AGENDA ITEM NO. 3.1

STAFF REPORT
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ANDY HALL, CITY MANAGER AH

MEETING DATE: NOVEMBER 7, 2018

ORIGINATING DEPT.: CITY ATTORNEY
CITY CLERK jmk

SUBJECT: PUBLIC HEARING TO RECEIVE INPUT CONCERNING DISTRICT MAPS FOR CITY COUNCIL ELECTIONS DISTRICT BOUNDARIES, THE SEQUENCING OF ELECTIONS AND CONSIDERATION TO INTRODUCE (1ST READING) ORDINANCE NO. 2018-1178 ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FOUR COUNCIL DISTRICTS WHILE CONTINUING WITH AN ELECTIVE OFFICE OF MAYOR

EXECUTIVE SUMMARY:

On September 19, 2018, City Council adopted Resolution No. 2018-7963 declaring its intention to transition from at-large to district-based council member elections. Pursuant to Elections Code section 10010 and before drawing draft maps, the City held two public hearings within 30 days to receive public input regarding the composition of the district maps. Draft maps were prepared after the two public hearings and posted as required by law. The maps were presented at a third public hearing held on October 17, 2018. The public provided input regarding the content of the draft maps and potential sequence of elections. Revised maps have been posted as of October 31, 2018. The City Council can hold its fourth public hearing tonight on the composition of election districts and sequencing and then consider introduction of an ordinance to create such districts.

FISCAL ANALYSIS:

On September 19, 2018 City Council approved Resolution No. 2018-7964 which amended the FY 2018-19 budget to cover the costs associated with the district election process.

There is no fiscal impact associated with holding this public hearing.

RECOMMENDATION:

It is recommended the City Council:

1. Open the public hearing and receive a report from NDC, the City's demographic consultant, concerning the draft maps proposed to date and potential election sequencing for a district-based election process pursuant to Elections Code section 10010;
2. Invite members of the public to provide input on the draft maps and potential election sequencing presented;
3. Close the public hearing when there is no more input from the public and select a preferred map and set the sequence of elections; and
4. Introduce Ordinance No. 2018-1178, an Ordinance of the City of Imperial Beach, California, establishing a by-district election process in four council districts while continuing with an elective office of mayor pursuant to California Elections Code section 10010 and California Government Code sections 34871(c) and 34886 and amending Imperial Beach Municipal Code Title 2 (Administration and Personnel) to provide for City Council election districts.

OPTIONS:

- Provide direction about the draft maps, including any modifications to one or more of the proposed district maps and the potential election sequencing and introduce/conduct 1st reading of ordinance;
- Provide direction to the City Manager to take a specific action; or
- Request additional information and an additional report.

BACKGROUND/ANALYSIS:

The City received a certified letter on August 6, 2018, from Kevin Shenkman, an attorney with the law firm of Shenkman & Hughes in Malibu, California. The letter alleges that the City's at-large electoral system violates the CVRA because it dilutes the ability of Latinos (a protected class) to elect candidates of their choice or otherwise influence the outcome of Imperial Beach's City Council elections as a result of alleged racially polarized voting. The letter threatens litigation if the City declines to convert voluntarily to district-based elections for Councilmembers.

The City of Imperial Beach, with approximately 12,826 registered voters (as of October 9, 2018), currently utilizes an at-large election system in which all voters of the entire City vote for each of the four (4) Councilmembers in plurality-win elections for four-year staggered terms.

A district-based election system (or by-district election system) is one in which the city is divided into separate districts, each with one Councilmember who resides in the district and is chosen by the voters residing in that particular district to a four-year term. Candidates for election to the City Council must also be residents of the district.

The California Voters Rights Act (CVRA)

The CVRA was signed into law in 2002. The CVRA prohibits use of an at-large method of election if it impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election. The legislation was motivated, in part, by the lack of success by plaintiffs in California in lawsuits challenging at-large electoral systems brought under the Federal Voting Rights Act. The passage of the CVRA made it much easier for plaintiffs to prevail in lawsuits against public entities that elect their members to its governing body through "at-large" elections.

As a result, cities and other jurisdictions throughout the State have increasingly faced legal challenges to their "at-large" systems of electing City Council members. Almost all have settled claims out of court by essentially agreeing to shift voluntarily to district-based elections. Those few that have defended CVRA challenges in the courts have ultimately either voluntarily adopted district-based elections, settled the case by adopting district-based elections, or have been forced to adopt district-based elections by judicial decree.

