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MEMORANDUM

DATE: June 4, 2014

TO: Mayor and City Council
CC: City Manager

FROM: William A. Vaughn, City Attorney

RE: Adoption of By-District Method of Election of City Council Members

Recommendation. It is recommended that the City Council approve Resolution _____ Determining to Commence a Process for Submission of By-District Election Method to the Voters on the November 4, 2014 Ballot.

Background. As have many jurisdictions in the Central Valley and in California, the City received correspondence from a group of Los Banos citizens expressing concerns for the current at-large election method for electing City Council Members. The City Manager and the Mayor met with the group on May 21, 2014 to discuss those concerns.

Discussion. The City currently has an at-large method for electing Members to the City Council. Election at-large means that every voter in the City votes for every member of the City Council. In California it is also permissible to elect members of a City Council by district. Election by district means that only voters who reside in an electoral district may vote for their representative on the City Council from candidates residing in their district.

Currently, several large cities in California and a number of cities in the Central Valley are facing political and legal challenges to the way they conduct City Council elections. These cities have "at-large" elections meaning that voters cast ballots for the whole city, not by individual districts, as is the case in Los Banos.

The basis for a legal challenge to at-large method for electing Members to the City Council flows from the California Voting Rights Act ("CVRA"). The CVRA was enacted as the State analog to the Federal Voting Rights Act of 1965. The CVRA creates a legal cause of action for members of any racial, color or language minority group who can establish that their votes are "diluted" or "impaired" through the combination of racially polarized voting and an at-large election system. By-district elections appear to be a "safe harbor" that is clearly protected against a CVRA challenge. The CVRA does not require proof of intent on the part of the voters or elected officials to discriminate against a protected class. And, unlike the Federal law, the CVRA

does not require a showing—at least at the liability stage—that members of a protected class live in a geographically compact area. This means that a CVRA claim may potentially be established in many cities with a large minority of protected class residents, though the success of such a claim will turn on the specific demographic, electoral, and other circumstances in the challenged jurisdiction.

Quite apart from the potential for a legal challenge to the at-large method of electing City Council Members, however, staff believes that:

1. The public interest would be better served if by-district elections of its Council members were conducted in single-member districts, rather than in the current at-large system.
2. “By-district” elections will provide for an enhanced opportunity for representation of all communities within the City on the City Council.
3. “By-district” elections will enhance the ability for a greater number of candidates to run for seats on the City Council by eliminating the costs associated with running for election City-wide.

Pursuant to California Government Code § 34871, to change from at-large elections to by-district elections, an ordinance must be submitted to the voters “at any municipal election, or special election held for that purpose.” If a majority of those who vote at an election vote in favor of the new district elections, then the new system shall become effective for future elections. If approved, existing incumbents continue to serve at-large until their term expires. Staff is proposing that the measure be placed on the upcoming November 4, 2014 ballot.

A proposed tentative timeline is included as an attachment to this staff report.

Fiscal Impact. There will be significant legal, experts, consultants, and processing costs associated with this process however, as of this writing those fiscal impacts cannot be accurately estimated.

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOS BANOS DETERMINING TO COMMENCE A PROCESS
FOR SUBMISSION OF BY-DISTRICT ELECTION METHOD
TO THE VOTERS ON THE NOVEMBER 4, 2014 BALLOT

WHEREAS the City of Los Banos is a diverse community, geographically, ethnically, and socioeconomically; and

WHEREAS the City of Los Banos seeks to promote the full participation of all residents in electing Members of the City Council; and

WHEREAS it is important to ensure equal opportunity of all groups to participate in the electoral process to elect candidates that reflect community interests and to ensure full participation of all groups in local government to ensure a representative government that serves all; and

WHEREAS, it is the considered view of the City Council of the City of Los Banos that the public interest would be better served if by-district elections of its Council Members were conducted in single-member districts, rather than in the current at-large system; and

WHEREAS, the City Council believes that “by-district” elections will provide for an enhanced opportunity for representation of all communities within the City on the City Council; and

WHEREAS, the City Council believes that “by-district” elections will enhance the ability for a greater number of candidates to run for seats on the City Council by eliminating the costs associated with running for election City-wide; and

WHEREAS, a general election is scheduled for November 4, 2014; and

WHEREAS, the City Council deems it advisable to submit to the voters, a ballot measure to adopt by-district method of election of City Council Members, to be placed on the November 4, 2014 ballot.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Los Banos, California, as follows:

SECTION 1. The City Council hereby determines to begin the process of submitting a ballot measure to the voters to adopt by-district method of election to be placed on the November 4, 2014 ballot.

SECTION 2. The City Council directs and authorizes the City Manager to immediately implement the steps necessary to submitting a ballot measure to the voters to adopt by-district method of election to be placed on the November 4, 2014 ballot.

