



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Approval of Community Engagement and Outreach Plan Regarding City Council By-District Elections and the California Voting Rights Act, Award a Contract Amendment to PlaceWorks, Inc. and Approve Budget Modification No. 12

BACKGROUND

On September 5, 2018, the City Council held a public hearing regarding changing from the City's current at-large with numbered seats system for electing City Council members to a district-based form of elections (RTC No. 18-0776). Council directed staff to scope a public outreach and education plan for receiving public input on transitioning to district-based elections, with the goal of placing a measure on the November 2020 ballot for voters to decide whether to amend the City Charter to change from at-large with numbered seats to district-based elections. Following that direction, staff hired a public outreach consultant, PlaceWorks Inc., to assist the City in developing Attachment 1, the community education and outreach plan ("outreach plan").

While the plan was being developed, on October 9, 2018, the City received a certified letter from attorney Laura Ho of the law firm Goldstein, Borgen, Dardarian & Ho, alleging that the City's current electoral system violates the California Voting Rights Act ("CVRA") because it "dilutes the voting power of Asian American voters." On November 20, 2018, the City Council adopted a resolution of intent to change to district-based elections pursuant to Elections Code section 10010, which provides a 90-day "safe harbor" period during which the City cannot be sued. In adopting that resolution, the Council restated its prior direction to move forward with a change to district-based elections, and its commitment to do so with public outreach and engagement prior to making a final determination about the timing and substance of a ballot measure to amend the city council election provisions in the City Charter.

This RTC provides an overview of key elements of the draft outreach plan and a discussion of potential risks associated with the proposed outreach timing and possible further action by the potential plaintiffs.

DISCUSSION

Outreach Objectives and Goals

The draft outreach plan defines the following broad objectives and goals:

- Educating City residents about the requirements of the CVRA
- Ensuring participation from a wide range of residents, reflecting a range of opinions and community demographics, with special efforts to involve traditionally underrepresented,

underserved, and/or uninvolved groups

- Using a variety of tools and workshop formats to make it easy for the community to provide input as well as inclusive for those who may not have experience participating in this type of process
- Seeking participation proactively to encourage broad community participation

The draft plan describes tools and strategies designed to ensure that all segments of the community, not just those who are already likely to participate in local government issues, have the opportunity to participate in this outreach process. Thus, in addition to channels that the City traditionally uses for public involvement, the plan proposes specific strategies and tools to encourage participation by underrepresented groups, such as targeted outreach, advertising, and translation.

Outreach Plan Overview

The outreach plan includes two phases. The first phase focuses on educating the community about the CVRA and getting input on a ballot measure to amend the charter. The second phase is the process for drawing district maps. Within each phase, methods of communication will include a project website, dedicated project email list, social media posts, posters and flyers, print advertising, and an article in the citywide newsletter *Horizons* in March 2019. Materials will be translated into English, Spanish, Chinese and Hindi as set forth in the outreach plan, translation will be available at all workshops and hearings along with childcare when possible, and links to recordings of workshops and hearings will be posted on the project website. Meetings will be conducted in different geographical areas of the City.

The outreach plan also recommends formation of a Citizen's Advisory Committee ("CAC") of seven or nine members. The CAC would serve an advisory role to staff and the Council and help promote outreach for both phases of the project. The plan proposes that the Mayor appoint three City Council members to serve on a subcommittee to work with the City Manager's office in a process to solicit applications from community members, review applicants and make a recommendation to the City Council, which would make the final CAC appointments at a regular meeting.

The purpose of Phase 1 is to educate the community about the CVRA, the process to move to district elections, and receive public input on the following specific issues:

- The preferred timeline for submitting a charter measure proposing a change to district-based elections to the voters, either on the March 2020 or November 2020 ballot.
- Preferences related to number of districts. For example, seven districts, six districts with an at-large mayor, or some other composition.
- Other considerations for a charter amendment(s), including preferences related to future redistricting.
- Standards and criteria the community considers important in establishing districts.

Phase 1 will include two educational workshops, three community input workshops, ten "pop-up" events at various community activities, as well as a variety of online opportunities for input such as comment forums, surveys, and community of interest mapping. The CAC would meet twice during Phase 1, toward the beginning of the community engagement process to provide further input on key community contacts for outreach, and near the end of the phase to review and provide comment on

the consultant report synthesizing the public input. At the conclusion of Phase 1, PlaceWorks will prepare and present a report to the City Council that summarizes the input received on these four key issues, for the Council to consider in making its decision in June 2019 about the timing and content of the ballot measure to amend the charter.

Phase 2, the election district mapping process, is designed to comply with California Elections Code section 10010(a) and was developed considering recommendations from the City's outside counsel and others who have participated in district mapping processes in other cities. For this phase, the City will hire a demographer with expertise in developing election districts to lead the district mapping process, and PlaceWorks will provide outreach and meeting facilitation support. The City will provide online and paper-based tools that residents may use to participate in the district drawing process. Meetings in this phase will include an introduction/training session that explains the district mapping process and how to use the online and paper mapping tools, two introductory public hearings, three community map-drawing hearings at which the demographer will present sample maps and the public will be invited to testify about the samples or present maps of their own, and at least three public hearings before the City Council. The CAC would also meet once during Phase 2, following the community map drawing meetings and before the City Council hearings, to provide the demographer with further input on the district maps. All CAC meetings will be noticed and open to the public. At the conclusion of Phase 2, the City Council will adopt a final district map, which will be used if the voters approve the proposed charter amendment regarding changing to by-district elections.

Project Schedule

An overview of the project schedule and key elements has been created and is included as Attachment 2 of the report.

