

**SETTLEMENT AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA AND THE COBB COUNTY,
GEORGIA BOARD OF ELECTION AND REGISTRATION**

This settlement agreement (this “Agreement”) is entered into between the United States of America (“United States”), and the Cobb County Board of Elections and Registration (“the Board”) (collectively, the “Parties”).

INTRODUCTION

1. The United States Attorney’s Office for the Northern District of Georgia (“USAO”) conducted a compliance review under Title II of the Americans with Disabilities Act of 1990, as amended (“Title II” and “ADA”), 42 U.S.C. §§ 12131-12134, and Title II’s implementing regulation, 28 C.F.R. Part 35.

2. The Board has selected 148 polling place locations in Cobb County planned for use in the 2024 General Election. While some polling places are Cobb County-owned facilities or schools, the majority are privately-owned and accessed by agreement with the Board. The Board is responsible for selecting each polling place and ensuring the accessibility of each polling place.

3. Over the course of 3 separate elections spanning the past 8 years, the USAO has engaged experts who conducted surveys across a number of polling locations in the County. The first two rounds of surveys occurred during primary elections on May 16, 2016 and July 24, 2018. In 2016 and 2018, the USAO found accessibility issues at most of the County’s polling places it had surveyed. After each visit, the USAO notified the Board of the accessibility issues. The Board, as constituted at that time, communicated to USAO that it would undertake remedial steps to address the issues raised in the surveys, but no formal resolution was reached.

4. During the primary election held on March 12, 2024, the USAO, again, surveyed 12 polling places across the County. The USAO, again, found accessibility issues at each of the locations surveyed. These issues included a lack of van accessible parking; excessively sloped ramps, some without handrails and edge protection; excessively sloped portions of parking spaces, access aisles, and exterior routes to the entrance; numerous gaps and level changes along exterior routes; and protruding objects. In addition, the USAO observed a lack of knee and toe clearance at the accessible voting machines at some locations.

5. Individuals with mobility impairments have disabilities within the meaning of the ADA where those impairments substantially limit one or more major life activities of such individuals, including walking. Individuals with vision impairments have disabilities within the meaning of the ADA where those impairments substantially limit one or more major life activities of such individuals, including seeing. 42 U.S.C. § 12102(2).

6. The Board is a public entity within the meaning of the ADA, 42 U.S.C. § 12131(1), and 28 C.F.R. § 35.104, and is therefore subject to Title II and its implementing regulation.

7. The term “the Board,” as used in this Agreement, shall include the Board, the Elections Director, and any other person under the authority or control of the Board. Further, the

term “the County” shall include the County and all of the members, officers, employees, contractors, successors, assigns, administrative personnel, and any other person under the authority or control of Cobb County, Georgia.

8. The Board provides services, programs, and activities within the meaning of Title II, including providing facilities and equipment used for the administration for federal, state, and local elections for which it selects and uses sites as polling places.

9. The Attorney General is responsible for administering and enforcing Title II of the ADA, 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35. The Department is authorized, under 28 C.F.R. Part 35, Subpart F, to investigate the allegations in this matter, to issue findings, and to negotiate and secure voluntary compliance agreements.

10. The Parties agree that it is in their mutual interest, and the USAO believes that it is in the public interest, to resolve this investigation on mutually agreeable terms without litigation. In consideration of the mutual promises contained in this Agreement, good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to avoid the costs, expenses, and uncertainty of protracted litigation, the Parties, intending to be legally bound, enter into this Agreement.

TERMS OF SETTLEMENT

I. Definitions

11. “Election” or “Election Day” shall include all elections operated by the Board, including primary and general elections, and shall include both the period of Early Voting and Election Day.

12. “Accessible on Election Day” means that a polling place is compliant with the 2010 ADA Standards for Accessible Design (“2010 Standards”) (28 C.F.R. § 35.104, as set forth in appendices B and D to 36 C.F.R. Part 1191 and the requirements contained in 28 C.F.R. § 35.151) on Election Day, whether such compliance is achieved through ADA-compliant permanent modifications or through the use of temporary measures such as those provided for in Paragraph 22 below.

