

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 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 "racially polarized 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 purpose of the California Voting Rights Act and the Federal Voting Rights Act.

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 1th day of
May 2019, by the following vote:

AYES: *Davis, Gomes, Metcho, 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**

DATE	EVENT	COMMENT
May 1, 2019	Resolution of Intention: Board of Directors adopts Resolution declaring its intention to transition from at- large to district-based elections	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(e)(3)(C)(i))
May 2-May 21, 2019	Public Outreach	Re: Process and participation NO MAPS YET DRAWN
May 22, 2019	1 st Public Hearing	Re: Composition of Districts NO MAPS YET DRAWN
June 5, 2019	2 nd Public Hearing	Re: Composition of Districts NO MAPS YET DRAWN
June 12, 2019	Post Draft Maps and Potential Sequence of Elections	
June 19, 2019	3 rd Public Hearing	Re: Draft Maps
June 26, 2019	Any changes/ amendments to 1 st Map draft posted	
July 3, 2019	4 th Public Hearing	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
July 10, 2019	Any changes to 2 nd Map Draft posted	
July 17 or July 24, 2019	Potential dates for formal adoption of Resolution switching to District-based Elections	Special meeting would be calendared and noticed only if necessary to accommodate posting of revisions to second draft map on 7/3/19
July 30, 2019	Day 90	

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April 1, 2020	Board of Directors adopts resolutions calling for elections, requesting consolidation, etc.	
~July 15--August 10, 2020	Candidate Nomination Period	
November 3, 2020	First election using district-based Election system	