SECTION 3. The City Council authorizes the City Manager to retain the professional services of special legal counsel, demographers, experts, and consultants necessary to assist the City in the process of submitting a ballot measure to the voters to adopt by-district method of election to be placed on the November 4, 2014 ballot.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on this ____ day of _____ 2014, by Council Member _____, who moved its adoption, which motion was duly seconded by Council Member _____, and the Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

Michael Villalta, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk

CITY OF LOS BANOS
TENTATIVE TIMELINE FOR SUBMISSION OF “BY-DISTRICT” ELECTION
METHOD TO THE VOTERS [GOV’T CODE § 34871]

(Note: most actions are goal dates subject to change.
Only items in bold are fixed deadlines.)

| DATE | ACTION |
|----------------------------------|--|
| June 4, 2014 Council Meeting | City Council determines to begin process of submitting a ballot measure to the voters to adopt “by-district” method of election; approves the retention of a qualified demographic consultant. |
| June 18, 2014 Council Meeting | Presentation by special redistricting counsel regarding legal considerations and appropriate policy criteria governing districting, and by demographic consultant regarding City demographics. Council solicits public input regarding appropriate criteria, and adopts same to guide districting process |
| June 25, 2014 | Initial draft council district plans to be made publicly available. |
| July 2, 2014 Council Meeting | Demographic consultant to present* initial draft council district plans; Council solicits public comment on draft plans; Council may request modifications to any of the plans. |
| July 3, 2014 | Notice of first public hearing regarding draft plans published in newspaper of general circulation and posted at City Hall and three other public locations. |
| July 16, 2014 Council Meeting | Council receives public input and additional testimony regarding draft plans; holds first public hearing on draft plans; Council may order further modifications to any of the plans. |
| July 18, 2014 | Notice of second public hearing regarding draft plans published in newspaper of general circulation and posted at City Hall and three other public locations. |

* Appearances by the City’s special counsel and demographic consultant may be by conference call or in person, as the City prefers.

| DATE | ACTION |
|--|---|
| July 30, 2014 Special Council Meeting | Council holds second public hearing on alternate plans; first reading of ordinance to submit district plan to voters. If Council orders further modifications, another public hearing will be required. |
| August 6, 2014 Council Meeting | Council conducts second reading of ordinance to submit district plan to voters, votes to submit ordinance. |
| August 8, 2014 | Last day City may transmit measure to County Registrar for submission to the voters or ordinance to adopt “by-district” method of election. |
| November 4, 2014 | Election on whether to adopt “by-district” method of election. |
| November 8, 2016 | First election using new by-district election plan. |



National Demographics Corporation

**A Proposal to the
City of Los Banos
for Districting Services**

By National Demographics Corporation
Douglas Johnson, President

May 21, 2014



National Demographics Corporation

May 21, 2014

Ms. Marguerite Leoni
City of Los Banos
c/o Nielsen, Merksamer, Parrinello, Gross & Leoni
2350 Kerner Boulevard, Suite 250
San Rafael, California 94901

Dear Ms. Leoni,

Thank you for the opportunity to provide this proposal to the City of Los Banos. NDC has 31 years of experience districting and redistricting local jurisdictions, including the County of Merced and numerous local jurisdictions in Merced County, together with unmatched experience working with jurisdictions facing California Voting Rights Act concerns. We welcome the opportunity to bring the firm's expertise and skills to assist Los Banos.

For each districting or redistricting project, there are certain required basic elements, and there are a number of options that the City can include or leave out at its option. NDC carefully tailors each project to the needs and goals of the individual client partner. Regardless of the options chosen, NDC encourages our clients to conduct the process in an open, transparent manner. NDC welcomes the opportunity to work with the City to encourage public participation in this process, and NDC offers a number of tools developed specifically for this purpose.

The attached proposal consists of a brief introduction; specific proposed project elements and options; timeline and cost information; conclusion; and signature section. An appendix provides additional information on NDC, including company history; methodology; technical approach; and references.

NDC looks forward to working with you on this effort. Please call or email if you have any questions, concerns, or requests regarding this proposal.

Sincerely,

Douglas Johnson
President



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Introduction

NDC has successfully guided many clients through the difficult process of moving from at-large to by-district and from-district election systems, and in re-drawing existing districts after each Census or following significant mid-decade growth. NDC has a unique combination of expertise in the Federal and California Voting Rights Act requirements, in the technical challenges of districting, and in public education and outreach on these issues.

Over its 31 years in business, NDC has served scores of local government partners. Founded in 1979, NDC has performed work in all regions of the country, serving clients as varied as the States of Mississippi, Arizona, Florida and Illinois, Clark County Nevada, American Waterworks, California's Franchise Tax Board, the San Diego Unified School District, the Foundation for California, the Arizona cities of Glendale, Mesa, Peoria, Phoenix, Mesa and Surprise, and many California jurisdictions, including Moreno Valley, Modesto, Pomona, the Jurupa Community Services District, San Diego Unified School District, Modesto, Pomona, and the Eastern and Western Municipal Water Districts in Riverside County. **No company has been responsible for successfully districting and redistricting more local governments.**

Nationally recognized as a pioneer in good government districting and redistricting, NDC is especially experienced in working with local jurisdictions in California, Arizona and Nevada. NDC pioneered the "transparent districting" approach which involves the public at every stage of the process. Perhaps NDC's most valuable service is the firm's experience transforming often-contentious and passionate debates on this difficult subject into thoughtful, constructive discussions focused on the options and outcomes rather than individual personalities or positions. NDC also has considerable experience working with translators in public forums and providing materials in English and Spanish.

NDC's personnel are nationally recognized as leaders in the districting field, and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to the districting and redistricting needs of any jurisdiction, and its personnel have extensive experience in performing graphics districting and redistricting work as well as in developing databases for districting use.

All of NDC's former clients – without exception – can be contacted for references. And all NDC's local districting and redistricting plans have been accepted into law with a minimum of controversy.