13. “Election Day Surveyors” or “EDSs” are Cobb County personnel who will review compliance at polling place locations where temporary measures are to be implemented on Election Day.

14. “Effective Date” of this Agreement is the date of the last signature below. Unless otherwise specified, all time periods run from the Effective Date.

II. Obligations of the Board

A. Accessible Voting Facilities and Equipment

15. The Board and will take necessary steps to effectuate its obligation to comply with the ADA with respect to its administration of elections and this Agreement. In particular, the Board shall revise all relevant policies, practices, and procedures to meet the following obligations:

a. The Board shall not exclude qualified individuals with disabilities from participation in or deny them access to voting facilities and thereby participation in the elections administered by the Board, or subject them to discrimination, on the basis of disability. 42 U.S.C. § 12132; 28 C.F.R. §§ 35.130(a), 35.149.

b. The Board shall maintain in operable working condition those features of facilities and equipment that are required by the ADA to be readily accessible to and usable by persons with disabilities. 28 C.F.R. § 35.133.

c. The Board shall administer elections in the most integrated setting appropriate to the needs of persons with disabilities. *Id.* § 35.150(b)(1).

d. The Board shall ensure that voting equipment are operable and accessible, thereby affording voters with disabilities the same amount of privacy and independence provided to voters without disabilities, *id.* § 35.130(b)(1)(ii), effective communication, *id.* § 35.160(a)(1), and an equal opportunity to participate in, and enjoy the benefits of the voting program. *Id.* § 35.160(b).

e. The Board shall select facilities to be used as polling places that do not exclude qualified individuals with disabilities from or deny them the benefits of the polling place, or otherwise subject them to discrimination on the basis of their disabilities.

f. Within 180 days of the Effective Date of this Agreement, the Board shall submit its revised policies, practices, and procedures to the United States for review and approval. Within 45 days of receiving comments from the United States, the Board shall incorporate in its policies, practices, and procedures any additions or modifications proposed by the United States that bring the Board's policies, practices, and procedures into compliance with the ADA.

16. The Board, with the cooperation and assistance of the County, shall provide accessible polling places that provide facilities and equipment that is accessible to persons with mobility or vision disabilities. 42 U.S.C. § 12132; 28 C.F.R. §§ 35.130, 35.149. The Board shall select facilities to be used as polling places that do not exclude qualified individuals with disabilities from or deny them the benefits of the polling place, or otherwise subject them to discrimination. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(4).

17. For all elections occurring after the Effective Date of this Agreement, the Board, with the cooperation and assistance of the County, will implement measures to remediate the issues identified in Attachment A, to make those polling place locations Accessible on Election Day. Upon the execution of this Agreement, USAO shall provide any photographs, survey information, or reports that pertain to the issues identified in Attachment A to assist the Board in remediation. The Board will provide its remediation plan to the United States within 30 days of the Effective Date of this Agreement. If the Board asserts, and the United States agrees, that remediation and/or relocation to an accessible polling place location are infeasible, then the Board shall comply with Title II's program accessibility requirements as described in Paragraph 21 of this Agreement. 28 C.F.R. § 35.150. This Paragraph shall not apply to any elections taking place within 6 months of

the Effective Date of this Agreement. However, the Board, with the cooperation and assistance of the County, shall make reasonable efforts to improve accessibility through temporary measures for all elections occurring after the Effective Date of this Agreement.

18. Nothing in this Agreement limits the Board from making ADA-compliant, permanent modifications to any County-owned polling place locations instead of providing temporary remedial measures or relocating a polling place location.

