

## RESOLUTION NO. 2019 -265

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LINCOLN DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE TO BY-DISTRICT COUNCIL MEMBER ELECTIONS UNDER ELECTIONS CODE § 10010

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

**WHEREAS**, California 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 "district-based" system in which each council member is elected only by the voters in the district in which the candidate resides or four districts with an elected Mayor.; and

**WHEREAS**, the City received a certified letter on October 8, 2019, from Kevin Shenkman of the law firm of Shenkman & Hughes 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 the letter was not accompanied by any evidence to support 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, even if that lawsuit settles; and

**WHEREAS**, the California Legislature in amendments to Elections Code Section 10010, has provided a method whereby a jurisdiction can expeditiously change to a by-district election system and avoid the high cost of litigation under the CVRA; and

**WHEREAS**, the City denies its election system violates the CVRA or any other provision of law and asserts the City's election 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**, despite the foregoing, the City Council has concluded it is in the public interest to begin the process of transitioning from at-large to district-based elections due to the uncertainty of litigation to defend against a CVRA lawsuit, the potentially extraordinary cost of such a lawsuit, even if the City were to prevail; and

**WHEREAS**, pursuant to Elections Code subdivision 10010(e), if the City adopts a resolution outlining its intention to transition from at-large to district-based elections, specific steps it will undertake to facilitate this transition, and an estimated time frame for doing so, then a prospective plaintiff may not bring a CVRA lawsuit within 90 days after that resolution's passage and, assuming the City adopts a district-based electoral system, the City cannot be sued under the CVRA; and

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

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, 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. The City Council 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 adoption of a district-based elections system will not affect the terms of any sitting Council Member, each of whom will serve out his or her current term.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Lincoln, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore does hereby resolve as follows:

SECTION 1. The City Council hereby resolves to consider adoption of an ordinance to transition to a district-based election system as authorized by Government Code Section 34886 for use in the City's General Municipal Election for City Councilmembers beginning in November 2020.

SECTION 2. The City Council directs staff to work with 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.

SECTION 3. The City Council hereby approves the tentative timeline as set forth in Exhibit A, attached to and made a part of this resolution, 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 contained in Exhibit A may be adjusted by the City Manager as deemed necessary.

SECTION 5. The City Council 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.

**PASSED AND ADOPTED** by the Lincoln City Council at a regular meeting thereof held on the 12<sup>th</sup> day of November, 2019, by the following vote:

AYES: COUNCILMEMBERS: Karleskint, Silhi, Andreatta, Gilbert, Joiner

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ATTEST:



Gwen Scanlon, City Clerk

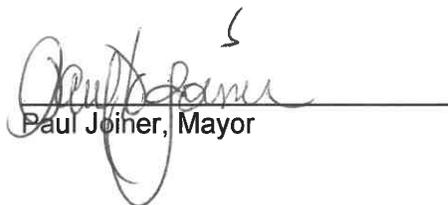
  
Paul Joiner, Mayor

Exhibit "A"

Timeline  
Implementing By-District Elections for City Council Members

<b>Date</b>	<b>Topic</b>
<b>November 12, 2019</b>	<b>City Council Meeting</b> <ul style="list-style-type: none"><li>• Adopt Resolution of Intention.</li></ul>
<b>December 3, 2019</b>	<b>City Council Meeting - Public Hearing #1</b> <ul style="list-style-type: none"><li>• Discuss process.</li><li>• Identify neighborhoods and communities of interest.</li><li>• Consider criteria for the formation of districts.</li></ul>
<b>December 10, 2019</b>	<b>City Council Meeting - Public Hearing #2</b> <ul style="list-style-type: none"><li>• Discuss process.</li><li>• Identify neighborhoods and communities of interest.</li><li>• Consider criteria for the formation of districts.</li></ul>
<b>January 2, 2020</b>	<b>Preliminary District Maps Released</b>
<b>January 14, 2020</b>	<b>City Council Meeting - Public Hearing #3</b> <ul style="list-style-type: none"><li>• Receive input on proposed district maps.</li><li>• Final opportunity to provide direction to modify map options.</li></ul>
<b>January 16, 2020</b>	<b>Revised District Maps Released (if needed)</b>
<b>January 28, 2020</b>	<b>City Council Meeting - Public Hearing #4</b> <ul style="list-style-type: none"><li>• Receive input on proposed district maps.</li><li>• Selection of final district map.</li><li>• Introduce ordinance to transition to districts.</li></ul>
<b>February 4, 2020</b>	<b>City Council Meeting - Public Hearing #5</b> <ul style="list-style-type: none"><li>• Second read and adoption of ordinance to transition to districts.</li></ul>
<b>November 2020</b>	<b>First three districts hold elections (or two with At-large Mayor)</b>
<b>2021</b>	<b>Map redrawn to reflect 2020 Census data</b>
<b>November 2022</b>	<b>Remaining three districts hold elections</b>