Project Elements and Cost

Detailed discussions of the basic and optional project elements are included in the appendix. The basic project elements are required to successfully complete the task, while optional items can be added (or not) at the jurisdiction's discretion:

Basic Elements \$14,500

- Development of redistricting database including Census and California Statewide Database data;
- Incorporation of any Geographic Information System (GIS) data that the City wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
- Initial discussion with key staff and/or Councilmembers about demographics, communities of interest, schedule and criteria;
- Development of 2 or 3 "Consultant Drafts" for Council and public consideration;
- Conversion of all maps and reports to web-friendly versions for posting on City website, including Google Earth KML files for all plans;
- Conference call participation in Council meeting to discuss Consultant and public plans (in-person participation is preferable but subject to additional charge as detailed below);
- Presentation of draft plans at one Council meeting (in-person participation is preferable but subject to additional charge as detailed below);
- Analysis and preparation for Council consideration of all whole or partial plans submitted by the public;
- Online posting of plans for review;
- Presentation of final Plans at one Council meeting (in-person participation is preferable but subject to additional charge as detailed below);
- Any conference calls to discussion the project's progress or answer any Council or Staff questions that may arise;
- Any relatively minor emendations requested to a Council-preferred Draft plan;
- Work with the County Registrar of Voters to implement the final adopted plan.

Optional Elements

- In-person Council and/or public meetings, per meeting day.....\$2,000
- Mapping incumbent Councilmember "home Census Block" (to avoid pairing incumbents in the same district if possible) using, but not precisely mapping, addresses provided by the City no charge
- Creation of a "Public Participation Kit" in paper/Acrobat PDF-only and paper-plus-Excel formats, including all necessary instructions and processing of all submitted plans.....\$2,500
- Online redistricting application for the public to use to design and submit redistricting plans for NDC review and Council consideration (currently under development).....\$12,000
- Translation of any project materials in Spanish (per page)\$125 per page



The price stated for each element includes all travel and other per diem expenses. Each "Hearing" or "Meeting" is assumed to last only one calendar day, and each additional calendar day is counted as an additional meeting. Multiple meetings held on the same day will only result in one meeting day expense.

Timeline

The following element-by-element timelines can be put together (or left out) in a variety of ways, depending on the City's preferences and requirements.

- A. Creation of redistricting Database and initial demographic summary report 2 weeks
- B. Initial Council meeting to start project and one-on-one discussions with Councilmembers and/or key staff * per City's schedule
- C. (Optional) Prepare "Public Participation Kit" * 2 weeks
- D. (Optional) Community meeting(s)..... as desired
- E. NDC prepares consultant's plans based on criteria and public input 2 weeks
- F. Council consideration of final plan options per City's schedule
- G. (optional) NDC incorporates Council's requested edits and returns for final Council consideration..... 2 weeks
- H. Implementation of new Districts with County elections office 2-4 weeks

Other Potential Project-Related Expenses:

The only anticipated additional districting expenses would be any site or staff costs for conducting the community forums; and the cost of printing or copying paper copies of the "Public Participation Kit." In NDC's experience, most public participants will download and print the Kits in their own homes or offices.

Payment terms:

NDC requests that one-half payment be made at project start and one-half at the conclusion.

Typical Council role

The following describes the typical role and responsibilities of the Council in a districting or redistricting project. NDC welcomes any direction from, and involvement of, the Council in this process.

- i. At the start of the process, the Council may wish to formally consider districting criteria.
- ii. At the start of the process, NDC needs input from key personnel -- usually the Councilmembers one on one, and the Superintendent, but sometimes involving only the Superintendent or other key staff member(s)-- to get insights on the communities of interest and logical community dividing points that could potentially aid the development of plans.
- iii. The Councilmembers, at their option, could participate in any community forums included in this process.



iv. The Council will need to consider the districting plans developed by the public and by NDC and adopt their selected final plan. The Council may also direct NDC to test or incorporate changes to the 'final draft' plan and return for final adoption.

Typical Staff role

The following describes the typical role and responsibilities of City staff in a districting or redistricting project. NDC welcomes any direction from, and involvement of, City Staff in this process.

i. Staff assistance will be needed to schedule times and locations for the community forums and to share that information with the City's usual community partners.

ii. A staff contact (including email, fax and phone) will be needed for members of the public who wish to contact the City rather than working with the City's consultant, though NDC welcomes any direct contact with questions or ideas as well (unless the City prefers for all public and/or media contact to be with the City first). All public contact is recorded and included in NDC's report to the Council on public input.

iii. If the City chooses to place project information and materials on its website, rather than asking NDC to create and maintain a project website, a Staff contact will be needed to review and post the documents provided by NDC. This will be an intermittent need, as material will need to be posted both before and after each Council meeting and community forum. If NDC creates and maintains the project website, the only web-related staff time necessary will involve setting up initial links from the official City page to the project site.

iv. NDC will work with the appropriate Staff to ensure all materials are developed in time for, and incorporated into, the City's typical Council meeting information packets prior to any Council meetings on this topic.

v. If translators are necessary for any community meetings, either staff or independent translators need to be arranged. The local California League of Cities representative may be able to provide the equipment for simultaneous translation of meetings, usually free of charge, but the League does not provide the translator.

vi. The County may need a City staff contact to verify NDC's status as a contractor for the City before the County will provide information needed to develop the population database or prior to working with NDC on implementing any Council-adopted Districts.



