

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2025-XXX

**RESOLUTION TO ENTER INTO A WRITTEN AGREEMENT WITH PROSPECTIVE PLAINTIFF
TO EXTEND THE SAFE HARBOR PERIOD PURSUANT TO ELECTIONS CODE SECTION 10010**

WHEREAS, the City of San Leandro currently conducts its City Council elections using a hybrid system in which the City is divided into six districts where registered voters in each district nominate candidates on an at-large basis, while the Mayor is elected by all voters citywide; and

WHEREAS, the California Voting Rights Act (CVRA) prohibits electoral systems that impair the ability of a protected class to elect candidates of its choice by employing at-large methods that may dilute minority voting strength; and

WHEREAS, on November 21, 2024, the City received a Notice of CVRA Violation from Goldstein, Borgen, Dardarian & Ho on behalf of Robert Bulatao, the Prospective Plaintiff, who alleged that the current electoral system dilutes the voting power of the City's Asian American voters and threatening litigation if the City does not voluntarily transition to a district-based election system; and

WHEREAS, the Notice of CVRA Violation was not supported by any evidence substantiating the prospective plaintiff's claims and instead cites to the City's electoral history of Asian-American candidates, including successful candidates for public office; and

WHEREAS, the potential costs associated with defending a CVRA lawsuit, including substantial attorneys' fees and expert witness fees as well as the limited circumstances where the City may recover its own fees, present significant financial risks to the City; and

WHEREAS, Elections Code Section 10010, as amended by AB 350, sets forth the process by which a jurisdiction may expeditiously transition to a by-district election system and avoid the exorbitant costs of litigation under the CVRA; and

WHEREAS, under Elections Code Section 10010's "safe harbor" provision, the City may delay CVRA litigation and cap its liability for legal fees if within forty-five (45) days of receipt of written notice of a potential violation of the CVRA, the City adopts a resolution stating its intent to transition from at-large to district-based elections, and then, within ninety (90) days of adoption of the resolution of intent, the City adopts a resolution of intent and completes the transition process by April 6, 2025; and

WHEREAS, Elections Code Section 10010 (e)(3)(C)(i) permits the City and the prospective plaintiff to mutually agree to extend the 90-day safe harbor period up to 180 days by entering into a written agreement; and

WHEREAS, the Parties have been involved in active communication regarding the scope of the agreement in accordance with the CVRA; and

WHEREAS, the City is committed to ensuring that no unnecessary and burdensome costs related to litigation occur, and that prospective plaintiff Bulatao's attorneys' fees are kept within the statutory cap of the CVRA; and

WHEREAS, the proposed extension would provide the necessary time for the City to conduct public outreach, encourage public participation and receive meaningful public input about a transition from at-large to by-district elections; and

WHEREAS, the proposed extension would provide additional safeguards to prevent delays in the City's transition by ensuring that (1) district boundaries will be established no less than six months before the City's next regular election to select its City Council members and (2) the City will activate and make publicly accessible a dedicated page on the City's website providing all public hearings dates and processes pursuant to the requirements under the CVRA.

NOW, THEREFORE, the City of San Leandro City Council does **RESOLVE** as follows:

Section 1. General.

The above recitals are true and correct and incorporated by reference herein; and

Section 2. Written Agreement.

The City Council of the City of San Leandro approves the written agreement to extend the 90-day period under Elections Code Section 10010 (e)(3)(B), during which time Prospective Plaintiff shall not commence an action to enforce the CVRA, to an additional 90 days (for a total of 180 days), subject to certain conditions as described in more detail below. By executing the agreement, Mr. Bulatao promises that no legal action shall be commenced by him against the City under the CVRA or Elections Code Section 10010 before July 5, 2025; and

Section 2. District Boundaries.

The district boundaries shall be established no later than six months before the City's next regular primary election to select City Councilmembers. The City Council authorizes the City Manager to work with the City Attorney to review the current district map that divides the City into voting districts in accordance with Elections Code Sections 10010 and 21130, as well as the requirements of the CVRA, the California FAIR Maps Act, and the Federal Voting Rights Act; and

Section 3. CVRA Information on the City's Website.

The City Council authorizes the City Manager or her designee to prepare and make public within 10 days of signing the written agreement a website that includes a tentative schedule of the public outreach events and public hearings held pursuant to the City's transition to district-based elections; and

Section 4. Dissemination of Information.

The City Council authorizes the City Manager or her designee to conduct robust public outreach, including the scheduling and holding of the required public hearings to solicit input on the proposed districts' boundaries. The City Manager or her designee will ensure that outreach efforts are inclusive and accessible to all residents, including non-English-speaking communities. In doing so, the City Council authorizes the City Manager or her designee to post all pertinent information

regarding the proposed transition—including draft maps, public hearing notices, agendas, and other related materials—on the City’s website and through other appropriate channels to facilitate public engagement; and

Section 5. Timeline for Completion.

The City Council authorizes the City Manager or her designee to complete all necessary actions, including holding the required public hearings and adopting an ordinance to establish district-based elections subject to a vote of the electorate to amend the Charter to establish district-based elections, by July 7, 2025 to secure safe harbor protections under Elections Code Section 10010. The City Council authorizes the City Manager to continue to work with the City Attorney to resolve all legal issues necessary to give effect to this Resolution and to meet the tentative timelines set forth in Exhibit A. The timeline may be adjusted by the City Manager as she deems necessary and appropriate, provided that the extension is agreed to by the City and Prospective Plaintiff, and that such adjustments conform to Elections Code Section 10010; and

Section 6. Effective Date.

This resolution shall become effective immediately upon its adoption by the City Council.

Introduced by _____ and passed and adopted this 7th day of April 2025 by the following vote:

AYES: _____ ()

NOES: _____ ()

ABSENT: _____ ()

ATTEST: _____
Kelly B. Clancy, CMC
City Clerk