CVRA Reform (AB 350), a "Safe Harbor"

On September 28, 2016, the Governor signed AB 350 into law, codified as Elections Code section 10010 (effective on January 1, 2017). The legislation provides a "safe harbor" from CVRA litigation. If a city receives a demand letter, such as that received by the City of Imperial Beach, the city is given 45 days of protection from litigation to assess its situation. If within that 45 days, a city adopts a resolution declaring the Council's intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action, then a potential plaintiff is prohibited from filing a CVRA lawsuit for an additional 90-day period. The legislation also caps a city's liability to pay attorneys' fees of the potential plaintiffs at $30,000, if the city follows AB 350. The potential plaintiff must show financial documentation that these costs were actually incurred.

At-large to District-Based Elections Transition

Pursuant to Elections Code 10010, a jurisdiction is required to hold five (5) public hearings in connection with the establishment of electoral districts. The legislation provides the community an opportunity to comment on the composition of the districts during the first two (2) public hearings before draft districting maps are prepared. Two (2) additional public hearings are held for public input regarding the draft districting maps and the proposed sequence of elections within the new districts. The final public hearing occurs in connection with the vote to finally enact an ordinance establishing district-based elections.

Status of Incumbent City Council Members

Most communities have taken a phased approach to implementing district-based elections. Generally, the terms of sitting Councilmembers are not cut short. District-based elections are phased in as terms expire.

DISCUSSION:

On September 19, 2018, the City Council adopted Resolution No. 2018-7963, outlining its intention to transition from at-large to district-based elections, specific steps it will undertake to facilitate the transition and an estimated timeframe for doing so. Pursuant to Elections Code section 10010 and prior to drafting any maps, the City held public hearings on September 25, 2018, and September 26, 2018, to receive public input regarding the composition of the district maps. Such public hearings were advertised in the newspaper, the City's website, through social media sites, and by flyers posted at various locations throughout the City. The City also provided public participation kits to allow members of the public to prepare their own maps for submittal to the City. Furthermore, the City hosted informational booths at the Farmer's Market on September 28 and October 5, 2018 and prior to the Symphony by the Sea event on October 6, 2018 to provide additional public outreach.

In addition to the public input received during the public hearings on the composition of the City's yet-to-be-formed voting districts, the following state and federally-mandated criteria will be used:

Legal Requirements:

1. Each council district shall contain a nearly equal population as required by law; and
2. Each council district shall be drawn in a manner that complies with the Federal Voting Rights Act. No council district shall be drawn with race as the predominate factor in violation of the principles established by the United States Supreme Court in *Shaw v. Reno,* 509 U.S. 630 (1993), and its progeny.

In addition to the legal criteria above, the following optional criteria may be used in the development of the districts.

Traditional Districting Principles:
(numbering is for ease of reference and does not indicate priority)

3. Each council district shall consist of contiguous territory in as compact a form as possible.
4. Each council district shall respect communities of interest, such as school- and park-connected neighborhoods, rural or urban populations, city planning areas, social interests, agricultural, industrial or service industry interests, or other locally-recognized definitions of communities and neighborhoods, insofar as practicable.
5. Each council district border shall follow visible natural and man-made geographical and topographical features follow visible natural and man-made features, including mountains, flat land, forest lands, highways, canals, etc., insofar as practicable.

6. Each council district shall respect the previous choices of voters by avoiding the creation of head-to-head contests between Council Members previously elected by the voters, insofar as this does not conflict with Federal or State Law.

The City's demographic consultant, NDC, prepared several draft district maps and sequences of elections for City Council consideration at the October 17, 2018 public hearing. Members of the public also submitted their own draft district maps and sequences of elections for City Council consideration at the October 17th meeting. NDC received ten (10) draft district maps from members of the public. All maps were posted by October 10, 2018. The draft maps and the accompanying population and demographic data were made available on the City's website www.ImperialBeachCA.gov. The City Council held its third public hearing on October 17 and received input from the public. At the close of the public hearing, the City Council determined to proceed with draft maps provided for four Council districts and an elective office of Mayor. The Council expressed particular interest in both the "NDC Blended" and "Rose 2" maps.

The Council requested that the demographer examine whether District 4 in "Rose 2" could be adjusted so that it is not so geographically small relative to the other districts, and made a general comment that it would be preferable for more districts to touch the beach, if possible. A revised map reflecting those comments, named "Rose B," was posted on October 31, 2018.