19. For County-owned facilities, the Board shall work with the County to maintain in operable working condition on Election Day the features and equipment (including voting machines, and permanent equipment such as lifts and elevators, and temporary equipment such as portable ramps, traffic cones, signs, wedges, and door stops) that are required to make polling places Accessible on Election Day. 28 C.F.R. § 35.133(a). If circumstances arise such that a County-owned polling place location that was previously accessible is no longer accessible because features or equipment are no longer operable, then the Board shall work with the County to provide operable equipment or the Board will relocate the polling place to an alternative, accessible location pursuant to the process established in Paragraph 24 of this Agreement. If the Board asserts, and the United States agrees, that remediation and relocation to an accessible polling place location are infeasible, then the Board shall comply with Title II's program accessibility requirements as described in Paragraph 21 of this Agreement.

20. For all facilities not owned by the County, the Board shall maintain in operable working condition on Election Day the features and equipment owned by the Board or County (including temporary equipment such as portable ramps, traffic cones, signs, wedges, and door stops) that are required to make polling places Accessible on Election Day. 28 C.F.R. § 35.133(a). If circumstances arise such that a polling place location not owned by the County that was previously accessible is no longer accessible because the features or equipment owned by the Board or County are no longer operable, then the Board shall either provide operable temporary equipment or the Board will relocate the polling place to an alternative, accessible location pursuant to the process established in Paragraph 24 of this Agreement. If the Board asserts, and the United States agrees, that remediation and relocation to an accessible polling place location are infeasible, then the Board shall comply with Title II's program accessibility requirements as described in Paragraph 21 of this Agreement.

21. If the Board asserts, and the United States agrees, that remediation and relocation to an accessible polling place location are infeasible, then the Board shall comply with Title II's program accessibility requirements, see 28 C.F.R. Part 35, Subpart D.

22. The Board agrees that the following measures will be implemented where necessary to make an otherwise inaccessible polling place Accessible on Election Day. The list of measures is not exhaustive; the Board may propose other reasonable, temporary measures subject to the review and approval of the United States:

- a. Portable ramps (including curb ramps) up to and including ramps six feet long, with side edge protection;
- b. Portable wedges or wedge ramps;
- c. Floor mats that are ADA-compliant;
- d. Traffic cones;

- e. Relocating furniture or other movable barriers;
- f. Door stops;
- g. Propping open doors;
- h. Unlocking doors;
- i. Signage, including parking and accessible entrance directional signage;
- j. Portable buzzers or door bells;
- k. Removing astragals (center door posts on double doors) that are not a permanent part of the structure from doorways; and
- l. Temporary gap filler.

B. Survey and Review of Polling Place Locations

23. The Board will adopt a polling place accessibility survey instrument that conforms with the 2010 ADA Standards. The survey instrument will include: (1) measurements of each feature in the survey form (*e.g.*, width of parking space, slope of curb ramp); (2) photographs of each element of the polling place and of each measurement; (3) the identification of all appropriate remedial measures, including the remedial measures in Paragraph 22 of this Agreement; and (4) measurements (including slope measurements) and photographs of each remedial measure as it will be implemented on Election Day. The survey instrument will be submitted to the United States for review and approval within 120 days of the Effective Date of this Agreement. Within 45 days of receiving comments from the United States, the Board shall incorporate in its survey instrument any reasonable changes, additions, or modifications proposed by the United States.

24. For all polling place locations that were not surveyed by the United States in the March 2024 Election, the Board will conduct a survey using the survey instrument referenced in Paragraph 23 of this Agreement. These surveys shall be provided to the USAO within one year of the Effective Date of this Agreement. If the United States disputes the accuracy of a survey, then the Board will have an opportunity to respond and will work with the United States to re-survey the portions of the polling place in question. If the United States concludes that the Board has proposed a remedial provision that does not fully address a barrier to accessibility, then the Board will propose and implement, subject to the review and approval of the United States, a remedial measure consistent with Paragraphs 20 and 22 of this Agreement or relocate a polling place to a location that can be made Accessible on Election Day. If the Board asserts, and the United States agrees, that remediation and relocation to an accessible polling place location are infeasible, then the Board shall comply with Title II's program accessibility requirements. 28 C.F.R. § 35.150.

