

RESOLUTION NO. 24-8277

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DOWNEY DECLARING ITS INTENTION TO TRANSITION TO EITHER A FIVE DISTRICT ELECTION SYSTEM OR A FOUR DISTRICT ELECTION SYSTEM WITH AN AT-LARGE ELECTED MAYOR BY THE NOVEMBER 2028 GENERAL MUNICIPAL ELECTION PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10010(e)(3)(A)

WHEREAS, the City Council of the City of Downey is an elected legislative and deliberative public body serving the citizens of the City of Downey, a California charter city; and

WHEREAS, the Members of the City Council are elected in November of even-numbered years (November 2024, 2026, 2028 etc.); and

WHEREAS, the City presently has a “mixed” election system, whereby Districts 1 through 4 divide the City into geographical districts, each Council candidate must reside in the district he or she will represent, and only voters within a given district vote for that district’s Councilmember; District 5, however, is an “at large district” where a Council member/candidate for District 5 may reside anywhere within the City’s boundaries and is elected by the voters of the entire electorate to provide Citywide representation; and

WHEREAS, Downey does not currently have a directly elected Mayor but rather the City Council appoints the Mayor to serve annually; and

WHEREAS, in 2003, the California Voting Rights Act (“CVRA”) became law, and in an attempt to prevent the disenfranchisement of protected classes of persons, establishes a low bar for attorneys and other persons seeking to compel cities and other public entities to convert from at-large to by-district elections; and

WHEREAS, public agencies that have been sued under the CVRA have typically been forced to pay large sums to settle with plaintiffs’ attorneys; and

WHEREAS, on October 3, 2024, the City received a letter from the law firm of Sarega Law APC, alleging that the City’s current mixed election system contains an “at large” element in District 5 and therefore violates the CVRA, and demanding that the City change its election system; and

WHEREAS, the City Council desires to avoid the high costs and legal risks associated with a CVRA lawsuit; and

WHEREAS, the California Legislature adopted Elections Code section 10010 to limit the attorney’s fees that a prospective plaintiff may recover if a public agency adopts a resolution of intention to change its system of elections within 45 days of the receipt of a letter from that prospective plaintiff alleging a CVRA violation; and

WHEREAS, the City Council has determined that transition from its current “mixed” election system to either of the systems below would be in compliance with, and in furtherance of, the purposes of the CVRA:

(A) Transition to a five-district electoral system. This would change District 5 from its current Citywide geography into a discrete portion of the City like current Districts 1 through 4.

(B) Transition to a “4+1” electoral system that retains Districts 1 through 4 with their current geography and change the District 5 Council seat into an at-large Mayoral seat; and

WHEREAS, the City Council desires to declare its intention to adopt an ordinance pursuant to Government Code section 34886 and Elections Code section 10010 transitioning from its current “mixed” election system to one of the two options above by the 2028 general municipal election, establish specific steps it will undertake to facilitate this transition, and establish an estimated timeframe for doing so.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council finds that all of the foregoing recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2. Based upon the whole of the administrative record before it, the City Council hereby finds that this transition of election system is exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines 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 sections 15061(b)(3) and 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 section 15320.

SECTION 3. Intention to Transition to Alternate Election System. Prior to the November 2028 General Municipal Election, the City Council intends to adopt an ordinance, pursuant to Government Code section 34886, to transition its “mixed” election system for its City Council Members to either (i) a five district election system for Councilmembers or (ii) a four district election system for Councilmembers with an at-large elected Mayor.

SECTION 4. Instructions Related to Transition. Following the effective date of this Resolution, taking into consideration the time required for public outreach and input, and the timeframes established by the California Elections Code, the following actions shall be taken by the City and the City Council in accordance with Elections Code section 10010(a):

A. Conduct public outreach, including to non-English-speaking communities, to explain the process and to encourage public participation;

B. Before drawing a draft map or maps of the proposed district boundaries, hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries as provided in Elections Code Section 10010;

C. After drawing a draft map or maps, publish the draft map(s) and the potential sequence of the district elections, and hold at least two public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections; and

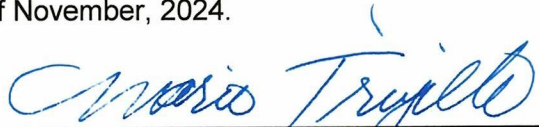
D. Hold a public hearing at which the City Council will consider and adopt an ordinance establishing alternate elections as outlined above, including the adoption of a district boundary map and the sequence of the district elections, as necessary.

SECTION 5. 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 6. This Resolution shall take effect immediately upon adoption.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this 12th day of November, 2024.


MARIO TRUJILLO, Mayor

ATTEST:


MARIA ALICIA DUARTE, CMC
City Clerk

APPROVED AS TO FORM:


JOHN M. FUNK
City Attorney

I HEREBY CERTIFY that the foregoing Resolution was adopted by the City Council of the City of Downey at a Regular meeting held on the 12th day of November, 2024, by the following vote, to wit:

AYES: Council Members: Frometa, Ortiz, Pemberton, Sosa, Mayor Trujillo
NOES: Council Members: None.
ABSENT: Council Members: None.
ABSTAIN: Council Members: None.


MARIA ALICIA DUARTE, CMC
City Clerk