



CITY COUNCIL STAFF REPORT

DATE: April 19, 2018 NEW BUSINESS

SUBJECT: CONSIDERATION OF WHETHER TO TRANSITION FROM AN AT-LARGE ELECTORAL SYSTEM TO A DISTRICT-BASED ELECTORAL SYSTEM FOR MEMBERS OF THE CITY COUNCIL

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY

This is a request for the City Council to consider whether to transition from an at-large electoral system to a district-based electoral system for members of the City Council.

RECOMMENDATION:

Determine whether to adopt, consistent with a Council subcommittee recommendation, a Resolution entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE ELECTIONS TO DISTRICT-BASED ELECTIONS PURSUANT TO ELECTIONS CODE SECTION 10010."

BACKGROUND:

The City of Palm Springs (City) currently elects its City Council through an "at-large" electoral system in which each Councilmember can reside anywhere in the Palm Springs city limits and is elected by the entire electorate to provide citywide representation.

On March 5, 2018, the City received a certified letter from Malibu-based attorney Kevin I. Shenkman, on behalf of his client Southwest Voter Registration Education Project, containing allegations that the City's at-large electoral system violates the California Voting Rights Act (CVRA). Mr. Shenkman further alleges evidence of Latino "polarized voting" in the Palm Springs electorate and threatens litigation if the City declines to adopt a district-based electoral system. A copy of the letter is attached to this report as **ATTACHMENT 1**.

A district-based electoral system is one in which a city is physically divided into separate districts, each with one Councilmember who resides in the district and is chosen by the voters residing in that particular district. In a district-based electoral system, voters within each district may only vote for one candidate every four years.

ITEM NO. 1.A.

Due to a recent change in the law (Assembly Bill 350, amending Elections Code [EC] Section 10010) discussed in more detail below, the City must determine within 45 days of receipt of the plaintiff's threat letter whether to adopt a Resolution of Intention to initiate the transition to a district-based electoral system. The deadline is April 19, 2018; accordingly, the City Council must decide this evening whether to adopt the attached Resolution of Intention. Regardless of whether the City believes that the record shows any Latino or other racially-polarized voting in Palm Springs in violation of the CVRA, Mr. Shenkman can ignore this, and proceed to engage the City in costly litigation in an attempt to force a district-based electoral system, leaving Palm Springs's electoral system in the hands of the Court.

Analysis

The Federal Voting Rights Act of 1965 (FVRA) requires a successful plaintiff to show that: 1) a minority group be sufficiently large and geographically compact to form a majority of the eligible voters in a single-member district; 2) there is racially-polarized voting; and 3) there is white bloc voting sufficient usually to prevent minority voters from electing candidates of their choice (*Thornburg v. Gingles, 1986*). If all three of these "preconditions" are proven, the Court then proceeds to consider whether, under the "totality of circumstances" the votes of minority voters are diluted.

However, the CVRA prescribes an extremely light burden on the plaintiff to establish a violation. Under the CVRA, plaintiffs can prove a violation *solely* on evidence of racially-polarized voting EC Section 14027. Racially-polarized voting occurs when there is a difference between the choice of candidates preferred by voters in a protected class and the choice of candidates preferred by voters in the rest of the electorate (EC Section 14026[e]). The CVRA defines a "protected class" broadly as a class of voters who are members of a race, color, or language minority group (EC 14626[d]).

The CVRA appears to eliminate the first precondition that plaintiffs must prove that the minority group is sufficiently large and geographically compact to form a majority in a single member district (EC 14028[c]). The CVRA also eliminates the requirement that plaintiffs prove discrimination under the totality of circumstances test (EC 14028[e]). The most likely remedy in a successful CVRA action would be to order cities with an at-large electoral system to change to a district-based electoral system in which a minority group will be empowered either to elect its preferred candidates, or influence the election outcome.¹ The CVRA finds that a violation may be established if it is shown that racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision, including ballot measures (EC 14028[b]).

As a result of the lower threshold established by the CVRA, cities and other jurisdictions throughout California have been facing challenges to their at-large electoral systems. Many of these jurisdictions have voluntarily switched to district-based electoral systems instead of facing litigation. AB 350 amended EC Section 10010 to place a "safe harbor" cap of a maximum of \$30,000 on attorney's fees that a plaintiff would be entitled to recover if the target city, within 45 days of receipt of the plaintiff's threat letter, voluntarily adopts

¹ League of California Cities Analysis regarding the California Voting Rights Act, prepared by Marguerite Mary Leoni and Christopher E. Skinnell, of Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP

a Resolution of Intention to consider an ordinance to establish a district-based electoral system, and then actually adopts such an ordinance within 90 days following the date it adopted the Resolution of Intention.