25. If the Board asserts that neither remediation nor relocation of a polling place is feasible, the Board shall provide a report to the USAO for each such polling place to including the following documented components:

- a. A list of potentially viable alternative facilities in the same general geographic area, whose owners or operators were contacted, to serve as a proposed polling place;
- b. Surveys of the potentially viable alternative facilities where the owners or operators of the locations responded either affirmatively or tentatively for the facility's use as a polling place;

- c. A list of necessary remediations, including temporary measures, and how they will be implemented;
- d. A list of any remaining barriers to access after all remediations are put in place, and
- e. If all the polling places under consideration contain physical barriers that cannot be remediated with temporary measures, a comparative analysis regarding all polling places under consideration and their respective remaining barriers.

This Paragraph shall not apply to the November 5, 2024 General Election or a subsequent runoff election. The Board is under no obligation to move any polling places for the November, 5, 2024 General Election or subsequent runoff election. However, it will make all reasonable efforts to remediate and make polling places more accessible for the November 5, 2024 election as laid out in Paragraph 17 of this Agreement.

26. Following the United States' review and approval of a polling place survey, the Board will implement appropriate remedial provisions to make the surveyed polling place location Accessible on Election Day. If the Board chooses not to or is unable to implement one or more of the remedial provisions to make a polling place location Accessible on Election Day, it will relocate the inaccessible polling place location to a location that is Accessible on Election Day, selected pursuant to the process established by Paragraphs 24 of this Agreement. If the Board asserts, and the United States agrees, that remediation and relocation to an accessible polling place location are infeasible, then the Board shall comply with Title II's program accessibility requirements. 28 C.F.R. § 35.150.

27. The Board shall select polling place locations that are Accessible on Election Day to persons with disabilities. It shall be the Board's policy and practice to review each newly proposed polling place location to determine whether it is Accessible on Election Day prior to its use in an election. The Board shall use the survey instrument referenced in Paragraph 23 of this Agreement to make all future polling place location selections. If the Board ultimately determines that a newly proposed location is inaccessible (as defined by the survey instrument) and cannot be made Accessible on Election Day, then the Board will reject the location and continue searching until a location that will be Accessible on Election Day can be found, pursuant to the process established by Paragraph 24..

28. In addition to surveying all current polling places, when the Board identifies a new prospective polling place location, the Board will provide the United States notice within 21 days of the selection of the proposed new location, along with copies of all surveys (including photographs) of the polling place. The new polling place location shall be selected pursuant to the process established by Paragraph 27 of this Agreement and all applicable state laws. The USAO's approval must be obtained before the Board uses the location in an election.

29. If the Board finds that it cannot implement a previously-approved remedial provision for a specific polling place location, the Board will immediately notify and confer with the USAO. If the issue cannot be resolved to the USAO's reasonable satisfaction, the Board will

relocate the polling place location to an alternative location that is Accessible on Election Day pursuant to the process established by Paragraph 24 of this Agreement.

30. Prior to each election during the term of this Agreement, as part of its training program for poll managers, area supervisors, and any other Cobb County personnel who will serve as an EDS, the Board will provide training on Title II of the ADA and the requirements of this Agreement as applied to the Board's administration of elections, including:

- a. Voting room or area requirements, including requirements related to setting up and operating the accessible voting machine, under the 2010 ADA Standards;
- b. Temporary remedial measures, including: (a) why such measures are necessary; and (b) how the measures must be implemented (*e.g.*, how to install ramps, how to establish a temporary van accessible parking place);
- c. Interacting with individuals with disabilities and making reasonable modifications necessary to ensure that qualified individuals with disabilities are afforded an equal opportunity to participate in the Board's voting program;
- d. The ADA's retaliation prohibition; and
- e. The Board's revised policies, practices, and procedures, including the policies, practices, and procedures revised pursuant to this Agreement.

