

RESOLUTION NO. 99-19

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND,
CALIFORNIA, DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE
TO BY-DISTRICT COUNCIL MEMBER ELECTIONS UNDER ELECTIONS CODE
§ 10010**

WHEREAS, under the City Charter of the City of Richmond, California (the "City") members of the City Council are currently elected in "at-large" elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, on September 11, 2019, the City received a certified letter from Attorney Scott Rafferty asserting that the City's at-large council member electoral system violates the California Voting Rights Act ("CVRA") and threatening litigation if the City declines to voluntarily change to a district-based election system for electing council members; and

WHEREAS, a violation of the CVRA is established if it is shown that racially polarized voting occurs in elections (Elections Code section 14028(a)). "Racially polarized voting" means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate (Elections Code section 14026(e)); and

WHEREAS, although staff disputes the assertions made in Mr. Rafferty's letter regarding the existence of racially polarized voting and his purported evidence supporting the claim of a CVRA violation, the City Council has directed staff to initiate the process to establish by-district elections to avoid costs associated with defending a lawsuit based on the CVRA; and

WHEREAS, the California Legislature has provided a procedure whereby a jurisdiction can expeditiously change to a by-district election system and avoid the high cost of litigation under the CVRA (Elections Code section 10010). Under that procedure, a jurisdiction can limit the amount of its liability to prospective plaintiffs and their attorneys to a maximum amount of \$30,000 for reimbursable expenses and costs (the "safe harbor provision"); and

WHEREAS, the City denies its at-large election system violates the CVRA or any other provision of law; and

WHEREAS, despite the foregoing, the City Council has determined that the public interest would be served by transitioning to a district-based electoral system because of: (1) the high cost to defend against a CVRA lawsuit, (2) the risk of losing such a lawsuit, which would require the City to pay the prevailing plaintiffs' attorneys' fees, and (3) the availability of changing to district elections under the safe harbor provision; and

WHEREAS, California Elections Code section 10010 requires that a City changing to district-based elections under the safe harbor provision do all of the following within 90 days from the date this resolution is approved:

1. Before drawing a draft map or maps of the proposed boundaries of the districts, the political subdivision shall hold at least two public hearings over a period of no more than 30 days, at which the public is invited to provide input regarding the composition of the districts. Before these hearings, the political subdivision may conduct outreach to the public, including to non-English-speaking communities, to explain the districting process and to encourage public participation;

2. After all draft maps are drawn, the political subdivision shall publish and make available for release at least one draft map and, if members of the governing body of the political subdivision will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections. The political subdivision shall also

hold at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections. The first version of a draft map shall be published at least seven days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven days before being adopted;

3. Adopt an ordinance establishing district-based elections pursuant to Elections Code section 10010(a).

WHEREAS, the adoption of a district-based elections system will not affect the terms of any sitting Councilmember, each of whom will serve out his or her current term; and

WHEREAS, the City will retain an experienced demographer to assist the City in developing a proposal for a district-based electoral system.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond, as follows:

The City shall consider an ordinance to change to a district-based election system for use in the City's General Municipal Election for City Council Members beginning in November 2020.

FURTHER, the City Council authorizes the City Manager to execute an agreement to retain the services of National Demographics Corporation and directs staff to work with the City's retained demographer, and other appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act.

FURTHER, the City Council approves the tentative timeline set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input on proposed district-based electoral maps before adopting any such map.

FURTHER, the City Council instructs staff to institute a program for public outreach to inform the residents of Richmond of this resolution and the process set forth in Exhibit A, and to facilitate and encourage public participation.

FURTHER, the timeline contained in Exhibit A may be adjusted as deemed necessary, provided that such adjustments shall not prevent the City from complying with the time frames specified by Election Code Section 10010.

This resolution shall take effect immediately upon its adoption.

I certify that the foregoing resolution was passed and adopted by the Council of the City of Richmond at a regular meeting thereof held October 22, 2019, by the following vote:

AYES: Councilmembers Bates, Johnson, Myrick , Vice Mayor Choi, and Mayor Butt.
NOES: Councilmember Martinez.
ABSTENTIONS: Councilmember Willis.
ABSENT: None.

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

THOMAS K. BUTT
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Resolution No. 99-19**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on October 22, 2019.



Pamela Christian, Clerk of the City of Richmond

EXHIBIT A

Tentative Public Hearing Timeline

DATE	EVENT	COMMENT
November 5, 2019	1st Public Hearing	Council to receive input from community to be used to draw preliminary district maps. No maps yet drawn.
November 19, 2019	2nd Public Hearing	Council to receive additional input from community to be used to draw preliminary district maps. No maps yet drawn.
Late November/ Early December 2019	Publish Draft Maps and Potential Sequence of elections.	
December 3, 2019	3rd Public Hearing	Regarding draft maps and proposed sequence of elections. Opportunity for public to respond and make recommendations regarding the proposed district boundaries and sequence of elections.
December 17, 2019	4th Public Hearing	Expected that Council will select map to establish district boundaries, introduce an ordinance establishing district elections, and determine election sequence. Note: If posted maps are further amended, ordinance cannot be introduced until 7 days after amended map is published.
January 14, 2020	5th Public Hearing	Further opportunity for public to respond to the proposed district boundaries and sequence of elections. Expected that Council will adopt an ordinance establishing district elections.