The CVRA contains an attorney's fees provision that entitles a prevailing plaintiff to an award of its reasonable attorney's fees and litigation expenses, including expert witness fees. On the other hand, a prevailing defendant is not entitled to recover any costs, unless the Court finds the action to be "frivolous, unreasonable, or without foundation," an extremely high standard.

Cities that have attempted to defend their existing at-large electoral systems under the CVRA have incurred significant legal costs, including reimbursement of the attorneys' fees incurred by plaintiffs. Awards in these cases have reportedly ranged from approximately \$400,000 to over \$4,500,000. For example, in February 2015, the City of Santa Barbara reportedly paid \$800,000 in attorney's fees and expert costs to settle their CVRA lawsuit. Another example is the City of Palmdale that incurred an expense in excess of \$4.5 million in its unsuccessful attempt to defend against a lawsuit brought under the CVRA.

Staff estimates that the cost to defend a CVRA lawsuit would range into the millions if the plaintiff prevailed and the City was ordered to pay the plaintiff's attorney's fees. These fees and costs would be a General Fund liability which would be a significant unanticipated expense.²

Procedures for the Transition to a District-Based Electoral System

EC Section 10010, as amended by AB 350, provides for a 90-day "safe harbor" period in which prior to the City Council's consideration of an ordinance to establish boundaries for a district-based electoral system, requires all of the following at a minimum.

- 1) Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold a least two (2) Public Hearings over a period of no more than thirty (30) days, at which time the public will be invited to provide input regarding the composition of the districts.
- 2) After the draft maps are drawn, the City shall publish and make available for release at least one draft map and, if members of the City Council 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 published.
- 3) The City Council shall also hold at least two (2) additional Public 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.

² Assembly Bill 2231 is currently in committee, and would modify the CVRA in several important respects. It would likely reduce the change of government entities losing CVRA lawsuits, and provide a disincentive to prospective CVRA plaintiffs, *i.e.*, potential government recovery of attorneys' fees. Based upon staff inquiries, the bill is unlikely to pass.

- 4) The first version of a draft map shall be published at least seven (7) days before consideration at a Public Hearing. If a draft map is revised at or following a Public Hearing, it shall be published and made available to the public for at least seven (7) days before being adopted

The City Council wants to gather and study demographic data, secure the broadest and deepest community involvement in this process that can be achieved, and create CVRA-compliant districts that best serve the City as a whole. Per Council subcommittee direction, staff negotiated an agreement with Mr. Shenkman to allow the City until December 31, 2018 to complete the statutorily mandated public hearings, and also conduct community workshops and additional public hearings, beyond the minimum of what the law requires, but does not change the This extension eliminates the CVRA requirement that the City complete the minimum statutory process within ninety (90) days of the City's adoption of the proposed Resolution, *i.e.*, by July 18, 2018. However, the extension doesn't impact other CVRA or general requirements that apply to the minimum process. The City Council subcommittee for CVRA issues indicates that if the proposed Resolution of Intention, **ATTACHMENT 2**, is adopted, it will advance plans to elicit maximum public participation, and take full advantage of the additional time secured for CVRA implementation, above and beyond the minimum public hearings required by AB350. The maps will be drawn by National Demographics Corporation (NDC), a professional demographer with extensive experience in the CVRA and drafting of districts. Public input and testimony on the composition of districts and the proposed maps are very important, and all Palm Springs residents are encouraged to participate in these Hearings.

Informed by demographic data and public input, the Council will make choices in implementing CVRA district-based elections. Each of the significant number of upcoming public hearings and other City events related to this matter will serve as a forum for the discussion, refinement, and eventual decision upon what district-based election system will most effectively advance the City's interests.

Preliminary Demographic Analysis

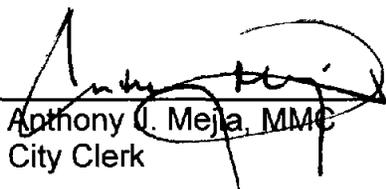
As an overall assessment of preliminary demographic data, City demographer NDC advises that there is generally weak but possible evidence of racially-polarized voting in the City of Palm Springs. While there is not what one would typically call "proof" of CVRA violations in the Palm Springs electoral history analyzed, there are a few data points that Mr. Shenkman might focus upon. In the absence of any CVRA precedents that provide a bright-line that would classify analyzed elections as either racially-polarized or not, NDC cannot indicate from its preliminary analysis that a CVRA challenge against the City would not succeed. A few preliminary specifics are worth note at this time. There was only one (1) Latino candidate who ran for City Council during the 2007, 2013, 2015, and 2017 elections; that candidate ran in 2007. There was no city council candidate in any of these elections who Latino voters clearly preferred. While white voters supported a Latino candidate in both elections during 2014, they did so at lower percentages than did Latino voters.

