



**CITY OF ELK GROVE  
CITY COUNCIL STAFF REPORT**

**AGENDA TITLE:** A public hearing to consider introduction of an ordinance approving a district map and requiring members of the City Council to be elected by district with an elected mayor consistent with Elections Code section 10010 and Government Code section 34886

**MEETING DATE:** October 23, 2019

**PREPARED BY/  
DEPARTMENT HEAD:** Jason Lindgren, City Clerk

**RECOMMENDED ACTION:**

Introduce, by substitution of title only, an ordinance approving a district map and requiring members of the City Council to be elected by district with an elected mayor consistent with Elections Code section 10010 and Government Code section 34886.

**BACKGROUND INFORMATION:**

The City of Elk Grove currently has a “from-district” election method for its four Councilmembers, with a directly elected Mayor. Under this method, the Councilmembers must live within a designated district to be eligible to run for office in that district, with the voters of the entire City eligible to vote for each of the four Councilmembers, regardless of districts. The City’s Mayor is also elected directly by the voters of the entire City, but the Mayor may live in any district. Councilmembers serve for staggered four-year terms, and the Mayor serves a two-year term.

On August 28, 2019, the City Council adopted Resolution No. 2019-191 expressing its intent to transition to a by-district (district-based) system of election for its four City Councilmembers consistent with Elections Code section 10010 (Attachment 2). In accordance with Elections Code section 10010, the City held two public hearings over a period of not more than 30 days, at which the public was invited to provide input regarding the composition of the proposed districts.

Following those public hearings, the City held two additional public hearings within a 45-day period to receive input on the proposed maps, and prior to a vote to adopt or reject an ordinance establishing district-based elections. The purpose of this public hearing is for the City to consider introduction of such an ordinance, the action to introduce and eventually adopt such an ordinance does not require submitting the ordinance to the voters for approval. (Gov. Code § 34886)

### **ANALYSIS:**

Public hearings were held September 11, 2019 and September 25, 2019 to invite public input regarding the composition of the districts, and public hearings were held October 9, 2019 and October 23, 2019 to invite public input regarding the content of draft maps. At the conclusion of the series of four public hearings, the City Council had the option to select a final by-district map. As this public hearing to consider introduction of an ordinance to adopt a final map is scheduled to be held the same night as the last public hearing to consider maps, the three map alternatives are presented as attachments to this report (Attachment 1, Exhibit Options 1-3). The final by-district map selected by the City Council from the three alternatives, if any, will be the final exhibit attachment to the ordinance.

The map alternatives were published on the City website for public review as required by state law. Public notice of this public hearing to consider the selection of a final map and introduction of an ordinance establishing district-based elections was also published in the Elk Grove Citizen on October 16, 2019.

The transition to by-district (district-based) City Councilmember elections would not alter the proposed sequence of elections for Elk Grove. For the November 3, 2020 General Election Districts 1 and 3 will be up for consideration, as well as the office of the directly elected mayor. For the November 8, 2022 General Election Districts 2 and 4 will be up for consideration, as well as the office of the directly elected mayor.

### **FISCAL IMPACT:**

Demographer services to assist with the public hearing processes to transition to a by-district system of election were authorized in an amount not to exceed \$40,000 on August 28, 2019 by Resolution No. 2019-192.

If the City transitions to a by-district method of election, staff anticipates future election costs will increase by an estimated \$42,500, for a total estimated election cost for November 2020 of \$181,000, based on the current registered voter count of 95,000. Attachment 5 provides a review of election costs comparing by-district and from-district councilmember elections (with a directly elected mayor). The Sacramento County Voter Registration and Elections Office released estimates of the November 2020 fees, and the finalized cost guide is expected to publish in spring 2020, which serves as the basis for the election budget submittal by the Office of the City Clerk for Fiscal Year 2020-21.