Regarding the NDC Blended map, the Council asked if it could be adjusted so that District 1 not cross Palm Avenue in the east (All four districts in NDC Blended already touch the beach and no district is significantly geographically smaller than the other districts). A revised map reflecting those comments, named "Blended B," was posted on October 31, 2018. The demographer did note some reservations about the trade-offs in "Blended B" that proved necessary to implement the requested revision, and the demographer suggests the Council consider both "Blended B" and the original "Blended" map. Each map also included a statement of the election year sequencing options.

At the City Council's November 7, 2018 meeting, which is also the fourth public hearing, the City Council will allow the public to provide input regarding the content of the draft maps and sequence of elections and possibly select a final map for adoption with a final sequence of elections. Assuming selection of such a map, the City Council is also being asked to introduce an ordinance that would incorporate the selected map and election sequence. The City is proceeding under Elections code section 10010 in order to take advantage of its "safe harbor" provision, which protects the City from litigation under the California Voting Rights Act and places a cap on the City's exposure to attorneys' fees.

At the fifth and final public hearing on December 5, 2018, the City Council may vote to consider final adoption of an ordinance establishing district-based elections.

CEQA COMPLIANCE STATEMENT:
Not a project as defined by CEQA.

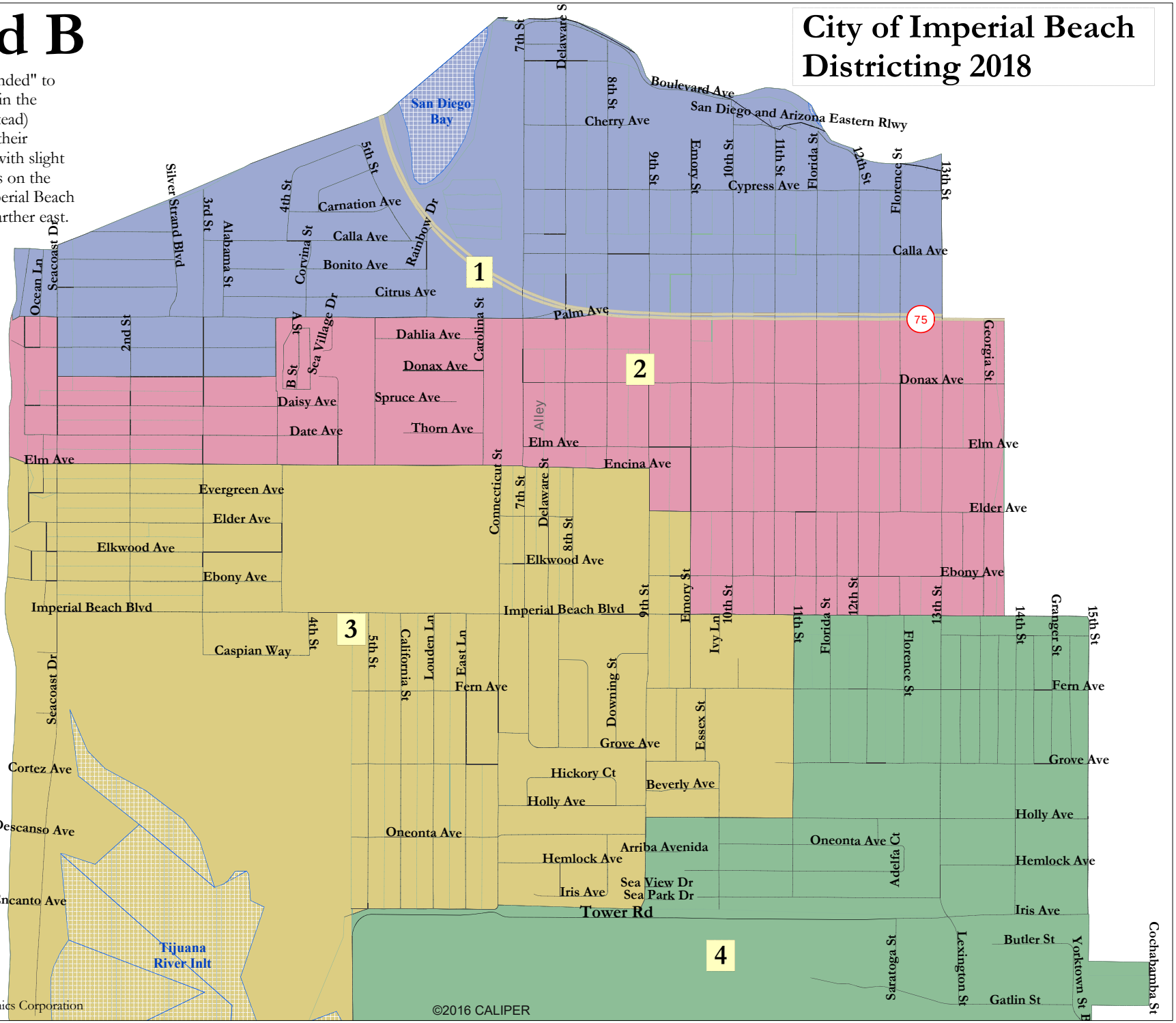
ENVIRONMENTAL DETERMINATION:
Not a project as defined by CEQA.