Potential Legal Issues and Risks of Proposed Outreach Plan Schedule

On November 20, 2018, the City Council adopted a resolution of intent pursuant to Elections Code section 10010 to switch to district-based elections. The legal effect of that action was to create a 90-day "safe harbor" period during which the potential plaintiffs are prohibited from filing a CVRA action against the City. The safe-harbor period will expire on February 18, 2019, before Phase 1 of the outreach plan is scheduled to be complete.

The potential plaintiffs have stated that they may be open to discussing an extension of the 90-day safe-harbor period at some later date. The City Attorney will initiate discussions regarding an extension following adoption of the outreach plan. However, if the parties are unable to reach agreement on an extension, the potential plaintiffs could file a lawsuit against the City any time after February 18, 2019, before the public outreach and input on the charter measure proposed by the outreach plan is complete. The potential plaintiffs have publicly stated that their primary goal is a March 2020 Charter measure with the first district elections occurring in November 2020. A majority of Council Members stated at the November 20 meeting that they nevertheless desire to have meaningful community education and input before making a final determination on the timing and substance of a ballot measure to amend the election provisions of the City Charter. Based on the proposed schedule for the outreach plan, the Council would make a decision on the timing of the ballot measure in June 2019, so that it can consider the consultant's report summarizing the results of community outreach and input. It is unknown at this time whether the potential plaintiffs will be willing to extend the safe-harbor period through June 2019 to allow the Council to make this decision with community input, and if they are not agreeable to an extension, whether they would chose to file

a lawsuit when the safe-harbor period expires in February 2019 and before the Council makes a decision in June 2019.

Staff believes that Phase 1 of the proposed outreach plan provides the type of robust community outreach and input that the Council directed at its meetings on September 5 and November 20. Particularly given that a significant portion of the 90-day safe-harbor period occurs during the holidays, and the City's prior experience with low responsiveness during such periods, staff does not believe that it would be possible to achieve meaningful community input or ensure that the goal for diverse participation could be achieved before the safe harbor period expires in February. Therefore, the outreach plan proposes a schedule that goes well beyond the safe harbor period but achieves the Council's goals of maximizing community participation and providing meaningful public input.

It should be noted that approval of the outreach plan as proposed may expose the City to the risk of a lawsuit after February 2019. However, making a decision on the ballot measure by expiration of the safe-harbor period to avoid that risk would preclude the meaningful community outreach and input contemplated by the proposed outreach plan.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15320, 15378 and 15061 (b)(3) as it is an organizational structure change and does not have the potential to result in either a direct or reasonable foreseeable indirect physical change in the environment.

FISCAL IMPACT

The cost of the proposed outreach plan is \$312,522 (\$284,111 plus 10% contingency). This does not include costs for a demographic consultant, which would be hired separately by the City to lead the district map drawing in Phase 2, or election costs associated with placing the measure on the ballot. Funds totaling \$204,000 are available for outreach Phase 1 in Project 832670-Charter Assessment. \$20,341 has already been committed to work by PlaceWorks to date. Staff is recommending approval of a contract amendment for services related to the outreach plan (Attachment 3) and Budget Modification No. 12 in the amount of \$128,863 to cover City costs of Phase 1 of the outreach plan.

Pursuant to Sunnyvale Charter Section 1305, at any meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by affirmative votes of at least four members to authorize the transfer of unused balances appropriated for one purpose to another, or to appropriate available revenue not included in the budget.

Budget Modification No. 12 FY 2018/19

	Current	Increase/ (Decrease)	Revised
General Fund			
<u>Expenditures</u>			
Project 832670 - Charter Assessment	\$204,000	\$128,863	\$332,863

Reserves

Budget Stabilization Fund	\$32,655,090	(\$128,863)	\$32,526,227
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PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

In addition, staff has added a page to the City website with CVRA project information and key information to date, at <https://sunnyvale.ca.gov/news/topics/district.htm>. Prior reports to Council on the district election issue and the CVRA demand letter are easily accessible through that page.

ALTERNATIVES

1. Approve the Community Engagement and Outreach Plan Regarding City Council By-District Elections and the California Voting Rights Act as provided in Attachment 1, authorize the Mayor to appoint three Council members to serve on the ad-hoc CAC selection subcommittee, approve a contract amendment with PlaceWorks, Inc., Attachment 3 of the report in the amount of \$312,522, and approve Budget Modification No. 12 in the amount of \$128,863.
2. Approve the Community Engagement and Outreach Plan Regarding City Council By-District Elections and the California Voting Rights Act as provided in Attachment 1, authorize the Mayor to appoint three Council members to serve on the ad-hoc CAC selection subcommittee, approve a contract amendment with PlaceWorks, Inc., Attachment 3 of the report in the amount of \$312,522, and approve Budget Modification No. 12 in the amount of \$128,863 with modifications directed by the City Council.
3. Other action as directed by the City Council.

RECOMMENDATION

Alternative 1: Approve the Community Engagement and Outreach Plan Regarding City Council By-District Elections and the California Voting Rights Act as provided in Attachment 1 to the Report, authorize the Mayor to appoint three Council members to serve on the ad-hoc Citizen's Advisory Community selection subcommittee, approve a contract amendment with PlaceWorks, Inc., Attachment 3 of the report in the amount of \$312,522, and approve Budget Modification No. 12 in the amount of \$128,863.

Prepared by: Melissa C. Tronquet, Assistant City Attorney
Reviewed by: Jacqueline Guzman, Deputy City Manager
Reviewed by: John Nagel, City Attorney
Approved by: Kent Steffens, City Manager

ATTACHMENT

1. Draft Community Engagement and Outreach Plan

2. Project Schedule.
3. Draft Contract Amendment with PlaceWorks, Inc.