If the City Council ultimately adopts an ordinance moving to a by-district method of election, the City may also be liable for statutory costs to the prospective plaintiffs of up to an additional \$30,000 (as adjusted by inflation). The matter of those costs is dependent upon the City Council's future action on the decision whether to transition to a by-district election method following the public hearing process; therefore, such costs will be addressed at a later date as necessary.

### **ATTACHMENTS:**

#### 1. Ordinance to Transition to By-District Elections

##### Exhibit Option 1:

- a. Map Alternative – current district map as previously adopted under Resolution No. 2011-142

##### Exhibit Option 2:

- a. Map Alternative – Map titled “Divided Growth Areas A”

##### Exhibit Option 3:

- a. Map Alternative – Map titled “Divided Growth Areas B” with alteration

#### 2. Resolution No. 2019-191 - Intent to Transition to By-District Elections

#### 3. Cost Comparisons of by- and from-district systems of election

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
APPROVING A DISTRICT MAP AND REQUIRING MEMBERS OF THE CITY COUNCIL  
TO BE ELECTED BY DISTRICT WITH AN ELECTED MAYOR CONSISTENT WITH  
ELECTIONS CODE SECTION 10010 AND GOVERNMENT CODE SECTION 34886**

**WHEREAS**, the City of Elk Grove (“City”) is a general law city and currently has a “from-district” election method whereby four members of the City Council are required to reside within designated districts of the City, with voters of the entire City electing these four members of the City Council, which election method is considered an “at-large method of election” under Elections Code section 14026; and

**WHEREAS**, the City has an elected Mayor, pursuant to Government Code section 34902, whereby the Mayor is directly elected on a citywide basis by the voters of the entire City for a two-year term; and

**WHEREAS**, on July 15, 2019, the City received a letter by certified mail from the law firm of Shenkman & Hughes, P.C. asserting that the City’s at-large City Council electoral system violates the California Voting Rights Act (“CVRA”) and threatening litigation against the City if the City does not voluntarily change its at-large system of electing City Councilmembers; and

**WHEREAS**, Government Code section 34886 authorizes the City to adopt an ordinance to change to a by-district system without submitting the ordinance to the voters for approval; and

**WHEREAS**, while the City Council feels that the City’s current system of election is consistent with applicable law, including, without limitation, the California Voting Rights Act of 2001 (Elections Code sections 14025, *et seq.*) given the risk and costs of potential litigation over the City’s election method, and other considerations of the City Council, the City Council intends to transition to a by-district (district-based) method of election whereby four members of the City Council would be elected by voters of an identified district within the City alone, all in furtherance of the purposes of the California Voting Rights Act of 2001; and

**WHEREAS**, the City intends to retain an elected mayor, who shall remain elected on a citywide basis by the voters of the entire City for a two-year term; and

**WHEREAS**, at the regular meeting of August 28, 2019 the City Council adopted Resolution No. 2019-191 expressing its intent to transition to a by-district (district-based) system of election for its four City Councilmembers consistent with Elections Code section 10010; and

**WHEREAS**, the City retained National Demographics Corporation to provide demographer services; and

**WHEREAS**, the City Council held public hearings on September 9, 2019, September 25, 2019, October 9, 2019 and October 23, 2019 as required by law to consider all of the information presented by staff, National Demographics Corporation, and public testimony presented at the meetings; and

**WHEREAS**, on October 23, 2019 the City Council selected the map alternative identified as \_\_\_\_\_, depicted by the map attached to this ordinance as Exhibit A.

**NOW, THEREFORE**, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to approve a district map and require members of the City Council to be elected by district with an elected mayor consistent with Elections Code section 10010 and Government Code section 34886.

Section 2: Declaration

This Ordinance is adopted based upon the following declaration that the change in the method of electing members of the legislative body is being made 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).