31. For each session of the training conducted under this Agreement, the Board shall maintain attendance logs reflecting the date of the training, names and titles of attendees, and the attendees' signatures.

32. Prior to each election during the term of this Agreement, and at each training session for each election thereafter, the Board will identify each election officer in attendance whose polling place was identified as non-compliant by the Board's or USAO's compliance review from the previous election. The Board will explain to each EDS the nature of the noncompliance and explain what the EDS must do to remedy the identified issue(s) on Election Day.

C. Election Day Compliance Review

33. Upon the completion of the surveys discussed in Paragraph 23, the Board will develop a checklist of the temporary measures to be implemented on Election Day at each polling place location where such measures are required. The checklist shall be included in the materials provided to each EDS for Election Day and provided to each County employee or vendor involved in installing or implementing temporary measures for Election Day. The checklist shall include clear instructions and diagrams/photos for the remedial measures to be implemented by the polling place election officer. Copies of these checklists, instructions, and diagrams/photos will be provided to the United States no later than 90 days before each election.

34. The Board will designate an election official at each polling place location to serve as an EDS in order to review compliance at the polling place locations where temporary measures are to be implemented on Election Day. The EDS can be a poll manager or area supervisor.

35. The Board and the EDS will use the checklist developed pursuant to Paragraph 33 of this Agreement to review compliance on Election Day. The EDS shall document their

compliance reviews (both compliant and non-compliant polling place locations). The EDS shall also certify that the remedial measures were maintained in place throughout Election Day. Copies of these compliance reviews will be provided to the United States within 60 days after each election.

36. If the Board does not properly implement the temporary remedial measures necessary at a particular polling place location on Election Day in two (2) consecutive elections, and, if the polling place location is a County-owned polling place location and the County or Board does not make permanent architectural remediation, then the Board will no longer use the polling place location and will relocate it to a location that is Accessible on Election Day. If the Board asserts, and the United States agrees, that remediation and relocation to an accessible polling place location are infeasible, then the Board shall comply with Title II's program accessibility requirements, as described in Paragraph 21 of this Agreement.

D. Staff Training

37. Within one year of the Effective Date of this Agreement, the Board will provide training to County election staff and any relevant contractors or vendors who conduct surveys or implement temporary measures, on Title II and Title V of the ADA and the requirements of this Agreement as applied to the Board's voting program, including:

- a. Polling place accessibility requirements under the 2010 ADA Standards;
- b. Temporary remedial measures, including: (a) why such measures are necessary; and (b) how the measures must be implemented (*e.g.*, how to install ramps, how to establish a temporary van accessible parking place);
- c. Interacting with individuals with disabilities and making reasonable modifications necessary to ensure that qualified individuals with disabilities are afforded an equal opportunity to participate in the Board's voting program;
- d. The ADA's retaliation prohibition; and
- e. The Board's revised policies, practices, and procedures, including the policies, practices, and procedures revised pursuant to this Agreement.

38. The Board may record the initial training to use for employees hired after the initial training. The Board will provide this training on an annual basis for the duration of this Agreement. The Board must obtain the United States' approval of the trainer and the materials to be used in the training.

39. For each session of the training conducted under this Agreement, the Board shall maintain attendance logs reflecting the date of the training, names and titles of attendees, and the attendees' signatures.

III. Enforcement and Miscellaneous Provisions

40. Designation of ADA Coordinator: Within thirty (30) days of the Effective Date of this Agreement and for the term of this Agreement, the Board will designate an employee of the Board, or an employee of the County, to serve as an ADA Coordinator for the Board. The ADA Coordinator will be trained in and knowledgeable about the ADA and the terms of this Agreement,

and will investigate any complaint that the Board, election judges, or any other person under the authority or control of the Board receives alleging that the Board's voting facilities and equipment discriminate against persons with disabilities.

