E.3 above; and by print media pursuant to Paragraph E.4 above.

4. Authorization to deliver and collect ballots. VRCs shall be authorized to deliver absentee ballots to voters whose absentee ballot applications have been accepted by the County clerk, to witness absentee ballots, and to accept completed absentee ballots from eligible voters for delivery to the County clerk. The VRCs shall deliver completed absentee ballots to the County Clerk as soon as practicable, but no later than five business days following the day on which the VRC accepted the completed absentee ballot, except that all absentee ballots accepted by the VRC during the five days preceding the deadline for receipt of absentee ballots shall be delivered to the County Clerk by the deadline for receipt.

G. Election Day Procedures

1. Hiring, training and ensuring attendance of poll officials; consultation. The County Clerk shall assign at least the statutory number of poll officials bilingual in English and the applicable Indian language and fully train them, and engage in reasonable efforts to secure their presence at the polls on election day for each Native-American majority precinct which serves residents of the covered reservations in Sandoval County. The County Clerk shall consult with the tribal election liaisons, the NEA and Navajo tribal officials of Sandoval County, Five Sandoval, and other appropriate tribal officials to identify bilingual individuals qualified to work at the polls. Alternate translators shall be designated as required by state law. The County Clerk shall provide to the County Attorney no later than 21 days preceding each primary, general or special election a list of names, addresses, and telephone numbers of the bilingual poll officials assigned to each Native-American majority election precinct which serves residents of the covered reservations.

2. Training of poll officials; use of tapes. Poll officials and translators shall be fully trained, at locations in the County convenient to the trainees, in English and the relevant Indian language concerning election day procedures at the polling places, the contents and issues appearing on the ballot, and voter purge procedures. Poll officials and translators also shall be trained in the relevant Indian language to translate election day procedures, ballot contents, and voter registration and purge procedures. Training in translation of the ballot in the Keres, Towa and Navajo Indian languages shall include the use of audio and/or video tapes, and one copy of each tape shall be maintained in accordance with the terms of this agreement. A copy of each tape along with a sample ballot shall be provided to each trainee at the training. The County may require that trainees return such tapes and materials to County officials on election day so that they may be reused. Training sessions shall be followed by oral testing in Navajo, Keres or Towa, as appropriate to ensure their effectiveness. Bilingual poll officials and translators shall receive additional compensation for participating in bilingual training. Such training shall be completed no later than the third day before the relevant election.

3. Number of translators per precinct. For each additional voting machine at each polling place in excess of one, the County Clerk shall appoint an additional trained translator.

4. Instructions regarding assistance to voters. At each training session, poll officials shall be instructed to specifically advise each voter who requires assistance in casting a ballot that the voter may choose any person to provide that assistance, with the exceptions provided in Section 208 of the Voting Rights Act, 42 U.S.C. 1973aa-6. Poll officials also shall be instructed to cooperate with federal observers as outlined in paragraph B.5.

5. Instructions regarding persons not allowed to vote. At each training session, poll officials shall be instructed to maintain a record of all persons who come to the polls but are not allowed to vote. This record shall include each voter's name, address, the reason the person thought she or he was eligible to vote at that site, the reason for not permitting the person to vote, and whether the person was registered at the polling site for future elections. Poll officials shall provide such persons who are eligible with an opportunity to register for future elections before leaving the polling site.

6. Distribution of lists of persons not allowed to vote. A list of the persons not permitted to vote who did not register at each polling site in Native American-majority election precincts serving residents of the covered reservations shall be provided by the County Clerk to the appropriate VRCs, who will provide a copy of the appropriate list to the relevant tribal election liaisons, and the County shall provide an opportunity to such persons on the list to register to vote at the earliest possible time.

7. Monitoring of election day procedures by VRCs. In addition to ensuring that the instructions described above in this section are followed, VRCs shall identify and record any instances of unreasonable delays in voting or in translation of the ballot. Where such delays occur, the County shall take whatever steps are necessary, such as providing additional translators and voting equipment, to ensure that such delays are cured to the extent practicable and that such delays do not recur in future elections.

H. Purge Process

1. Pre-screening of "possible purge lists". At least 60 days prior to the mailing of any notice of removal from the voter registration lists in accordance with Section 8(d)(2) of the

National Voter Registration Act of 1993, the County Clerk shall provide to the VRCs and tribal election liaisons copies of a list of all persons identified for purging from the voting list in each Native American-majority election precinct serving residents of the covered reservations.

Through consultation with tribal election liaisons and tribal officials, the VRCs shall screen said lists to identify persons still eligible to vote in Sandoval County. The name of each such person shall be removed from the list of voters to be purged, and it shall be the responsibility of the VRCs to correct any errors on the voter list as to address, precinct assignment, or other matter, and to notify the voter of such change. Sandoval County shall be under no obligation to mail to any such person any notice pursuant to Section 8(d) of the National Voter Registration Act of 1993.