Section 3: Action

The City Council hereby:

- 1) Adopts, as the City Council Member Residency Districts, the map attached hereto as Exhibit A and incorporated herein; and
- 2) Assigns numbers to the four City Council Member Residency Districts as set forth on the map attached hereto as Exhibit A; and
- 3) Confirms City Council Member elections shall be conducted “by districts” in four districts, with an elective mayor pursuant to Government Code Article 5 (commencing with Section 34900). The term "by districts" shall mean election of members of the legislative body by voters of the district alone.
- 4) Directs that City Council Members shall be elected in City Council Districts Numbers 1 and 3 beginning at the General Municipal Election in November, 2020, and every four years thereafter, as such City Council Districts may be amended from time to time; and City Council Members shall be elected from City Council Districts Numbers 2 and 4 beginning at the General Municipal Election in November 2022, and every four years thereafter, as such City Council Districts may be amended from time to time; and

- 5) Directs City staff to provide a certified copy of this Ordinance, including Exhibit A, to the Sacramento County Voter Registration and Elections Office for use in subsequent City of Elk Grove City Council Elections; and
- 6) Authorizes the City Clerk, if reasonably necessary to facilitate the implementation of this Ordinance, to make minor technical adjustments to the district map boundaries, including developing legal descriptions, so long as the adjustments do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney prior to making any such adjustments, and shall provide a written report to the City Council of any such adjustments required in the implementation of the districts as soon as reasonably practical.

Section 4: Additions to the Elk Grove Municipal Code Section 1.02.035 By District Elections and Section 1.02.045 Directly Elected Mayor

A. The City Council hereby adds Elk Grove Municipal Code Section 1.02.035 as follows:

**1.02.035 By District Elections for Council Member Seats.**

City Council member elections of the City of Elk Grove shall be conducted “by districts” in four districts, with an elective mayor pursuant to Government Code Article 5 (commencing with Section 34900). Council member candidates must reside within the election district they seek for office. The term “by districts” shall mean election of members of the legislative body by voters of the district alone. The initial district map shall be adopted by ordinance, and it may be amended from time to time by ordinance or resolution of the City Council.

B. The City Council hereby adds Elk Grove Municipal Code Section 1.02.045 as follows:

**1.02.045 Directly Elected Mayor.**

Elections for the office of the directly elected mayor shall be conducted “at-large” requiring candidates to reside within the jurisdictional boundary of the City, and the voters of the entire City elect the candidate to the office of mayor.

Section 5: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 6: Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed, and the balance of the ordinance be enforced.

Section 7: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 8: Effective Date and Publication

This ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

INTRODUCED:  
ADOPTED:  
EFFECTIVE:

\_\_\_\_\_  
STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

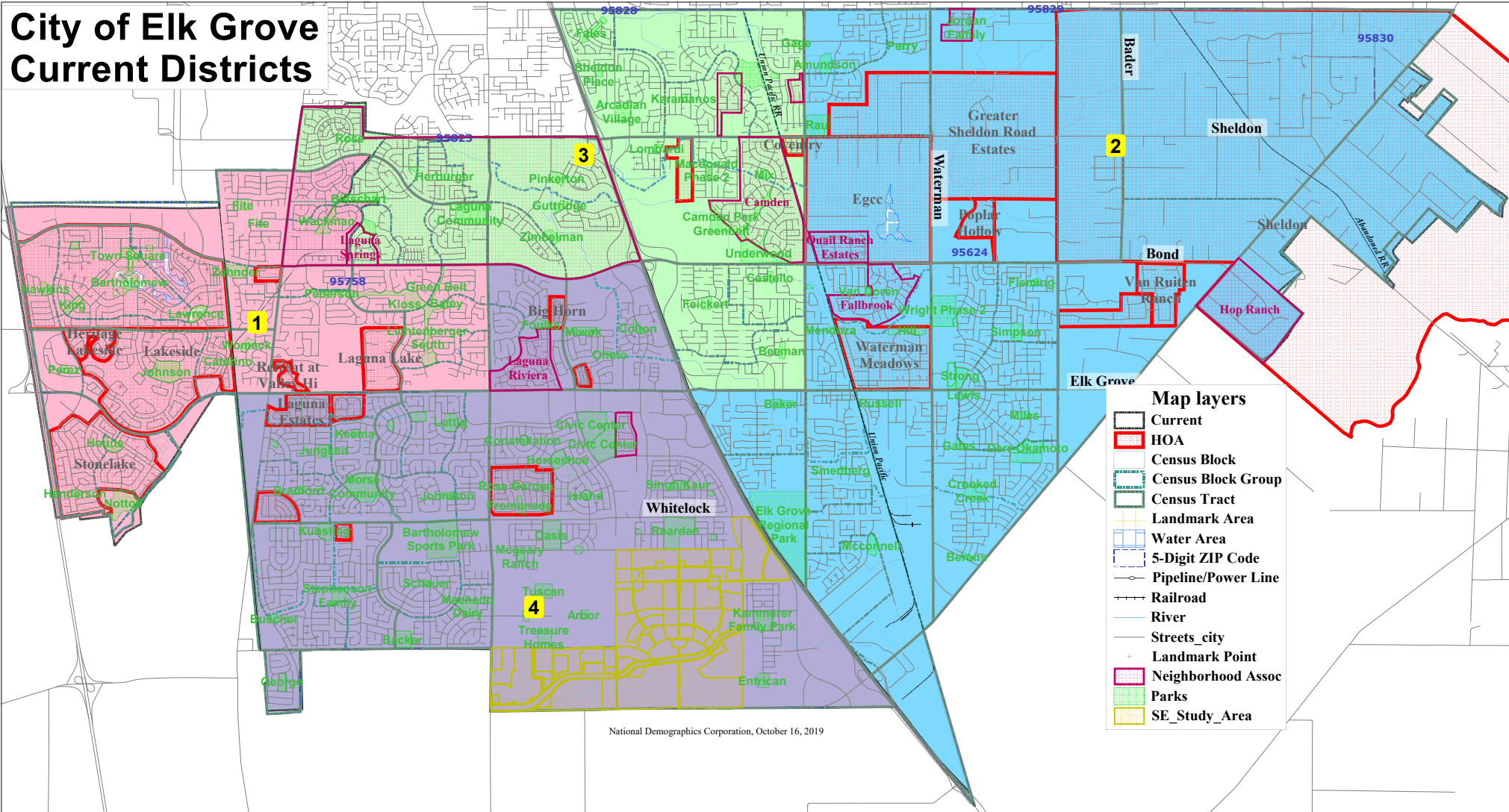
APPROVED AS TO FORM:

\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

\_\_\_\_\_  
JONATHAN P. HOBBS,  
CITY ATTORNEY

Date Signed:\_\_\_\_\_

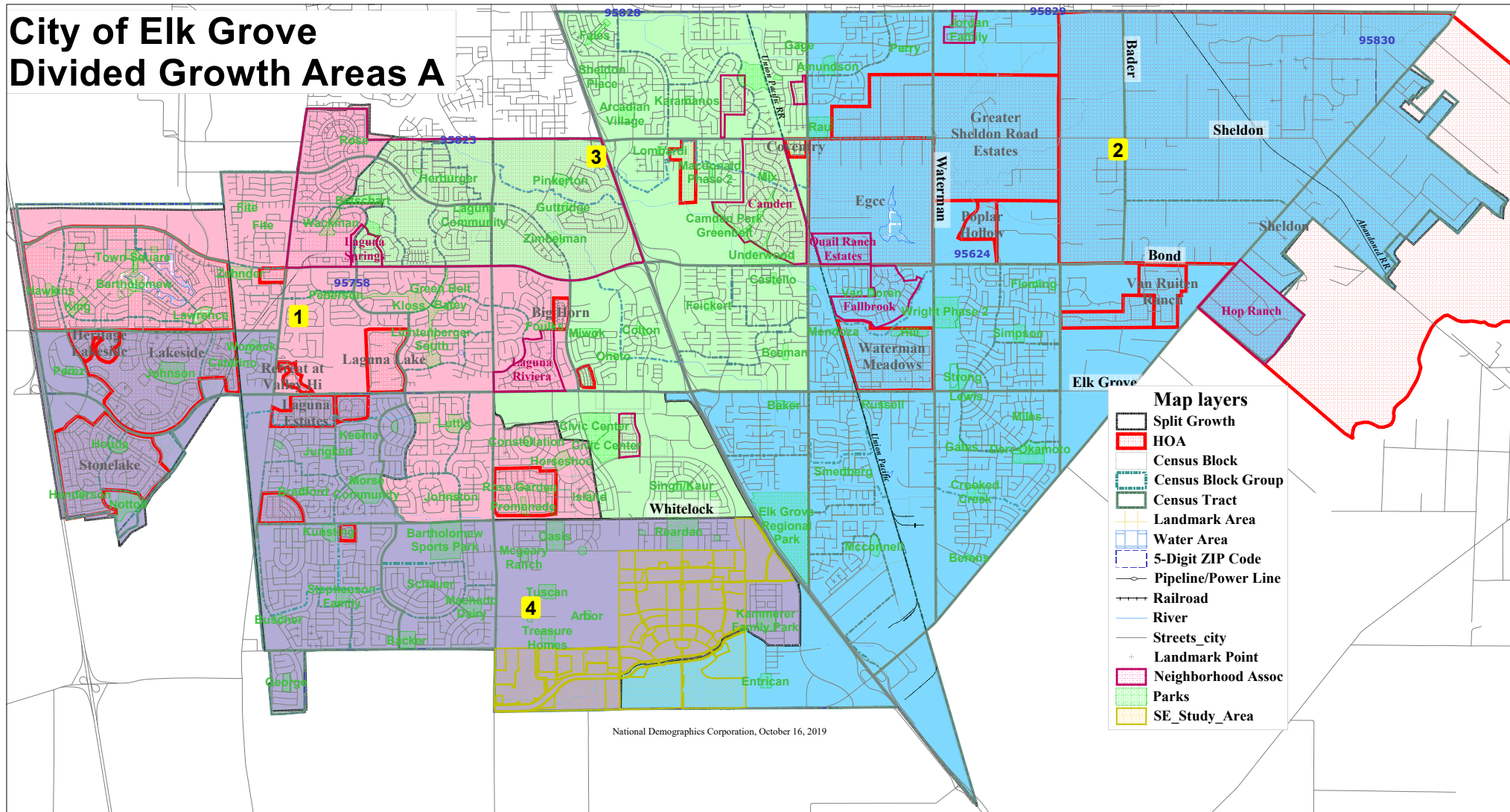
EXHIBIT A



City Council Members shall be elected by-district in City Council Districts 1 and 3 beginning at the November 3, 2020 General Municipal Election, and every four years thereafter, as such City Council Districts may be amended from time to time. City Council Members shall be elected by-district in City Council Districts 2 and 4 beginning at the November 8, 2022 General Municipal Election, and every four years thereafter, as such City Council Districts may be amended from time to time. The office of the directly elected mayor shall be elected "at-large" at the November 3, 2020 General Municipal Election, and every two years thereafter.