41. Publication of Notice to Voters with Disabilities: The Board will publish a Notice to Voters with Disabilities on its website and at all polling places for all elections within sixty (60) days of the Effective Date of this Agreement, and for the term of this Agreement, that notifies voters of the name of, and contact information for, the Board's ADA Coordinator.

42. Delivery of Reporting Materials: All materials sent to the United States pursuant to this Agreement shall be sent by e-mail to undersigned counsel (or to alternate email addresses that the United States may designate during the term of this Agreement). If the materials cannot be e-mailed, then the materials shall be sent to the following address by common carrier other than the U.S. Postal Service: Aileen Bell Hughes, Rahul Garabadu, or Marissa Fallica, United States Attorney's Office, Northern District of Georgia, 75 Ted Turner Drive, SW, Suite 600, Atlanta Georgia 30303.

43. Reviewing Compliance: The United States may review compliance with this Agreement at any time. The Board will cooperate fully with the United States' efforts to monitor compliance with this Agreement, including by providing the United States with timely access to polling places (including on Election Day), maps, surveys, employees, contractors, training sessions, relevant documents, and other reasonably requested information. During the term of this Agreement, at least biannually, the parties will confer to assess the Board's compliance with this Agreement. If the United States believes that the Board has failed to comply in a timely manner with any requirement of this Agreement, or that any requirement has been violated, the United States will so notify the Board in writing and will attempt to resolve the issue in good faith. If the United States is unable to reach a satisfactory resolution of the issue within 30 days of the date it notifies the Board, the United States may file a civil action in federal district court to enforce the terms of this Agreement or take any other action to enforce Title II of the ADA.

44. Term: This Agreement shall terminate in three years following the Effective Date.

45. Entire Agreement: This Agreement, including Attachment A, constitutes the entire agreement between the United States and the Board on the matters raised herein and no other statement or promise, written or oral, made by any party or agents of any party, that is not contained in this written Agreement, including Attachment A, shall be enforceable.

46. Severability: If any term of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement shall nonetheless remain in full force and effect.

47. Non-Waiver: Failure by the United States to enforce any provisions or deadlines in this Agreement shall not be construed as a waiver of the right of the United States to enforce any deadlines or provisions of this Agreement.

48. Limitation: This Agreement is limited to resolving claims under Title II of the ADA related to the facts specifically set forth in Paragraphs 1 through 4, above, concerning physical accessibility of polling places. Nothing in this Agreement relates to other provisions of the ADA or affects the Board's obligations to comply with any other federal, state, or local statutory, administrative, regulatory, or common law obligation, including those relating to nondiscrimination against individuals with disabilities.

49. Modifications: Any modifications of this Agreement, such as extensions of the time limits for performance imposed by the Agreement, may be made only by the mutual written consent of the Parties.

50. Binding Nature of Agreement: This Agreement shall be applicable to and binding upon the Board and the County as well as their officers, agents, employees, and assigns.

51. Preservation of Documents: Throughout the term of this Agreement, the Board and the County shall preserve documents, electronically stored information, or other information related to this Agreement and necessary to determining their compliance with this Agreement.

52. Counterparts: This Agreement may be executed in any number of counterparts, each of which is an original, and all of which taken together constitute one single document.

53. Publicly Available: A copy of this document will be made available to any person by the Board on request.

Signature: Tori Silas
Tori Silas (Sep 18, 2024 15:37 EDT)

Email: tori.silas@cobbcounty.org

FOR THE UNITED STATES OF AMERICA:

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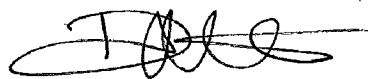
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**APPROVED AND EXECUTED BY COBB COUNTY BOARD OF ELECTIONS AND
REGISTRATION ON SEPTEMBER 16, 2024**

Tori Silas

Tori Silas
Chair, Cobb Board of Elections and Registration



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