RESOLUTION NO. 2019-5

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
NOVATO FIRE PROTECTION DISTRICT DECLARING THE BOARD’S INTENT TO
TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS, OUTLINING SPECIFIC
STEPS TO BE UNDERTAKEN TO FACILITATE THE TRANSITION AND ESTIMATING A
TIME FRAME FOR PROPOSED PUBLIC INPUT AND HEARINGS PRIOR TO ADOPTION OF
AN ORDINANCE PURSUANT TO ELECTIONS CODE SECTION 10010

WHEREAS, members of the Board of Directors of the Novato Fire Protection District
(“District”) are currently elected in “at-large” elections, in which each Director is elected by the registered
voters within the geographical boundaries of the entire District; and

WHEREAS, California Elections Code Section 10650 authorizes the governing body of a special
district to require the members of its governing body to be elected using district-based elections; and

WHEREAS, in recent months, several local governmental agencies in Marin County have
adopted resolutions memorializing their intention to transition from at-large to district-based elections;
and

WHEREAS, some of these Marin local agencies have received certified letters from Kevin
Shenkman of the law firm Shenkman and Hughes asserting that their respective at-large electoral systems
violate the California Voting Rights Act (“CVRA”) and threatening litigation if the individual agency
recipients decline to voluntarily change to a district-based election system for electing members to each
governing body; and

WHEREAS, a violation of the CVRA is established if it is shown that racially polarized voting
occurs in elections (Elections Code 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, the District has not received a letter from Mr. Shenkman or any other prospective
CVRA plaintiff, and does not concede the existence of any CVRA violations under the District’s current
at-large system of elections, but the Board of Directors has considered the possibility of such a claim
given the lenient standards of proof that require only some evidence of “racialized voting” as
opposed to actual remediable racial injury, realizes that this law provides a ready and viable avenue for
prospective plaintiffs in California to challenge at-large voting systems, and has directed staff to initiate
the process to establish by-district elections to avoid costs associated with defending a lawsuit under the
CVRA, even if that lawsuit settles; and

WHEREAS, the California Legislature in amendments to Elections Code Section 10010 has
provided a series of “safe harbor” provisions whereby a jurisdiction can expeditiously transition to a by-
district election system and avoid the high cost of litigation under the CVRA; and

WHEREAS, the public interest would be better served by Board consideration of a proposal to
transition to a district-based electoral system because of 1) the extraordinary cost of defending against a
CVRA lawsuit; 2) the risk of losing such a potential lawsuit which would require the District to pay the
prevailing plaintiffs’ attorneys fees; and

WHEREAS, prior to the Board of Directors’ consideration of a resolution to establish district
boundaries for a district-based electoral system, California Elections Code Section 10010 requires all of
the following:
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1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the District shall
hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the
public will be invited to provide input regarding the composition of the districts;

2. After all draft maps are drawn, District shall publish and make available for release at least one
draft map and, if members of the Board of Directors will be elected in their Districts at different
times to provide for staggered terms of office, the potential sequence of the elections shall also be
provided. The Board of Directors shall also hold at least two (2) additional hearings over a period
of no more than forty-five (45) days, at which the public shall be invited to provide input
regarding the content of the draft map or maps and the proposed sequence of elections, if
applicable. The first version of a draft map shall be published at least seven (7) 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 (7) days before being adopted; and

WHEREAS, the District has retained an experienced demographer to assist the District in
developing a proposal for a district-based election system; and

WHEREAS, the adoption of a district-based elections system will not affect the terms of any
sitting Director, each of whom will serve out his current term.

NOW THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

SECTION 1. The Board of Directors hereby resolves to consider adoption of a resolution to
transition to a district-based election system as authorized by California Elections Code Section 10650 for
use in the November 3rd, 2020 Statewide General Election.