2. Distribution and posting of possible purge list. After the revisions described in the above paragraph, the list of persons in the Native American precincts to be sent a notice of removal from the voter registration lists in accordance with Section 8(d)(2) of the National Voter Registration Act shall be provided to tribal officials in each covered reservation in Sandoval County. The VRCs shall post the names of persons identified on these lists at each Navajo Chapter House and community center on the covered Pueblo reservations, with the sole notation that "the following persons should contact their VRC (name) at (contact information)."

3. Assistance with response to purge notice. The appropriate VRC shall attempt to contact personally each voter identified on the list and explain the purge process. If the voter so desires, the VRC shall assist the voter in filling out the response to the notice, collect the response, and deliver it to the County Clerk's Office.

4. Final screening of possible purge list. One week before the registration deadline for each election covered by the NAEIP, the VRCs shall review the list of those still identified for purging, certify the current residence of all such voters whose current residence is known to them, revalidate the registration of those voters, and make the necessary adjustments to the voter registration records.

I. Records

1. Statistical records required. In addition to copies of tapes and other materials or records mentioned in this agreement, the County shall maintain statistical records including but not limited to:

- a. Voter Registration to be compiled by the County Clerk
 - Voter registration, by precinct, on a monthly basis.
- b. Voter Purge to be compiled by the County Clerk
 - Total number of voters purged, by precinct.
 - Total number of voters retained on the voter registration rolls based on certification of eligibility by the VRCs.
 - Total number of voters, by precinct, reinstated by returning post cards.
 - Total number of voters validated by other means during the purge period by precinct.
- c. Absentee Voting to be compiled by the County Clerk
 - Total number of mail requests for absentee ballots and number of absentee votes cast per precinct pursuant to mail requests.
 - Total number of absentee ballots cast, per precinct, in person at the County Courthouse.
 - Total number of absentee ballots cast, per precinct, in person before a VRC on the reservations.
- d. Publicity

- English text, Indian language, date, time and medium of each broadcast (where records are available) or publication pursuant to this agreement.
- Time, place, subject matter and occasion of each instance in which each election-related video and audio tape was played.

All records to be kept by precinct must be kept for each and every (Indian and non-Indian) precinct in Sandoval County. The records required in paragraphs (a) through (c) of this section are tallies that must be computed by the County Clerk and copies of these tallies shall be provided to the VRCs and the County Attorney. Both the raw data used to compute the tallies, and the tallies themselves, shall be maintained at the County Clerk's office, and all records shall be available for public inspection upon request. Copies of these records shall be sent to the Department of Justice upon request.

2. Progress reports. After each election covered by the NAEIP, each VRC, under the supervision of the County Attorney, shall prepare a report detailing her or his election-related activities in implementing the goals and provisions of the NAEIP. The United States and the Sandoval County Attorney shall develop a form to be completed by each VRC which will constitute the report. In addition, each VRC shall prepare a report detailing all actions taken concerning purge procedures as required by this NAEIP. Sandoval County shall submit a copy of each report to the United States no later than 30 days following the day on which the County's purge process is completed. The format of the reports shall be a detailed, paragraph-by-paragraph recitation of the specific efforts made by the County to comply with each relevant provision of the NAEIP (for example, dates and times of visits to particular Navajo chapters or Pueblos, and subjects discussed; dates and times of training sessions and whether the election procedure outlined in a particular paragraph was discussed; the date and text of an election

announcement published in a particular newspaper; the date, time, subject matter and language of each radio broadcast). If an appropriate provision is not specifically mentioned in the report, noncompliance with it shall be presumed.

3. Budgetary and statistical appendices to report. The County Attorney shall append to each report quarterly printouts showing itemized expenditures within the NAEIP budget. To each report following an election, the County Attorney shall append a printout showing turnout and election results by precinct. The County Clerk shall provide this printout to the County Attorney. The report also shall include the status of Native American voter participation as shown by relevant statistics for the covered period as set forth in Section I.1 of the NAEIP, together with an assessment of the effectiveness of each phase of the program and a recommendation of the steps to be taken, if any, to improve Native American voter participation. A copy of each report shall be provided to the United States, Five Sandoval, and the NEA within 30 days after the relevant election.

CONCLUSION

This agreement represents the commitment of the parties to provide equal voting rights to all citizens of Sandoval County. Sandoval County intends to fully and faithfully implement this NAEIP, and to maintain such a program indefinitely. At a minimum, the NAEIP shall continue through January 31, 2009. The parties recognize that regular and ongoing reassessment of the above outlined NAEIP by the responsible officials will be necessary in order to ensure that voters are able, and will continue to be able, to enjoy equal access to all phases of the political process in Sandoval County.