Attachments:
1. Draft District Maps
2. Draft Ordinance No. 2018-1178

Blended B

Changes made to "NDC Blended" to avoid having D1 cross Palm in the east (crossing in the west instead) and to adjust D2 and D3 so their border follows Encina Ave, with slight population balancing changes on the east side of 9th St above Imperial Beach Blvd. to extend D3 slightly farther east.

City of Imperial Beach Districting 2018



Proposed Election Years:
2020: 1 & 2
2022: 3 & 4

Map layers

- Blended B
- Census Block
- Water Area
- Railroad
- River
- Streets

October 30, 2018 National Demographics Corporation

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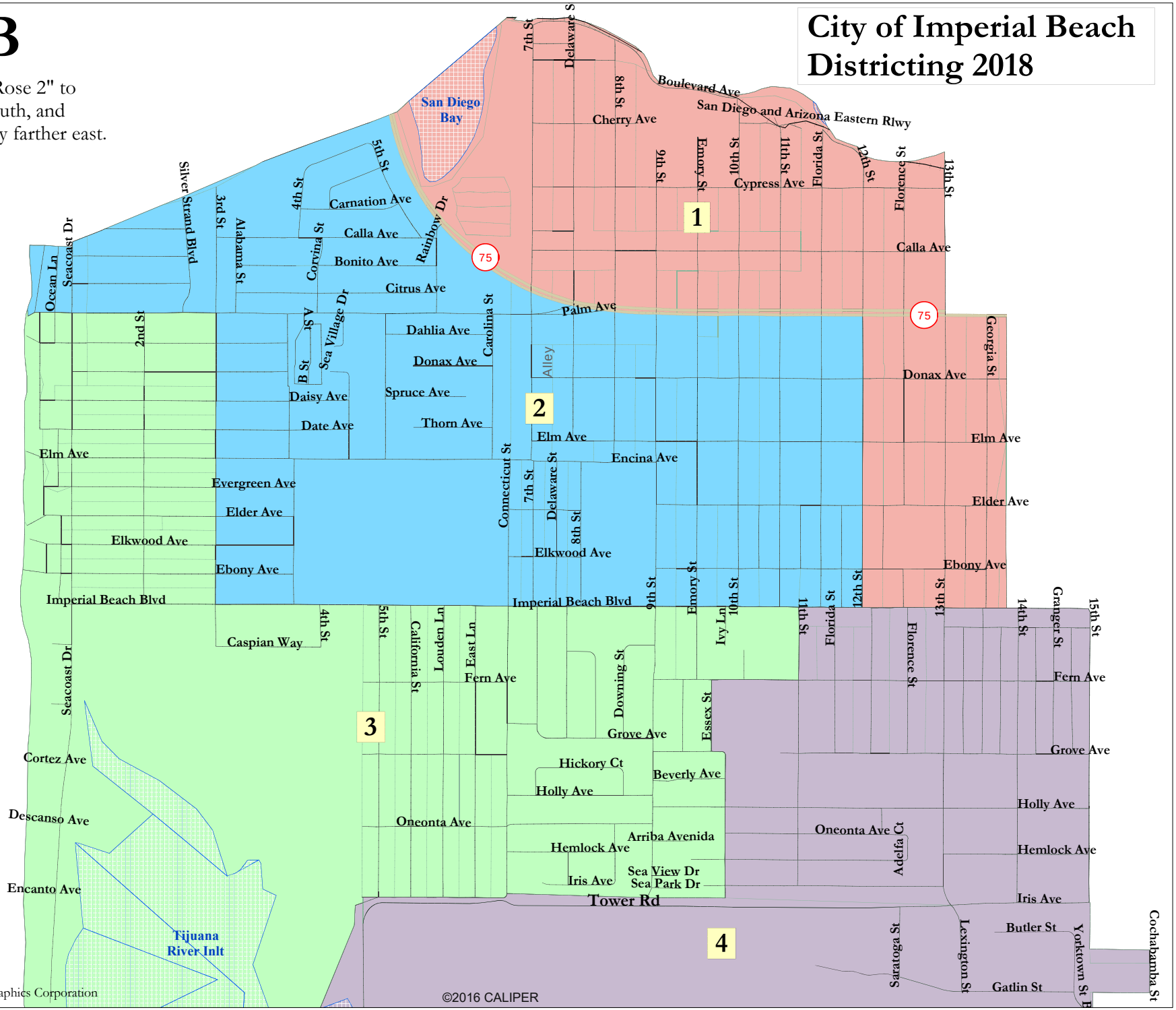
City of Imperial Beach - Blended B Balanced						
District		**1**	**2**	**3**	**4**	**Total**
Ideal	Total Pop	6,544	6,715	6,539	6,526	26,324
6,581	Deviation from ideal	-37	134	-42	-55	189
	% Deviation	-0.56%	2.04%	-0.64%	-0.84%	2.87%
Total Pop	% Hisp	51%	52%	37%	56%	49%
	% NH White	37%	35%	49%	23%	36%
	% NH Black	4%	4%	3%	7%	4%
	% Asian-American	5%	6%	8%	11%	8%
Citizen Voting Age Pop	Total	4,245	5,083	4,083	3,937	17,347
	% Hisp	47%	42%	26%	52%	41%
	% NH White	41%	44%	59%	30%	44%
	% NH Black	5%	6%	3%	7%	5%
	% Asian/Pac.Isl.	6%	7%	10%	11%	8%
Voter Registration (Nov 2016)	Total	2,854	3,134	3,473	2,697	12,159
	% Latino est.	44%	45%	31%	54%	43%
	% Spanish-Surnamed	39%	40%	28%	48%	38%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	2%	2%
	% NH White est.	47%	46%	63%	35%	49%
	% NH Black	6%	6%	3%	6%	5%
Voter Turnout (Nov 2016)	Total	2,073	2,264	2,640	1,791	8,769