ENVIRONMENTAL ANALYSIS:

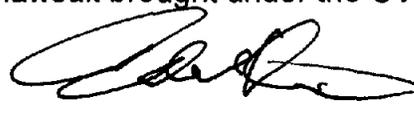
A transition from at-large to district-based elections is exempt from environmental review under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 *et seq.*) pursuant to State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*) sections 15061(b)(3), 15320, and 15378(b)(3). Adoption of the proposed Resolution is an organizational and administrative activity of the City, does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not a project for purposes of CEQA. (State CEQA Guidelines, §§ 15061(b)(3); 15378(b)(5).) In the event adoption of this Resolution does constitute a project, it is categorically exempt under the Class 20 (Changes in the Organization of Local Governments) categorical exemption. (State CEQA Guidelines, § 15320.) Further, none of the exceptions to the exemptions found in State CEQA Guidelines section 15300.2 apply. Upon approval of this Resolution, staff will prepare, execute and file with the Riverside County Clerk a CEQA Notice of Exemption within five (5) working days.

FISCAL IMPACT:

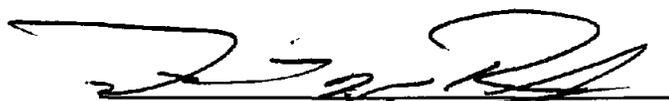
There will be significant staff time needed to transition to a district-based electoral system due to the need to conduct multiple Public Hearings and community workshops, in addition to the cost for a demographics consultant. Should the City Council determine to proceed to adopt the Resolution of Intention this evening, the City will be required to reimburse the plaintiff for its attorney's fees and costs up to \$30,000, but will not be exposed to additional legal fees in defense of a lawsuit brought under the CVRA.



Anthony I. Meja, MMC
City Clerk



Edward Z. Kotkin
City Attorney



David H. Ready, Esq., Ph.D.
City Manager

Attachments:

1. Letter from Kevin Shenkman, received on March 5, 2018
2. Draft Resolution of Intention to Transition to District-Based Elections

ATTACHMENT 1

SHENKMAN & HUGHES, PC

Attorneys

Malibu, California

RECEIVED
CITY OF PALM SPRINGS

2018 MAR -5 AM 8:09

OFFICE OF THE CITY CLERK

28905 Wight Road
Malibu, California 90265
(310) 457-0970

kshenkman@shenkmanhughes.com

VIA CERTIFIED MAIL

February 21, 2018

Anthony Mejia - Office of the City Clerk
City of Palm Springs
3200 E Tahquitz Canyon Way
Palm Springs, CA 92262

Re: Violation of California Voting Rights Act

I write on behalf of our client, Southwest Voter Registration Education Project and its members residing in Palm Springs. The City of Palm Springs (“Palm Springs”) relies upon an at-large election system for electing candidates to its City Council. Moreover, voting within Palm Springs is racially polarized, resulting in minority vote dilution, and therefore Palm Springs’s at-large elections violate the California Voting Rights Act of 2001 (“CVRA”).

The CVRA disfavors the use of so-called “at-large” voting – an election method that permits voters of an entire jurisdiction to elect candidates to each open seat. *See generally Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660, 667 (“*Sanchez*”). For example, if the U.S. Congress were elected through a nationwide at-large election, rather than through typical single-member districts, each voter could cast up to 435 votes and vote for any candidate in the country, not just the candidates in the voter’s district, and the 435 candidates receiving the most nationwide votes would be elected. At-large elections thus allow a bare majority of voters to control *every* seat, not just the seats in a particular district or a proportional majority of seats.