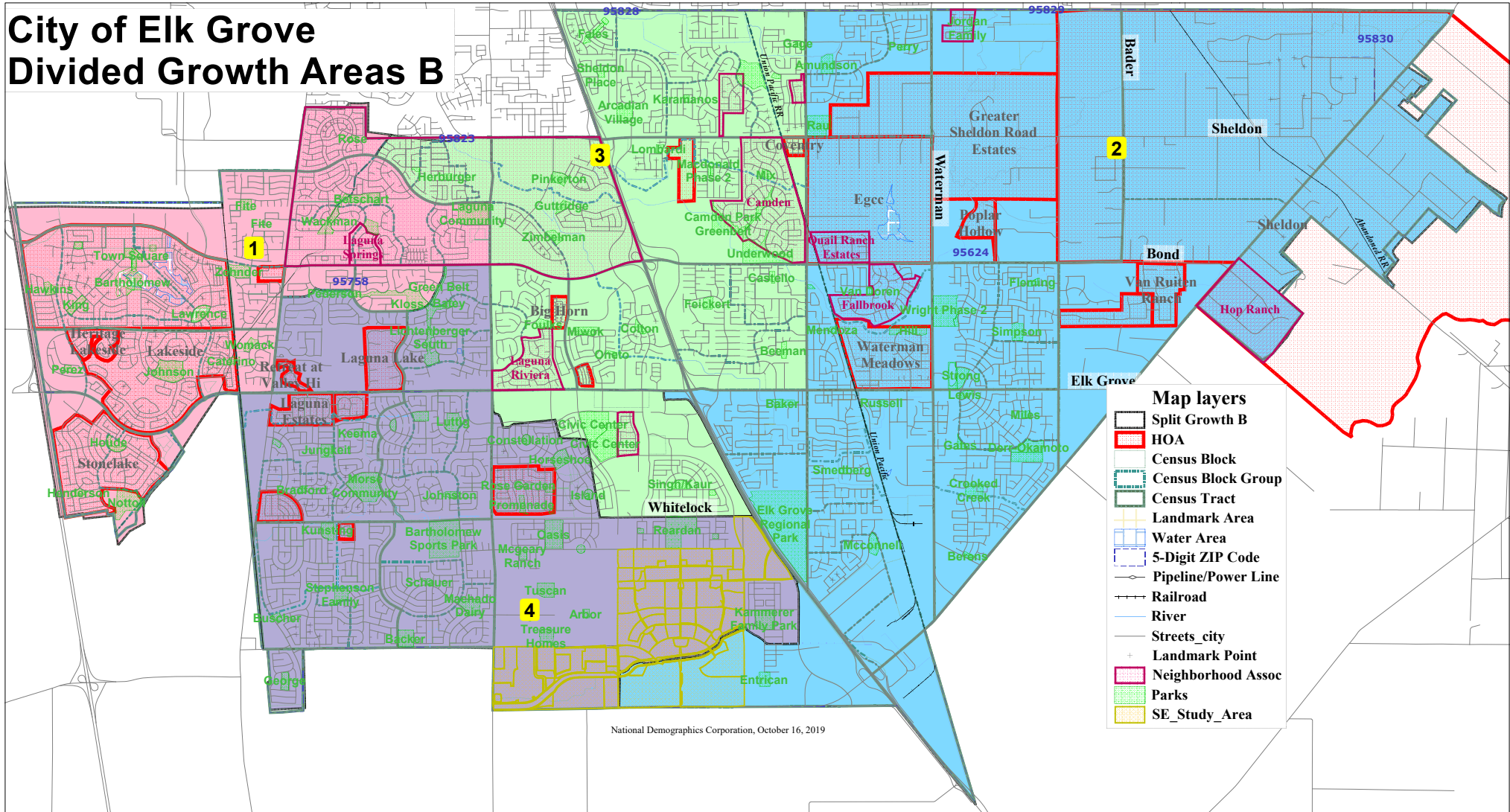


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## RESOLUTION NO. 2019-191

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
DECLARING ITS INTENT TO TRANSITION TO BY-DISTRICT (DISTRICT-BASED)  
CITY COUNCILMEMBER ELECTIONS CONSISTENT WITH  
ELECTIONS CODE SECTION 10010**

**WHEREAS**, the City of Elk Grove ("City") is a general law city and currently has a "from-district" election method whereby four members of the City Council are required to reside within designated districts of the City, with voters of the entire City electing these four members of the City Council, which election method is considered an "at-large method of election" under Elections Code section 14026; and

**WHEREAS**, the City has an elected Mayor, pursuant to Government Code section 34902, whereby the Mayor is directly elected on a citywide basis by the voters of the entire City for a two-year term; and