	% Latino est.	40%	43%	29%	52%	40%
	% Spanish-Surnamed	36%	39%	26%	47%	36%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	3%	2%
	% NH White est.	51%	48%	65%	37%	51%
	% NH Black	6%	6%	3%	5%	5%
Voter Turnout (Nov 2014)	Total	1,051	1,147	1,567	688	4,453
	% Latino est.	30%	32%	20%	42%	29%
	% Spanish-Surnamed	27%	29%	18%	38%	26%
	% Asian-Surnamed	1%	0%	0%	1%	1%
	% Filipino-Surnamed	1%	2%	2%	5%	2%
	% NH White est.	65%	61%	76%	45%	65%
	% NH Black est.	3%	4%	1%	8%	4%
ACS Pop. Est.	Total	6,848	6,802	6,514	7,017	27,181
Age	age0-19	29%	28%	25%	31%	28%
	age20-60	57%	56%	56%	58%	57%
	age60plus	14%	15%	19%	11%	15%
Immigration	immigrants	21%	21%	20%	24%	22%
	naturalized	54%	46%	41%	40%	45%
Language spoken at home	english	48%	55%	62%	42%	52%
	spanish	45%	36%	28%	50%	40%
	asian-lang	6%	7%	9%	7%	7%
	other lang	1%	2%	1%	1%	1%
Language Fluency	Speaks Eng. "Less than Very Well"	16%	15%	13%	19%	16%
Education (among those age 25+)	hs-grad	62%	65%	65%	66%	64%
	bachelor	12%	12%	12%	9%	11%
	graduatedegree	5%	6%	10%	2%	6%
Child in Household	child-under18	31%	30%	25%	43%	32%
Pct of Pop. Age 16+	employed	59%	52%	48%	53%	53%
Household Income	income 0-25k	23%	22%	21%	25%	23%
	income 25-50k	33%	28%	25%	34%	30%
	income 50-75k	21%	19%	15%	22%	19%
	income 75-200k	18%	28%	36%	19%	26%
	income 200k-plus	4%	2%	2%	1%	3%
Housing Stats	single family	53%	58%	65%	52%	57%
	multi-family	47%	42%	35%	48%	43%
	rented	72%	68%	59%	80%	69%
	owned	28%	32%	41%	20%	31%
Total population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.						