Voting rights advocates have targeted “at-large” election schemes for decades, because they often result in “vote dilution,” or the impairment of minority groups’ ability to elect their preferred candidates or influence the outcome of elections, which occurs when the electorate votes in a racially polarized manner. *See Thornburg v. Gingles*, 478 U.S. 30, 46 (1986) (“*Gingles*”). The U.S. Supreme Court “has long recognized that multi-member districts and at-large voting schemes may operate to minimize or cancel out the voting strength” of minorities. *Id.* at 47; *see also id.* at 48, fn. 14 (at-large elections may also cause elected officials to “ignore [minority] interests without fear of political consequences”), citing *Rogers v. Lodge*, 458 U.S. 613, 623 (1982); *White v. Register*, 412 U.S. 755, 769 (1973). “[T]he majority, by virtue of its numerical superiority, will

regularly defeat the choices of minority voters.” *Gingles*, at 47. When racially polarized voting occurs, dividing the political unit into single-member districts, or some other appropriate remedy, may facilitate a minority group's ability to elect its preferred representatives. *Rogers*, at 616.

Section 2 of the federal Voting Rights Act (“FVRA”), 42 U.S.C. § 1973, which Congress enacted in 1965 and amended in 1982, targets, among other things, at-large election schemes. *Gingles* at 37; *see also* Boyd & Markman, *The 1982 Amendments to the Voting Rights Act: A Legislative History* (1983) 40 Wash. & Lee L. Rev. 1347, 1402. Although enforcement of the FVRA was successful in many states, California was an exception. By enacting the CVRA, “[t]he Legislature intended to expand protections against vote dilution over those provided by the federal Voting Rights Act of 1965.” *Jauregui v. City of Palmdale* (2014) 226 Cal. App. 4th 781, 808. Thus, while the CVRA is similar to the FVRA in several respects, it is also different in several key respects, as the Legislature sought to remedy what it considered “restrictive interpretations given to the federal act.” Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 2.

The California Legislature dispensed with the requirement in *Gingles* that a minority group demonstrate that it is sufficiently large and geographically compact to constitute a “majority-minority district.” *Sanchez*, at 669. Rather, the CVRA requires only that a plaintiff show the existence of racially polarized voting to establish that an at-large method of election violates the CVRA, not the desirability of any particular remedy. *See* Cal. Elec. Code § 14028 (“A violation of Section 14027 *is established* if it is shown that racially polarized voting occurs ...”) (emphasis added); *also see* Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001–2002 Reg. Sess.) as amended Apr. 9, 2002, p. 3 (“Thus, this bill puts the voting rights horse (the discrimination issue) back where it sensibly belongs in front of the cart (what type of remedy is appropriate once racially polarized voting has been shown).”)

To establish a violation of the CVRA, a plaintiff must generally show that “racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.” Elec. Code § 14028(a). The CVRA specifies the elections that are most probative: “elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.” Elec. Code § 14028(a). The CVRA also makes clear that “[e]lections conducted prior to the filing of an action ... are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.” *Id.*

Factors other than “racially polarized voting” that are required to make out a claim under the FVRA – under the “totality of the circumstances” test – “are probative, but not necessary factors to establish a violation of” the CVRA. Elec. Code § 14028(e). These “other factors” include “the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns.” *Id.*

Palm Spring’s at-large system dilutes the ability of Latinos (a “protected class”) – to elect candidates of their choice or otherwise influence the outcome of Palm Spring’s council elections.

The elections from 2000 through to 2015 are illustrative: a total of only three (3) Latino candidates competed in Council contests during that entire 15-year period and *not one* of them was successful in their respective bid for a seat on the Palm Springs City Council. Opponents of fair, district-based elections may attribute the lack of Latinos vying for City Council positions to a lack of Latino interest in local government. On the contrary, the alarming absence of Latino candidates seeking election to the Palm Springs City Council reveals vote dilution. See *Westwego Citizens for Better Government v. City of Westwego*, 872 F. 2d 1201, 1208-1209, n. 9 (5th Cir. 1989).

According to recent data, Latinos comprise approximately 26% of the population of Palm Springs. However, there are currently no Latino representatives on the Palm Springs City Council nor has there apparently ever been a Latino city council member in the city’s history dating back to its incorporation in 1938. Therefore, not only is the contrast between the significant Latino proportion of the electorate and the total absence of Latinos to be elected to the City Council outwardly disturbing, it is also fundamentally hostile towards Latino participation.

Palm Springs’ history is wrought with instances of overt discrimination. One of the most blatant examples of this sanctioned discrimination was the demolition and mass eviction of the low-income residents in Section 14. Thousands of working-class people, including a large number of Latinos, were forced from their homes near downtown Palm Springs in the 1950’s and 1960’s in what was described by the California Department of Justice as “a city engineered holocaust” noting that, by way of these evictions and house-burnings, local leaders “disregarded the residents of Section 14 as property-owners, taxpayers, and voters...(they) ignored that the residents of Section 14 were human beings.” With nowhere else to go, Latinos scattered to outlying areas, and, despite this glaringly

discriminatory past, Palm Springs continues to utilize an electoral system that perpetuates the underrepresentation of its Latino residents.