**WHEREAS**, on July 15, 2019, the City received a letter by certified mail from the law firm of Shenkman & Hughes, P.C. asserting that the City's at-large City Council electoral system violates the California Voting Rights Act ("CVRA") and threatening litigation against the City if the City does not voluntarily change its at-large system of electing City Councilmembers; and

**WHEREAS**, Government Code section 34886 authorizes the City to adopt an ordinance to change to a by-district system without submitting the ordinance to the voters for approval; and

**WHEREAS**, while the City Council feels that the City's current system of election is consistent with applicable law, including, without limitation, the California Voting Rights Act of 2001 (Elections Code sections 14025, *et seq.*) given the risk and costs of potential litigation over the City's election method, and other considerations of the City Council, the City Council intends to transition to a by-district (district-based) method of election whereby four members of the City Council would be elected by voters of an identified district within the City alone, all in furtherance of the purposes of the California Voting Rights Act of 2001; and

**WHEREAS**, the City intends to retain an elected mayor, who shall remain elected on a citywide basis by the voters of the entire City for a two-year term.

**NOW, THEREFORE, BE IT RESOLVED** that:

- 1) The City Council hereby expresses its intent to transition to a by-district (district-based) system of election for its four City Councilmembers, as set forth herein; and
- 2) The City Council intends to commence the process for drawing of district maps for district boundaries consistent with the procedures set forth at Elections Code section 10010, including the holding of public hearings and meetings as required by Elections Code section 10010 and/or other

applicable law; the estimated time frame to facilitate this transition to a by-district (district-based) election method is ninety (90) days from the date of passage of this resolution, which estimated time frame is subject to revision; and

- 3) The City Council directs the City Manager to retain the services of a qualified demographic consultant to assist in the development of districts maps; and
- 4) Following the development of district maps, the City Council intends to adopt an ordinance transitioning to a by-district (district-based) election method, pursuant to Elections Code section 10010 and Government Code section 34886, utilizing the district maps developed through the district mapping process; and
- 5) The City intends by the ordinance transitioning to a by-district (district-based) election method to retain the position of a directly elected mayor as an office elected on a citywide basis by the voters of the entire City for a two-year term.

**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 28<sup>th</sup> day of August 2019

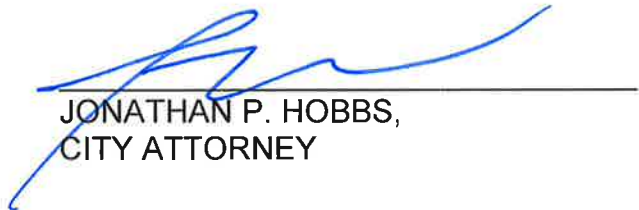


STEVE LY, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

  
JASON LINDGREN, CITY CLERK

APPROVED AS TO FORM:

  
JONATHAN P. HOBBS,  
CITY ATTORNEY

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL RESOLUTION NO. 2019-191**

STATE OF CALIFORNIA        )  
COUNTY OF SACRAMENTO    )        ss  
CITY OF ELK GROVE         )

*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 28, 2019 by the following vote:*