SECTION 2: The Board of Directors directs staff to work with the District’s legal representatives
and demographer and other appropriate consultants as needed to provide a detailed analysis of the
District’s current demographics and any other information or data as needed to prepare a draft map that
divides the District’s jurisdictional area into voting districts in a manner consistent with the intent and

SECTION 3: The District hereby approves the tentative timeline as set forth in Exhibit A,
attached hereto and made a part of this resolution by reference, for conducting a public process to solicit
public input and testimony on proposed district-based electoral maps before adopting any such map.

SECTION 4: The timeline set forth under Exhibit A may be adjusted by Fire Chief as deemed
necessary, provided that such adjustments shall not prevent District from complying with the time frames
specified under California Elections Code Section 10010.

SECTION 5: The Board of Directors directs staff to post information regarding the proposed
transition to a district-based election system, including maps, notices, agendas and other information and
to establish a means of communication to answer questions from the public.
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PASSED AND ADOPTED by the Board of Directors, Novato Fire Protection District, on the 1st day of
May 2019, by the following vote:

AYES: Davis, Arciniega, Melino, Silverman, Galli

NOES: None

ABSTAIN: None

ABSENT: [Signature]

President, Board of Directors

Attest: [Signature]
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EXHIBIT A

TENTATIVE TIMELINE: CONSIDERATION AND IMPLEMENTATION OF “DISTRICT-
BASED” ELECTION METHOD

<table>
<thead>
<tr>
<th>DATE</th>
<th>EVENT</th>
<th>COMMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 1, 2019</td>
<td>Resolution of Intention:</td>
<td>CVRA Action/suit may not be commenced for 90 days (or before 7/31/19 unless period is extended pursuant to California Elections Code Subsection 10010(c)(3)(C)(i))</td>
</tr>
<tr>
<td></td>
<td>Board of Directors adopts Resolution declaring its intention to transition from at-large to district-based elections</td>
<td></td>
</tr>
<tr>
<td>May 2-May 21, 2019</td>
<td>Public Outreach</td>
<td>Re: Process and participation NO MAPS YET DRAWN</td>
</tr>
<tr>
<td>May 22, 2019</td>
<td>1st Public Hearing</td>
<td>Re: Composition of Districts NO MAPS YET DRAWN</td>
</tr>
<tr>
<td>June 5, 2019</td>
<td>2nd Public Hearing</td>
<td>Re: Composition of Districts NO MAPS YET DRAWN</td>
</tr>
<tr>
<td>June 12, 2019</td>
<td>Post Draft Maps and Potential Sequence of Elections</td>
<td></td>
</tr>
<tr>
<td>June 19, 2019</td>
<td>3rd Public Hearing</td>
<td>Re: Draft Maps</td>
</tr>
<tr>
<td>June 26, 2019</td>
<td>Any changes/amendments to 1st Map draft posted</td>
<td></td>
</tr>
<tr>
<td>July 3, 2019</td>
<td>4th Public Hearing</td>
<td>Re: Draft Maps. If selected map is amended, resolution formally adopting switch would not be made until 7 days after publication of amended map. If there are no changes, Board could formally adopt Resolution making switch to District-based elections</td>
</tr>
<tr>
<td>July 10, 2019</td>
<td>Any changes to 2nd Map Draft posted</td>
<td></td>
</tr>
<tr>
<td>July 17 or July 24, 2019</td>
<td>Potential dates for formal adoption of Resolution switching to District-based Elections</td>
<td>Special meeting would be calendared and noticed only if necessary to accommodate posting of revisions to second draft map on 7/3/19</td>
</tr>
<tr>
<td>July 30, 2019</td>
<td>Day 90</td>
<td></td>
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</table>
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<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 1, 2020</td>
<td>Board of Directors adopts resolutions calling for elections, requesting consolidation, etc.</td>
</tr>
<tr>
<td>~July 15—August 10, 2020</td>
<td>Candidate Nomination Period</td>
</tr>
<tr>
<td>November 3, 2020</td>
<td>First election using district-based Election system</td>
</tr>
</tbody>
</table>