References

Mr. Devin Reif, Strategic Planning, City of Oakland, 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, CA 94612. Phone: 510-238-3550 Email: DReiff@oaklandnet.com

Mr. David Soldani, Deputy County Counsel, San Mateo County, 400 County Center, 6th Floor, Redwood City, CA 94063-1662. Phone: 650-363-4749 Email: dsilberman@smcgov.org

Ms. Kathy Bennett, City Clerk, City of Menifee, 29714 Haun Road, Menifee, CA 92586. Phone: (951) 672-6777. Email: kbennet@cityofmenifee.us.

Ms. Kristine Murray, City Councilmember, City of Anaheim, 2401 East Katella Avenue, Suite 300, Anaheim, California 92806. Phone: (714) 940-6347 Email: kmurray@willdan.com

Mr. Michael E. Smith, Partner, Lozano Smith, 7404 North Spalding Ave., Fresno, CA 93720, (559)431-5600, MSmith@lozanosmith.com (or ask for Ms. Laurie Avedisian)

Ms. Marguerite Leoni, Partner, Nielsen, Merksamer, Parrinello, Gross & Leoni, 2350 Kerner Boulevard, Suite 250, San Rafael, CA 94901, (415)634-6840, mleoni@nmgovlaw.com (or ask for Mr. Chris Skinnell)

Mr. John Ramirez, Partner, Rutan & Tucker, 611 Anton Boulevard, Suite 1400, Costa Mesa, CA 92626-1931, (714) 641-5100, jramirez@rutan.com

Judge Hugh Rose (retired), Chairman, City of Modesto Districting Commission. 508 King Richard Lane, Modesto, CA 95350. Phone (209) 522-0719. Email: hhrose@hotmail.com.

Ms. Susana Wood, City Attorney, City of Modesto, 1010 10th St, Suite 6300, Modesto, CA 95354. Phone: (209) 577-5284. Email: swood@modestogov.com.

Ms. Lucinda Aja. City Clerk, City of Buckeye, Arizona. 100 N Apache Rd, Suite A, Buckeye, AZ 85326. Phone (623) 349-6007. Fax (623) 349-6098. EMail: laja@buckeyeaz.gov.

Ms. Debbie Lee, City Clerk, City of Wildomar, 23873 Clinton Keith Rd, Suite 201, Wildomar, CA 92595. Phone (951) 677-7751 x 211. Email: dlee@cityofwildomar.org.

Steve Kemp, City Attorney, City of Peoria. City of Peoria Municipal Complex, 8401 W. Monroe Street, Peoria, Arizona 85345, Phone: (623) 773-7043 Fax: (623) 773-7330.



Conclusion

Since its founding NDC has been the preeminent company in the nation devoted to local election systems. To summarize:

- NDC, founded in 1979, has a demonstrated record of financial solvency.
- NDC's hardware and software resources were specially designed and acquired for districting and redistricting purposes.
- NDC's highly respected personnel have impeccable credentials in each aspect of the districting and redistricting processes.
- NDC's suggested approach has been tested in many jurisdictions.
- Any NDC client can be contacted for testimonials and reference.
- NDC has more experience in the field of municipal political election systems than any other company of which NDC is aware.
- NDC has demonstrated experience over many years in working with the press and media on local election system issues.
- NDC possesses fully up-to-date and highly effective geographic retrieval systems with applications specifically designed for districting and redistricting.
- Neither the Justice Department nor any Court has ever rejected any local government districting or redistricting plan submitted by NDC.

It should be clear that NDC has all of the resources of experience, technical expertise, and legal/political know-how to assist the City in its current effort. NDC looks forward to the opportunity to work with the City on this project.

Appendix 1: NDC's Background and Methodology

A. Company Overview

1. Brief Company History. NDC has served hundreds of local governments over the past 29 years. Founded in 1979, NDC has performed work in all regions of the country, serving clients as varied as the States of Mississippi, Arizona, Florida and Illinois, Clark County Nevada, American Waterworks, California's Franchise Tax Board, the San Diego Unified School District, the Foundation for California, the Arizona cities of Glendale, Mesa, Peoria, Phoenix, Mesa and Surprise, and many California jurisdictions, including Moreno Valley, Modesto, Pomona, the Jurupa Community Services District, San Diego Unified School District, Modesto, Pomona, and the Eastern and Western Municipal Water Districts in Riverside County. **No company has been responsible for successfully districting and redistricting more local governments.** Nationally recognized as a pioneer in good government districting and redistricting, NDC is especially experienced in working with local jurisdictions in California, Arizona and Nevada.

2. Project-Related Experience. NDC has successfully guided many clients through the difficult process of moving from at-large to by-district and from-district election systems, and in re-drawing existing districts after each Census or following significant mid-decade growth. NDC has a unique combination of expertise in the election system options available to local jurisdictions, in the Federal and California Voting Rights Act requirements, and in public education and outreach on these issues.

3. Public Involvement. NDC pioneered the "transparent districting" approach which involves the public at every stage of the process. The company invented the "public participation kit" for public participation in districting efforts, which many of the firm's competitors now attempt to duplicate. Perhaps NDC's most valuable service is the firm's experience transforming often-contentious and passionate debates on this difficult subject into thoughtful, constructive discussions focused on the options and outcomes rather than individual personalities or positions. NDC also has considerable experience working with translators in public forums and providing materials in English and Spanish.