**AYES:**        **COUNCILMEMBERS:**    *Ly, Hume, Detrick, Nguyen, Suen*

**NOES:**       **COUNCILMEMBERS:**    *None*

**ABSTAIN:**   **COUNCILMEMBERS:**    *None*

**ABSENT:**    **COUNCILMEMBERS:**    *None*

  
\_\_\_\_\_  
**Jason Lindgren, City Clerk**  
**City of Elk Grove, California**

Comparison of “From” and “By” District General Election Costs <sup>A</sup>

	Set-Up Fee per Contest	First contest (Mayor)	Additional Contests	Total	Cost Difference
<b>Current “From” district General Municipal Election Cost Model</b>  Mayor plus two districts per election – all voted at large = one ballot for all voters	<b>\$ 2,008.00</b>	\$ 0.9051 / registered voter  $95,000^B \times \$0.9051^C$ <b>\$ 85,984.50</b>	\$ 0.0556 / registered voter Two subsequent contests  $95,000 \times \$0.0556^C$ $\times 2$ subsequent contests <b>\$ 10,564.00</b>	<b>\$ 98,556.50</b>	<b>N/A</b>
<b>“By” district General Election Cost Model</b>  Mayor plus two districts per election – one at large contest plus two additional “by” district contests = three separate ballots for three different voter groups	\$ 2,008.00 $\times 3$ contests <b>\$ 6,024.00</b>	\$ 0.9051 / registered voter  $95,000^B \times \$0.9051$ <b>\$ 85,984.50</b>	\$ 0.9051 / registered voter Two additional contests  <i>District 1 or 2 (alternating elections)</i> $23,750^D \times \$0.9051 =$ <b>\$ 21,496.125</b> <i>District 3 or 4 (alternating elections)</i> $23,750^D \times \$0.9051 =$ <b>\$ 21,496.125</b> <b>\$ 42,992.25</b>	<b>\$ 135,000.75</b>	<i>Increase of</i> <b>\$ 36,444.25</b>

A. Based on the Sacramento County Voter Registration and Election Specialized Services Schedule of Fees and Charges for 2018 and 2019.

B. Assumptions use a Registered Voter population of 95,000.

C. Individual contest multiplier of 0.9051 per voter; multiplier of 0.0556 per voter for subsequent contests with same voter base.

D. Assumption that the district maps utilized would approximately divide the registered voter count evenly ( $95,000 \div 4 = 23,750$ ).

Running a measure (City-sponsored) and/or initiative/referendum/recall (voter-sponsored) under either the “from” or “by” district model has a cost of \$5,282 (a measure is considered a subsequent contest voted citywide ( $95,000 \times 0.0556$ )).



*Incorporated July 1, 2000*

8401 Laguna Palms Way  
Elk Grove, California 95758

**CITY OF ELK GROVE**

Telephone: (916) 683-7111  
Fax: (916) 627-4400  
[www.elkgrovecity.org](http://www.elkgrovecity.org)

## **City of Elk Grove – City Council NOTICE OF PUBLIC HEARINGS**

**NOTICE IS HEREBY GIVEN** that on **Wednesday, October 23, 2019, at 6:00 p.m.**, or as soon thereafter as the matter may be heard, at the City Hall Council Chambers, 8400 Laguna Palms Way, Elk Grove, California, the City Council of the City of Elk Grove shall hold public hearings whereby oral and written presentations may be made and consideration given regarding input on the composition of voting districts for City Councilmember elections, as well as the introduction of an ordinance implementing a by-district election system for City Councilmember elections. The public is invited to provide comment and input regarding the content of the draft map or maps and the proposed ordinance.

Public hearings were held September 11, 2019 and September 25, 2019 to receive input regarding the composition of the districts for a by-district election system, and a public hearing was held October 9, 2019 to receive input regarding the content of the draft map or maps. Draft maps are published, as directed by the City Council, on the City of Elk Grove website and can be accessed at the following location:

[http://www.elkgrovecity.org/city\\_hall/city\\_government/city\\_council/district-based\\_voting](http://www.elkgrovecity.org/city_hall/city_government/city_council/district-based_voting)

At its meeting on August 28, 2019, the Elk Grove City Council adopted Resolution No. 2019-191 expressing the intent to transition and take steps toward implementing a by-district election system for City Councilmembers.

Information regarding these items are available in the Office of the City Clerk of the City of Elk Grove located at 8401 Laguna Palms Way, Elk Grove, California, 95758. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the close of the hearings scheduled herein, and oral statements may be made at said hearings.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice or in written correspondence delivered to the City Clerk, 8401 Laguna Palms Way, 1<sup>st</sup> Floor, Elk Grove, CA, 95758, at or prior to the close of the public hearings.

Dated / Published: October 16, 2019

JASON LINDGREN  
CITY CLERK, CITY OF ELK GROVE

### **ADA COMPLIANCE STATEMENT**

**In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (916) 478-3635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.**