

RESOLUTION NO. 23-85

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS FOR CITY COUNCIL PURSUANT TO ELECTIONS CODE SECTION 10010 AND GOVERNMENT CODE SECTION 34886 EFFECTIVE FOR THE NOVEMBER 2024 GENERAL MUNICIPAL ELECTION**

**WHEREAS**, the City of San Clemente, California ("City") is a general law city, duly organized under the Constitution and laws of the State of California; and

**WHEREAS**, the five members of the San Clemente City Council are currently elected in at-large elections, in which each City Council member is elected by all registered voters of the entire City; and

**WHEREAS**, the California Voting Rights Act of 2001 (Elections Code §§14025-14032) ("CVRA") provides that its purpose is "to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution"; and

**WHEREAS**, the City of San Clemente believes that its current electoral system is consistent with Section 7 of Article I and Section 2 of Article II of the California Constitution, and that a district-based electoral system is also consistent with these provisions; and

**WHEREAS**, the CVRA applies to jurisdictions that use an at-large method of election; and

**WHEREAS**, numerous California cities, including in Los Angeles, Orange and San Diego Counties, have been sued under the CVRA to force those cities to abandon their at-large electoral systems, and implement a by-district electoral system; and

**WHEREAS**, the defense of litigation under the CVRA is extremely expensive and those cities that have lost in court have also lost substantial control over the districting process within their cities. Further, even if the city were to prevail in defense of an action, a successful defense would not prevent a different plaintiff from suing the city under the CVRA in the future; and

**WHEREAS**, the CVRA mandates that prevailing plaintiffs are entitled to recover their attorneys' fees and expenses, including expert witness fees, from a defendant city, and even defendant cities that have settled CVRA lawsuits in the early stages of litigation are mandated to pay plaintiffs' attorneys' fees and expenses, which typically have been substantial, and

**WHEREAS**, on June 15, 2023, the City received a letter from the Laws Offices of Michelle R. Jackson, demanding that the City switch to election by districts for the 2024 election pursuant to Elections Code 10010; and

**WHEREAS**, California Government Code Section 34886 authorizes the legislative body of a city to adopt an ordinance, without voter approval, to change its method of election from "at-large" to "district-based" in which each council member is elected only by the voters residing in the district in which the candidate resides; and

**WHEREAS**, Section 34886 authorizes such a change "in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code)"; and

**WHEREAS**, numerous cities and special districts throughout the state and in Los Angeles, Orange and San Diego Counties have moved from an at-large electoral system to a by-district electoral system for members of their governing bodies; and

**WHEREAS**, the City intends to make this transition from an at-large system to a by-district system in accordance with the procedural rules outlined in Government Code Section 34886 and Elections Code section 10010.

**NOW, THEREFORE**, the City Council of the City of San Clemente hereby resolves as follows:

**SECTION 1. Intention to Switch to Election by Districts.**

A. The foregoing recitals are true and correct.

B. The City Council 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 2024, in accordance with Elections Code section 10010 and Government Code section 34886, and other applicable law.

C. The City Council directs staff to work with a qualified 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 Federal Voting Rights Act.

D. 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.

E. The City Council directs staff to instruct the demographic consultant to prepare for City Council review at the appropriate time proposals for districting plans with options for both four districts with an elective mayor and five districts pursuant to Government Code §§ 34871(b) and (c) and 34886.

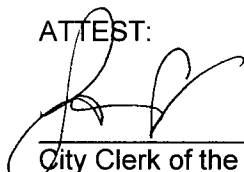
F. The City Council directs staff to undertake public outreach and to inform the residents of San Clemente of this resolution and the districting process, and to facilitate and encourage public participation, as well as publish notice of the public hearings identified in the attached Exhibit A.

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

**SECTION 2. The City Clerk shall certify to the adoption of this resolution.**

PASSED, APPROVED AND ADOPTED this 15th day of August, 2023

ATTEST:

  
\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

  
\_\_\_\_\_  
Mayor of the City of  
San Clemente, California

STATE OF CALIFORNIA  
COUNTY OF ORANGE ) ss.  
CITY OF SAN CLEMENTE

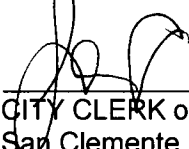
I, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, do hereby certify that the foregoing resolution was duly adopted by the City Council of the City of San Clemente at a Regular meeting, held on the 15<sup>th</sup> day of August, 2023 by the following vote:

AYES: CABRAL, ENMEIER, LOEFFLER, MAYOR DUNCAN

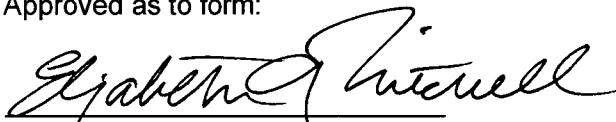
NOES: KNOBLOCK

ABSENT: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 20<sup>th</sup> day of August 2023.

  
\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

  
\_\_\_\_\_  
Elizabeth A. Mitchell, City Attorney

**Exhibit A**

## TO RESOLUTION NO. 23-85

Timeline: Consideration and Implementation of By-District Elections (All meetings in Council Chambers at City Hall)

Date	Event	Comment
July 10, 2023	Receipt of demand letter	
August 15, 2023 Regular City Council Meeting	City Council adopts Resolution declaring its intention to transition from at-large to by-district elections and holds first public hearing.	Mapping tools will be made available shortly after adoption of the Resolution of Intention.
August 24, 2023	45 Days from July 10, 2023	See Elections Code section 10010.
September 5, 2023 Regular City Council Meeting	Second Public Hearing	Before maps are drafted by demographer. Must occur within 30 days of first public hearing.
September 14, 2023	Deadline for the public to submit any proposed maps.	Draft maps must be posted for at least 7 days before the third public hearing.
September 21, 2023	Posting deadline for all maps (public and consultant).	Draft maps must be posted for at least 7 days before the third public hearing.
October 3, 2023 Regular City Council Meeting	Third Public Hearing	Regarding content of draft maps and sequence of elections.
October 10, 2023	Post any new or amended maps and potential sequence of elections	Draft maps must be posted at least 7 days before fourth public hearing
October 17, 2023 Regular City Council Meeting	Fourth public hearing: Select Map. Council introduces ordinance establishing district elections, including district boundaries and election sequence	Regarding content of draft maps and sequence of elections. Fourth public hearing must be within 45 days of third public hearing.  If selected map is amended, there must be time for posting (at least 7 days) and another public hearing to introduce the ordinance before expiration of the 90-day safe harbor period.

<p>October 26, 2023 (Special Meeting)</p>	<p>Optional fifth public hearing</p>	<p>Only necessary if posted map is changed</p>
<p>November 7, 2023, Regular City Council Meeting</p>	<p>2<sup>nd</sup> reading of Ordinance and Ordinance adopted</p>	<p>Last regular City Council meeting before 90 days expire</p>
<p>November 13, 2023</p>	<p>90 days after August 15, 2023</p>	<p>See Elections Code section 10010.</p>
<p>November 5, 2024</p>	<p>First election using district-based seats</p>	
<p>November 3, 2026</p>	<p>Second election using district based seats</p>	