4. Media Outreach. The firm's work has been widely praised in the media, and NDC has worked extensively on background, off the record, and on the record with all types of press including radio, television, newspaper, and new media.

5. Technical Expertise. NDC's personnel are nationally recognized as leaders in the districting field, and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to the districting and redistricting needs of any jurisdiction, and its personnel have extensive experience in performing graphics districting and redistricting work as well as in developing databases for districting use.

6. Impeccable References. All of NDC's former clients – without exception – can be contacted for references. The firm has no embarrassing projects. All NDC's local districting and redistricting plans have been accepted into law with a minimum of controversy. A list of references is included with this proposal.

Appendix 1: NDC's Background and Methodology

B. Methodology

Drawing election districts or districts is, at its heart, a truly democratic and representative process. Combining neighborhoods into, and separating them among, new districts can be a delicate but enlightening task. It is also a legally perilous one. A multitude of federal and state laws and court rulings create a constantly evolving legal environment for such a project.

Legal hazards are not the only obstacle. Without experienced and impartial management, the districting process can rapidly devolve into accusations of hidden agendas and favoritism. Throughout the firm's three decades in business, NDC has focused on generating and guiding the public in districtings and redistrictings. The company pioneered many innovative tools and methods for encouraging public involvement in the process, such as "public participation kits" that enable every resident to draw his or her own proposal at their own kitchen table. This level of public engagement generates many ideas that otherwise might have been overlooked, and educates the public about the tradeoffs and difficult choices necessary in every districting project.

This section describes NDC's general process and approach to addressing the multitude of challenges facing any districting effort. A later section will detail the various project elements available for this project.

1. Legal Precedents. Because nearly all aspects of the districting process are subject to judicial challenge, it is crucial that the consultant be knowledgeable regarding all key legal precedents and experienced in preparing materials in proper legal form. NDC is prepared to explain these legal requirements in terms that lay persons can understand.

2. Minority Expectations: U.S. Supreme Court decisions are constantly changing the rules regarding districting, "race-based districting," and the establishment of districts focused on the electoral power of "protected classes." It is crucial that the consultant work with the racial, ethnic, and other community groups at the beginning of the process to welcome their ideas and develop the appropriate expectations regarding minority representation prospects. No NDC local districting or redistricting plans has ever been challenged in Court or by the Department of Justice.

3. Openness: Any change in election systems can have momentous implications for the distribution of political power in a jurisdiction and for access by groups and individuals to the governance process. Not surprisingly, such changes often attract much public attention, sometimes generate intense controversy, and may draw charges of manipulation and abuse of power. Indeed, disputes over the form and substance of the process may often result in stalemate or legal challenge. It is crucial, therefore, that the jurisdiction establish, at the beginning, a process that is not only fair, but that is seen to be fair, to all contending groups and individuals.

4. Local Leadership: NDC views its role as an advisor and technical resource. The firm advises its clients, but every project remains the client's project. NDC offers guidance based on its experience and expertise, but ultimately the decisions are made by the jurisdiction itself. NDC welcomes the chance to assist this project under the guidance and direction of the jurisdiction's elected leadership, key staff members, and the entire community.

The technical demands of a districting effort are high, and NDC is the undisputed leader in this area. But far more important than technical expertise are the interpersonal understanding and experience working with all parties in the process, including the public.

Appendix 1: NDC's Background and Methodology

Each of these elements of NDC's methodology is incorporated into the proposed project process below.

C. Technical Approach

1. Computerized Districting/Redistricting and Geographic Information Systems

NDC has been the leader in technical innovation and system expertise in the local districting field since the company's founding in 1979. The hallmark of the computerized districting systems used by NDC is an ability to bring into play large amounts of data in such a way that the person drawing the district boundaries, as well as those analyzing the plans produced, can comprehend the data and make responsible and correct decisions about the nature of the districts being created. The NDC systems represent the most advanced realization of these trends.

NDC personnel have experience in operating advanced computer graphics districting systems and are prepared to provide all electronic databases and GIS district maps in an Arc/View shape or Maptitude Geographic file format. The Company's technical approach has proved its reliability in many different districting and redistricting situations.

Modern computerized districting systems allow their users to assess the results of alternative boundary configurations. In particular, the results must be monitored in terms of geographic location, shape, compactness, contiguity and the characteristics of the district. Sophisticated graphics and data can be displayed on the monitor or plotted and printed using various output devices.

The advantages of such a design and hardware configuration are that, at any time, for any district, either outline or detailed maps and either one-page or unit-by-unit data may be printed. In addition, users may order compactness and contiguity tests to be run on any district(s). NDC's system also stores multiple plans and tests may be built into the system to list split units. Users may order colored plots of any area to be produced.

The bulleted points below reference the specific technical features of the commercial districting systems – from ESRI and from Caliper Corporation – that NDC uses for districting, together with the company's own custom-designed systems.

- **Retrieval Methods:** From the point of view of the person who is to draw the lines, the ease with which one can create or change district boundaries is the most important feature of the retrieval mechanism of the software. By retrieval NDC means a "transfer" – the designation of geographic units to be added to districts, subtracted from districts, or moved between districts.
- **Computer Mapping:** Maps are a vital part of any districting process. It is important to have demographic data displayed in map form. It is also important that the user be able to examine the districts in question, both in terms of the shapes of the districts and the locations of the districts. Maps of plans should contain enough detail so that those to whom the maps are given understand exactly where the boundaries of the districts lie.
- **Tests and Checks:** Any effective computerized districting system must provide various tests and checks to assure the accuracy and constitutionality of proposed districts. The systems used by NDC provide for tests of contiguity and indicate contiguity by touch, islands within districts, or detached

Appendix 1: NDC's Background and Methodology

units from the district. Contiguity tests require a polygon line segment file to be created for the units used as building blocks in the districting process. These line segments are generally created in the database building process. There are also compactness tests available.