Rose B

Changes made to "Rose 2" to extend D4 to the south, and to extend D3 slightly farther east.

City of Imperial Beach Districting 2018



Proposed Election Years:
2020: 2 & 4
2022: 1 & 3

Map layers

- Rose B
- Census Block
- Water Area
- Railroad
- River
- Streets

October 30, 2018 National Demographics Corporation

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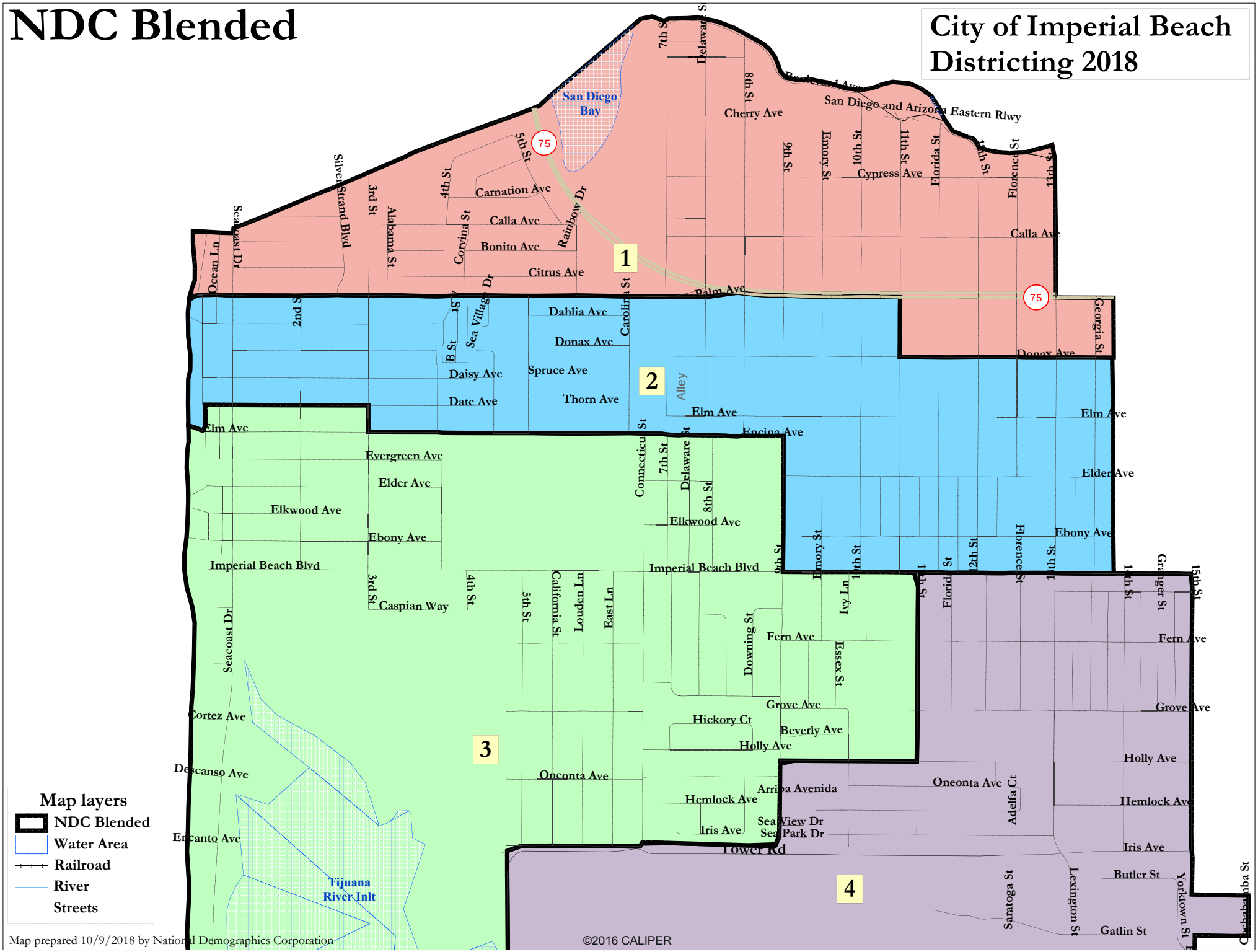
City of Imperial Beach - Rose B Balanced						
District		**1**	**2**	**3**	**4**	**Total**
Ideal	Total Pop	6,496	6,736	6,600	6,492	26,324
6,581	Deviation from ideal	-85	155	19	-89	244
	% Deviation	-1.29%	2.36%	0.29%	-1.35%	3.71%
Total Pop	% Hisp	60%	45%	35%	57%	49%
	% NH White	27%	42%	52%	22%	36%
	% NH Black	5%	3%	3%	7%	4%
	% Asian-American	5%	8%	7%	11%	8%
Citizen Voting Age Pop	Total	3,921	4,982	4,571	3,875	17,347
	% Hisp	54%	39%	24%	52%	41%
	% NH White	30%	49%	62%	28%	44%
	% NH Black	8%	5%	2%	7%	5%
	% Asian/Pac.Isl.	6%	6%	9%	11%	8%
Voter Registration (Nov 2016)	Total	2,550	3,557	3,390	2,661	12,159
	% Latino est.	56%	37%	29%	55%	43%
	% Spanish-Surnamed	50%	33%	26%	49%	38%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	2%	2%
	% NH White est.	33%	55%	65%	34%	49%
	% NH Black	8%	4%	2%	6%	5%
Voter Turnout (Nov 2016)	Total	1,751	2,674	2,583	1,761	8,769
	% Latino est.	54%	35%	27%	53%	40%
	% Spanish-Surnamed	49%	31%	24%	48%	36%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	3%	2%