Today it is estimated that Palm Spring's population is over 46,000 and approximately 12,000 (25.8%) of whom are Latino. Latinos currently comprise over 1/4th of the City's population, yet, apparently not one Latino resident has ever been elected to serve on the Palm Springs City Council.

This deficit of Latino representation is not without consequence, as on the critical issue of healthcare, Latinos in the Coachella Valley have not been afforded much-needed health services. The 70 year-old service boundaries for the Desert Healthcare District, which is governed by five non-Latino board members and healthcare for Palm Springs, have deepened the divide for Latinos in Coachella Valley. In analyzing the impact of the District's boundaries on service provision, a research associate at the Center for Healthy Communities at UC Riverside recently commented that "structural racism explains a lot about what happens in the Coachella Valley," citing a "deep legacy of racism that has created poverty".

More recently, in 2001, a group of 16 Palm Springs high school students participated in a hate motivated crime when they used white shoe polish to write "Nigger" on a school window, while strapping a dead, black cat from the clock tower and painting a swastika on the school's front door. Although officials labeled this incident as a "senior prank gone awry", this type of incident vividly reflects the deep-seeded racial animus still rampant in the City of Palm Springs.

As you may be aware, in 2012, we sued the City of Palmdale for violating the CVRA. After an eight-day trial, we prevailed. After spending millions of dollars, a district-based remedy was ultimately imposed upon the Palmdale city council, with districts that combine all incumbents into one of the four districts.

Given the historical lack of Latino representation on the city council in the context of racially polarized elections, we urge Palm Springs to voluntarily change its at-large system of electing council members. Otherwise, on behalf of residents within the jurisdiction, we will be forced to seek judicial relief. Please advise us no later than April 12, 2018 as to whether you would like to discuss a voluntary change to your current at-large system.

We look forward to your response.

Very truly yours,



Kevin I. Shenkman

This letter is provided in its entirety, as there is not a page 5.

ATTACHMENT 2

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE ELECTIONS TO DISTRICT-BASED ELECTIONS PURSUANT TO ELECTIONS CODE SECTION 10010

WHEREAS, the City Council of the City of Palm Springs (City) are currently elected in at-large elections, in which each member is elected by the registered voters of the entire City; and

WHEREAS, Government Code Section 34886, in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an "at-large" system to a "by-district" system; and

WHEREAS, the City received a certified letter on March 5, 2018, from Kevin I. Shenkman, Esq., on behalf of his client Southwest Voter Registration Education Project, containing allegations that the City's at-large electoral system violates the California Voting Rights Act (CVRA) and threatening litigation if the City declined to adopt a district-based electoral system; and

WHEREAS, the City denies that its election system violates the CVRA or any other provision of law and asserts that Palm Springs's electoral system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its City Council elections; and

WHEREAS, the City commitment to diversity and inclusiveness reflect established qualities of the Palm Springs community, demonstrated and documented by the work of the City's Ethics, Transparency and Government Reform Task Force, the City's Human Rights Commission, and the City Council; and

WHEREAS, the City interest in preserving the integrity of its established neighborhoods as communities of interest dictates that the City take aggressive action to prevent any outside party drawing the lines that create districts under the CVRA, and a City decision not to adopt this Resolution has the potential result of allowing that to happen; and

WHEREAS, although the letter from Kevin I. Shenkman, Esq. was not accompanied by any evidence to support the claim of a CVRA violation, the City Council has concluded that the public interest would be better served by an orderly transition to a district-based electoral system, because: 1) the extraordinary cost to defend against a CVRA lawsuit, 2) the risk of losing such a lawsuit would require the City to pay prevailing plaintiff's attorney's fees, 3) reimbursable costs and attorney's fees are capped at a maximum of \$30,000 by following the procedures set forth in Elections Code Section 10010 as amended by Assembly Bill 350, and 4) the City will be able to

retain and preserve the maximum level of autonomy and capacity to engage with, and respond to the community during the process of CVRA district implementation, and hopefully secure additional time for the process of that implementation, beyond the statutory timeline in Assembly Bill 350; and

WHEREAS, prior to the City Council's consideration of an ordinance to establish boundaries for a district-based electoral system, Elections Code Section 10010 requires all of the following at a minimum:

- 1) Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City 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, the City shall publish and make available for release at least one draft map and, if members of the City Council 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 published.
- 3) The City Council shall also hold at least two (2) additional Public 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.
- 4) The first version of a draft map shall be published at least seven (7) days before consideration at a Public Hearing. If a draft map is revised at or following a Public Hearing, it shall be published and made available to the public for at least seven (7) days before being adopted.