- **Required User Sophistication:** One of the main advantages of the systems in use by NDC is that the personnel operating them have wide experience in actual districting and redistricting. NDC has, however, designed the company's system to be used by persons without any prior data processing or programming or districting experience.
- **System Security:** The systems in use by NDC have numerous security checks denying entry to unauthorized persons – both to work stations and to individual plans. It is extremely unlikely that anyone could break through this security without detection.

2. Information Distribution

Thanks to NDC's extensive experience in local jurisdiction districting and redistricting, in managing public districting processes, and in dealing with the quantity of data and information involved, NDC has developed specialized expertise in the rapid distribution of data, plans, reports, and the other related materials within the jurisdiction, to the media, to local interest groups, and to the public at large.

The key elements of this process involve providing accurate, thorough, and detailed information in an easily reviewed format. NDC uses a combination of maps, spreadsheets, written and verbal reports, PowerPoint® presentations. NDC can deliver all project materials in a format for posting to its website, if the jurisdiction so desires, or NDC can create, post and maintain a project website if that is the jurisdiction's preference. You can view one recent NDC-created and -maintained districting project website at www.DrawModesto.org.

NDC is also experienced at presenting this information in conjunction with translation services so that members of the public can understand and participate free of a specific language dependency.

For those with geographic information systems available to them, which could include staff, the media, a few members of the public, or local community and other minority groups, NDC is experienced at efficiently providing data and mapsets in electronic form to maximize these participants' ability to review and comment on the information or proposal under consideration. NDC can provide this information in Excel, DBF, ArcView, Maptitude, or Block Equivalency formats (or all of the above), whichever is most useful to the interested party, and NDC can provide this information by email, on CD, or make it available on a website.

3. Legal Issues and Voting Rights

Nearly all aspects of the districting process are subject to judicial challenge, and it is crucial that your districting consultant be knowledgeable regarding all key legal precedents. Because of the importance of public participation and effective media relations, the consultant must also be prepared to explain legal requirements in terms that lay persons can understand. Fortunately, NDC has extensive experience with all of these issues.

NDC principals are specialists in the measurement of minority voting strength and representation. The firm's record on minority representation is unsurpassed – the Department of Justice has never rejected an NDC-developed local districting plan and no NDC plan has ever been challenged in a Voting Rights

Appendix 1: NDC's Background and Methodology

Act lawsuit. NDC principals are among the state's few experts on the California Voting Rights Act of 2001.

Minority voting strength and levels of minority representation are never a simple issue of pure numbers. Racial block voting patterns, communities of interest, the local history of political organization (or lack thereof), and historical political bases of emerging leaders are all important factors to consider when attempting to achieve fair levels of minority representation.

Data on race, ethnicity, income, and housing all assist in defining communities of interest and minority representation goals. Similarly, past election data is used to identify the existence or absence of a pattern of racial block voting. Such a pattern guides districting and redistricting efforts by defining the concentration necessary to achieve community representation goals without unconstitutionally "packing" communities.

Perhaps most important, public comment on self-identified communities of interest, including racial and ethnic communities, will guide efforts to define minority communities and determine minority voting strength. Such commentary is a key factor in identifying communities; establishing fair representation; and ensuring California and Federal Voting Rights Act compliance.

D. Project Elements

In the overwhelming majority of client jurisdictions, the jurisdiction's governing board directly controls the project work. In a few jurisdictions, such as the cities of Surprise (Arizona) and Modesto, the jurisdiction selects a commission of citizens to control the project and report back to the governing board. NDC is experienced with both approaches. If a Commission is created, the some references below would be considered references to the Commission.

1. Districting Planning and Preparation

- i. It is NDC's philosophy – one developed through many districtings and redistrictings – that the process should begin with extensive interviews by NDC senior personnel with elected leaders of the jurisdiction, key staff, and any key leaders of community organizations.
- ii. NDC will collect the demographic data needed for the project. A specialized computer mapping database will be developed for the project, and NDC's redistricting system will be prepared for the project. The basic database will include the 2010 Census data; and the voter registration by ethnicity data available from the official California Statewide Database.
- iv. NDC will work with the jurisdiction to develop districting criteria. NDC will provide a list of common criteria to use as a starting point.
- v. NDC will also work with the jurisdiction's staff and elected leaders to craft a project schedule and public outreach campaign plan. NDC will create the master "public participation kit" materials. This will contain instructions, maps, population data, and other pertinent information for designing plans.
- vi. NDC will, at the jurisdiction's direction, either prepare materials for the jurisdiction's website or prepare, post, and maintain an independent project-specific website. This site would include project contact information; links to all project-related notices, agendas, and minutes; copies of all public

Appendix 1: NDC's Background and Methodology

submissions to the project; maps and demographic data for each plan considered during the project; and, if included in the project, the “public participation kit” for downloading by any interested person.

vii. NDC, if requested by the jurisdiction, will prepare a demonstration or “concept” plan (or plans) of districts. Not an official plan, this map is typically not reviewed or approved by the elected leaders. Instead, this plan is simply to illustrate to the public one possible district configuration. This step helps the public understand the decisions and dilemmas facing any potential district line-drawing. It can, despite these disclaimers, lead to excessive concern with the specific demonstration plan lines, so some jurisdictions choose to skip this step.