	% NH White est.	34%	57%	68%	36%	51%
	% NH Black	8%	4%	2%	6%	5%
Voter Turnout (Nov 2014)	Total	740	1,526	1,530	657	4,453
	% Latino est.	44%	26%	18%	44%	29%
	% Spanish-Surnamed	39%	23%	16%	39%	26%
	% Asian-Surnamed	1%	1%	0%	1%	1%
	% Filipino-Surnamed	2%	2%	1%	5%	2%
	% NH White est.	47%	69%	78%	43%	65%
	% NH Black est.	7%	2%	2%	8%	4%
ACS Pop. Est.	Total	6,872	6,862	6,466	6,980	27,181
Age	age0-19	33%	26%	24%	31%	28%
	age20-60	57%	56%	56%	58%	57%
	age60plus	11%	18%	20%	11%	15%
Immigration	immigrants	24%	19%	18%	24%	22%
	naturalized	51%	46%	44%	40%	45%
Language spoken at home	english	41%	60%	65%	42%	52%
	spanish	51%	31%	26%	50%	40%
	asian-lang	6%	7%	8%	7%	7%
	other lang	1%	2%	1%	1%	1%
Language Fluency	Speaks Eng. "Less than Very Well"	20%	13%	12%	19%	16%
Education (among those age 25+)	hs-grad	62%	64%	66%	66%	64%
	bachelor	10%	14%	12%	9%	11%
	graduatedegree	2%	7%	10%	2%	6%
Child in Household	child-under18	36%	27%	23%	43%	32%
Pct of Pop. Age 16+	employed	60%	52%	48%	53%	53%
Household Income	income 0-25k	25%	23%	20%	25%	23%
	income 25-50k	34%	27%	26%	34%	30%
	income 50-75k	23%	17%	16%	22%	19%
	income 75-200k	16%	29%	36%	19%	26%
	income 200k-plus	2%	5%	2%	1%	3%
Housing Stats	single family	46%	67%	62%	51%	57%
	multi-family	54%	33%	38%	49%	43%
	rented	81%	59%	60%	80%	69%
	owned	19%	41%	40%	20%	31%
Total population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.						