WHEREAS, the City will continue utilizing the services of a professional demographer to assist the City in developing a proposal for a district-based electoral system consistent with advancing the goals of the CVRA and the City as reflected in this Resolution, *e.g.*, diversity, inclusiveness, integrity of neighborhoods as communities of interest, *etc.*; and

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

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Based upon the true and correct recitals above which are incorporated herein by this reference, the City Council hereby resolves and states its intention to adopt an ordinance, pursuant to California Government Code section 34886, to transition election of its City Council members from an at-large electoral system to a district-based electoral system, for use in the City's next General Municipal Election, scheduled for November 2019.

SECTION 2. In the event that a district-based electoral system is adopted, it is the City Council's desire and intention that City resources will continue to be prioritized based on the greatest citywide need and benefit, and that the City Council will work cooperatively with one another for the benefit of the entire City.

SECTION 3. The City Council directs the City Clerk and City Attorney to continue working with a professional demographer, and other appropriate consultants as needed, to provide a detailed analysis of Palm Springs's current demographics and any other information or data necessary to prepare a draft map that divides Palm Springs into voting districts in a manner consistent with the intent and purpose of the CVRA and the Federal Voting Rights Act.

SECTION 4. In adopting this Resolution, the City Council has determined that it will gather and study demographic data, secure the broadest and deepest community involvement in this process that can be achieved, and create CVRA-compliant districts that best serve the City as a whole. The number and form of the districts will be determined after extensive consultation with Palm Springs residents, business leaders and other interested persons.

SECTION 5. The City has reached an agreement with attorney Kevin I. Shenkman, Esq. Attorney Shenkman to extend the CVRA deadline before which the City must adopt an ordinance mandating the particulars of the City's transition to a district-based electoral system, until December 31, 2018. This extension eliminates the requirement that the City complete the CVRA process ninety (90) days from the adoption of this Resolution, *i.e.*, by July 18, 2018; the extension allows the City to adopt an ordinance transitioning to district-based elections beyond that date, until December 31, 2018. However, the extension does not impact or modify CVRA requirements that pertain to the content of, and/or the timing and relationship among and between CVRA public hearings, the relationship of those four (4) mandatory public hearings to the district maps to be created (including publication requirements), or the general rule that requires the passage of not less than five (5) days between the introduction and the adoption of an ordinance.

SECTION 6. The City Council directs the City Clerk to post all information regarding the proposed transition to a district-based electoral system on the City's website, including maps, notices, agendas and other information as soon as practicable after the information becomes available.

SECTION 7. If any provision or clause of this Resolution is held invalid, unconstitutional, or otherwise repealed by act of law, such invalidity shall not affect any other provisions or clauses of the same which can be given effect without the invalid provision, clause, or application. To this end, the provisions and clauses of this Resolution hereto are declared to be severable.

SECTION 8. This Resolution shall take effect immediately upon adoption.

SECTION 9. Based upon the whole of the administrative record before it, the City Council hereby finds that a transition from at-large to district-based elections is exempt from environmental review under the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 *et seq.*) pursuant to State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 *et seq.*) sections 15061(b)(3), 15320, and 15378(b)(3). Adoption of this Resolution is an organizational and administrative activity of the City, does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not a project for purposes of CEQA. (State CEQA Guidelines, §§ 15061(b)(3); 15378(b)(5).) In the event adoption of this Resolution does constitute a project, it is categorically exempt under the Class 20 (Changes in the Organization of Local Governments) categorical exemption. (State CEQA Guidelines, § 15320.) Further, none of the exceptions to the exemptions found in State CEQA Guidelines section 15300.2 apply. Staff is hereby directed to prepare, execute and file with the Riverside County Clerk a CEQA Notice of Exemption within five (5) working days of the adoption of this Resolution.

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SECTION 10. The City Clerk of the City of Palm Springs shall certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

DAVID H. READY, CITY MANAGER

ATTEST:

ANTHONY J. MEJIA, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, ANTHONY J. MEJIA, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on the 19st day of April, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ANTHONY J. MEJIA, CITY CLERK