2. Plan Development and Media outreach

i. An informational presentation would be shown at community forums (or, alternatively, additional governing board hearings) on this topic. Some NDC client jurisdictions prefer the relative informality of community forums. Others prefer to hold formal governing board hearings. NDC has extensive experience with both approaches, and NDC welcomes the jurisdiction's direction on this detail.

ii. NDC recommends that the public use the “Public Participation Kits” to submit ideas and full plans. NDC would develop the Kit for this project, and NDC will acknowledge, process, analyze and distribute these plans as they are received.

iii. At the jurisdiction's direction, NDC will hold a media briefing on the process, rules, and details of the districting process. NDC will also be available to answer any media inquiries that the jurisdiction wishes to have NDC address. The materials NDC prepares for public outreach, from the community meeting presentations to the actual maps and demographic reports, all provide useful information and guidance for the media as well.

3. Plan Consideration and Adoption

i. Based on the public input and the jurisdiction's adopted districting criteria, NDC will develop draft districting plans for consideration. All plans submitted by the public are also presented for the governing board's consideration.

ii. NDC takes pride quickly learning the demographics and communities of clients, but in just a few weeks or months it is impossible to achieve the understanding local residents develop over a lifetime in the community. In the majority of projects, NDC develops two or three draft plans and the jurisdiction directs NDC to make changes in a "preferred plan" prior to making an official selection. NDC encourages such feedback and direction. This feedback could be, at the jurisdiction's option, expanded to include an additional public hearing or hearing(s) prior to final consideration by the jurisdiction. This exchange of proposals and directions creates the important transition from NDC's consultant-drawn proposal to a final plan that is the creation of the local community.

4. Plan Implementation

Once a plan receives final approval from the elected board, a highly technical and complicated County process remains before the plans are fully implemented. NDC will work with staff and the County Registrar of Voters to ensure that the new plan is efficiently and accurately conveyed to the Registrar in the appropriate computer file format. NDC also works with the Registrar to confirm that the plan is fully and accurately implemented in the County's election and voter information systems.

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Employment

President, National Demographics Corporation, 2006 – present.
Senior Analyst, National Demographics Corporation, 2001 – 2006.
Fellow, Rose Institute of State and Local Government, 2001 – present.
Project Manager and Senior Manager at three internet startup companies, 1999 - 2001.
U.S. Representative Stephen Horn, Legislative Director and System Manager. 1993 – 1997.
Coro Foundation, Fellowship in Public Affairs. 1992 – 1993.
Rose Institute for State and Local Government, Student Manager. 1989 – 1992.

Education

Claremont Graduate University, Ph.D. in Political Science candidate, ongoing.
UCLA Anderson Graduate School of Management, MBA, 1999.
Claremont McKenna College, BA in Government (Political Science), 1992.

Academic Honors

Graduated Cum Laude from Claremont McKenna College.
Phi Beta Kappa. Philip Roland Prize for Excellence in Public Policy.

Publications and Articles

Christian Science Monitor "Let the public help draw voting districts," October 25, 2013.
New York Times, "The Case for Open Primaries," February 19, 2009.
Los Angeles Times Opinion Articles:
 "A neighbor's help on redistricting" June 24, 2007.
 "A Trojan horse primary for the GOP" February 25, 2007.
 "Where a porn palace stood" (article on redevelopment), July 30, 2006.
Fresno Bee Opinion Article: "The Poison Handshake" June 15, 2004.
Redistricting in America. Rose Institute of State and Local Government, 2010.
Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77. Rose Institute of State and Local Government, 2005.
"Competitive Districts in California" Rose Institute of State and Local Government, 2005.
Latinos and Redistricting: "Californios For Fair Representation" and California Redistricting in the 1980s. Rose Institute of State and Local Government, 1991.

Speaker or Panelist

National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007 Spring Forum, "The Arizona Independent Redistricting Commissions' experiences with the first-ever independent redistricting."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008 Spring Forum, "Communities of Interest In Redistricting: A Practical Guide."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009 Fall Forum, "The Key to Successful Redistricting."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010 Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)."
National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011 Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."
Luncheon Keynote Speaker, Santa Barbara's Channel Cities Club, "California's next experiment: independent, public redistricting," January 18, 2011.

Douglas Mark Johnson

Annual Conference, Arizona League of Cities and Towns, Presenter at "Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011," August 25, 2010.

Redistricting, The 2010 Census, and Your Budget, Sponsored by the Rose Institute of State and Local Government, California League of Cities, October 15, 2009.

Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010

California's New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009

Tribal Association of Sovereign Indian Nations (TASIN) Legislative Day 2009, "The 2010 Census and 2011 Redistricting in California," December 2, 2009.

California School Board Association, "Litigation Issues and the California Voting Rights Act," December 4, 2009.

California Latino School Boards Association, "Introduction to the California Voting Rights Act," August 20, 2009.

Building a National Reform Movement, Salt Lake City, Utah, 2006, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government

Texas Tech University, "A Symposium on Redistricting," May, 2006

California League of Cities, "Introduction to the California Voting Rights Act."

Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007

Classroom speaker at Pepperdine University, the University of La Verne, Pomona College and Claremont McKenna College

Racial Bloc Voting Consulting

Extensive experience with all racial bloc voting statistical methods: homogeneous precinct analysis, Ordinary Least Squares (OLS) regression, Weighted OLS, Seemingly Unrelated Regression (SUR) and EZI ecological inference analysis.

Attorney-client privilege bars the listing of most of NDC's specific clients, but NDC has performed racial bloc voting analysis for clients of the following law firms:

Law firm of Nielsen, Merksamer, Parrinello, Gross & Leoni:

- Compiled and analyzed data for **over 120 different jurisdictions** facing voting rights litigation;

Law firm of Lozano, Smith:

- Performed/performing analysis of racial bloc voting in 4 separate jurisdictions.

Law firm of Atkinson, Andelson, Loya, Ruud & Romo:

- Performed/performing on analysis of racial bloc voting in 3 separate jurisdictions.

Law firm of Dooley, Herr & Peltzer

- Performed racial bloc voting analysis of 7 elections in 4 different election years. Also advised attorneys on rebuttal of plaintiff's racial bloc voting analysis.

Douglas Mark Johnson

Sample list of Consulting Clients

Served as a consultant on matters involving districting or redistricting; the California and/or Federal voting rights acts; public opinion surveys; and/or public outreach for the following jurisdictions (partial list):

Counties

Kings County
Los Angeles County
Merced County
San Bernardino County
San Diego County
San Mateo County
Yuma County

Cities

Alhambra
Anaheim
Buckeye
Compton
Duarte
Elk Grove
Escondido
Firebaugh
Fowler
Glendale
Madera
Menifee
Mesa
Modesto
Moreno Valley
Oakland
Palmdale
Parlier
Pasadena
Peoria
Reedley
San Diego
Sanger
Santa Rosa
Stockton
Surprise
Tulare
Visalia
Whittier

Community College Districts

Central AZ College
Cuesta
Grossmont-Cuyamaca
Rancho Santiago
San Diego
Sierra
Southwestern

Water, Irrigation & Conservation

Districts

Alta Irrigation
Fresno Irrigation
Mojave Water
Palmdale Water
Rowland Water
San Bernardino Water
Santa Clara Valley Water
Three Valleys Municipal Water
Upper San Gabriel Valley
Western Municipal Water
Winton Water

County Offices of Education

Fresno County
San Diego County
San Joaquin County
San Luis Obispo County
Tulare County
Tuolumne County

School Districts

Alpine Union
Alpine Union Elementary
Alta Vista
Bakersfield City Schools
Bonsall Union Elementary
Borrego Springs Unified
Burton Elementary
Cajon Valley Union
Cajon Valley Union Elementary
Calistoga Joint Unified
Capistrano Unified School District
Capistrano Unified
Cardiff Elementary
Carlsbad Unified
Caruthers
Cayucas
Centinela Valley
Central Unified
Chula Vista Elementary
Chula Vista Elementary
Clay Elementary
Clovis Unified
Coalinga-Huron
Coronado Unified
Dehesa Elementary
Del Mar Union Elementary
Dinuba Unified
Eastern Sierra Unified
Elk Grove Unified
Encinitas Union Elementary
Escalon Unified
Escondido Union Elementary
Escondido Union High
Exeter Elementary
Exeter High
Exeter Unified
Fallbrook Union Elementary
Fallbrook Union High
Firebaugh-Las Deltas Unified
Fresno Unified
Greenfield
Grossmont Union High
Jamul-Dulzura Union Elementary
Julian Union Elementary
Julian Union High
Kerman Unified
Kern High
Kings Canyon Unified School District
Kings River
Kingsburg Elementary
Kingsburg High
La Mesa-Spring Valley
Lake Elsinore
Lakeside Union Elementary
Lakeside Union School
Lemon Grove Elementary
Lindsay Unified
Madera Unified

School Districts (cont.)

Merced Union High School District
Modoc Unified
Monson Soltana
Mountain Empire Unified
Napa Valley Unified
National Elementary
Oak Grove Elementary School District
Oceanside Unified
Pacific Union
Panama Buena Vista
Pasadena Unified
Pleasant View
Porterville
Poway Unified
Poway Unified
Ramona Unified
Rancho Santa Fe Elementary
Richland School District
Riverdale Unified
San Dieguito Union High
San Marcos Unified
San Pasqual Union Elementary
San Ysidro Elementary
Santee Elementary
Selma Unified
Solana Beach Elementary
South Bay Union
Spencer Valley Elementary
Strathmore Elementary
Sundale Union Elementary
Sweetwater
Tulare City Elementary
Tulare City High
Tulelake
Turlock Unified
Twin Rivers Unified
Vallecitos Elementary
Valley Center Pauma Unified
Visalia Unified
Vista Unified
Walnut Valley Water
Warner Unified
Washington Union
Whittier Union High
Woodlake Union

States

Arizona Independent Redistricting
Commission
Florida State Senate
New Jersey Redistricting Commission

Other Special Districts

Jurupa Community Service District
Las Virginies - Malibu Council of
Governments
San Gabriel Valley Association of Cities
Tulare Hospital
Westside Community Health Care District

Private Entities

Hemet Action Group
Los Angeles County Fairplex
Southern California Disposal