

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY DECLARING THE CITY OF FOSTER CITY'S INTENT TO INITIATE PROCEDURES TO TRANSITION FROM AT-LARGE ELECTIONS TO DISTRICT-BASED ELECTIONS PURSUANT TO ELECTIONS CODE SECTION 10010; APPROVING THE TENTATIVE TIMELINE AND OTHER RELATED ACTIONS

CITY OF FOSTER CITY

WHEREAS, members of the City Council 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 councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, on July 22, 2024, the City of Foster City ("City") received a certified letter from a potential plaintiffs' attorney, alleging a violation of the California Voting Rights Act (the "CVRA") and threatening litigation if the City declines to voluntarily change to a district-based election system for electing Councilmembers; and

WHEREAS, the letter itself was not accompanied by any evidence to support the claim of a CVRA violation, and the Council denies that its election system violates the CVRA or any other provision of law, asserts that the City's election system is legal in all respects, and further denies any wrongdoing whatsoever in connection with the manner in which City Council elections have been conducted; and

WHEREAS, nevertheless, the City is committed to diversity and inclusion with respect to its elections and the Council has determined that the public interest is better served by initiating a process for transition to a district-based election system and thereby avoiding the high costs associated with defending a lawsuit under the CVRA; and

WHEREAS, Elections Code Section 10010 provides a method whereby a jurisdiction can expeditiously transition to a district-based election system and thereby avoid the high cost of litigation under the CVRA if the jurisdiction complied with the "safe harbor" provisions of Elections Code Section 10010; and

WHEREAS, California Elections Code Section 10010 will delay CVRA litigation and place a cap on the recovery of attorneys' fees associated with a CVRA claim at a maximum of \$30,000, if, within forty-five (45) days of receipt of a claim under the CVRA, the City adopts a resolution stating its intent to transition to district-based elections, and,

within ninety (90) days thereafter (or as otherwise stipulated by the parties), the City adopts an ordinance transitioning to a district-based election system consistent with the intent and purpose of the California Voting Rights Act.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Foster City does hereby make the following findings and determinations:

Section 1. The above recitals are true and correct and are incorporated by reference herein.

Section 2. The City Council hereby expresses its intent to consider transition from an at-large election system to a district-based election system as authorized by Government Code section 34886 and Elections Code section 10010 for use in the City's General Municipal Election for City Councilmembers commencing in November 2026.

Section 3. The City Clerk is directed to publicize and post information regarding the proposed transition to a district-based election system, including relevant maps, notices, agendas and other information and to establish a means of communication to receive comments and answer questions from the public.

Section 4. 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 public hearings to solicit and receive public input and testimony on proposed district-based electoral maps and district-based election systems, and for the City Council's evaluation, possible refinement and ultimate adoption of a district-based election system for election of City Council members.

Section 5. The tentative timeline contained in Exhibit A may be adjusted by the City Manager as he deems necessary or appropriate, provided that such adjustments shall not prevent the City from complying with the time frames specified by Elections Code Section 10010, or such other timeframes as may be stipulated by claimants under the CVRA.

Section 6. The City Council directs the City Manager to continue to work with the City Attorney and the retained demographer, to resolve all legal issues necessary to give effect to this Resolution and to meet the tentative timelines set forth in Exhibit A.

Section 7. Nothing contained herein shall preclude the City Council from selecting an alternative election system or making any alternative decision, should the public input and testimony and other evidence at the hearings indicate that an alternative system or decision is appropriate for the City.

PASSED AND ADOPTED as a resolution of the City Council of the City of Foster City at the regular meeting held on the 3<sup>rd</sup> day of September, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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PATRICK SULLIVAN, MAYOR

ATTEST:

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PRISCILLA SCHAUS, CITY CLERK

## EXHIBIT A-TENTATIVE TIMELINE