NDC Blended

City of Imperial Beach Districting 2018



Map prepared 10/9/2018 by National Demographics Corporation

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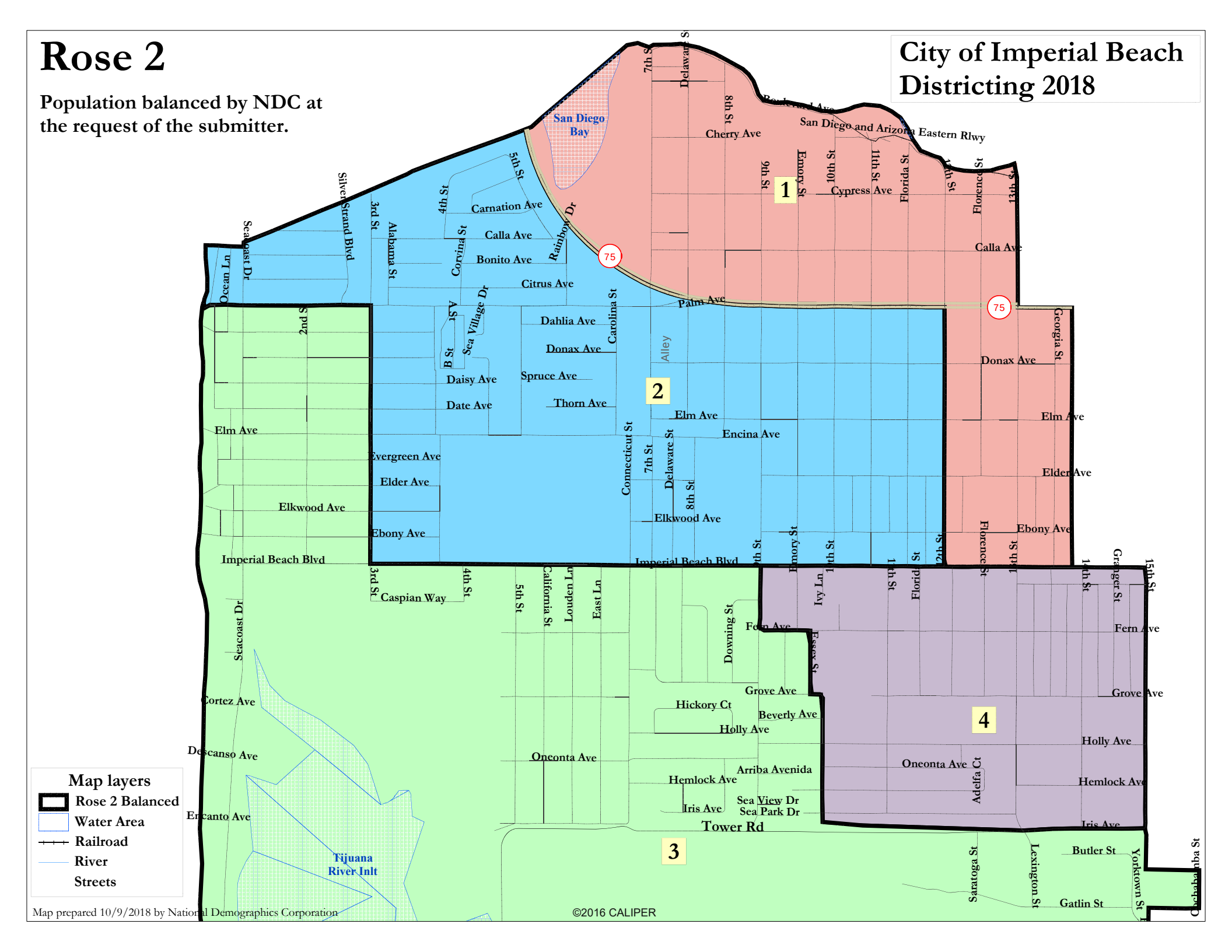
City of Imperial Beach - NDC Blended						
District		**1**	**2**	**3**	**4**	**Total**
Ideal	Total Pop	6,597	6,575	6,626	6,526	26,324
6,581	Deviation from ideal	16	-6	45	-55	100
	% Deviation	0.24%	-0.09%	0.68%	-0.84%	1.52%
Total Pop	% Hisp	53%	51%	36%	56%	49%
	% NH White	34%	37%	49%	23%	36%
	% NH Black	4%	4%	3%	7%	4%
	% Asian-American	6%	6%	8%	11%	8%
Citizen Voting Age Pop	Total	4,310	4,877	4,223	3,937	17,347
	% Hisp	50%	40%	25%	52%	41%
	% NH White	36%	48%	59%	30%	44%
	% NH Black	6%	5%	3%	7%	5%
	% Asian/Pac.Isl.	7%	5%	10%	11%	8%
Voter Registration (Nov 2016)	Total	2,837	3,114	3,510	2,697	12,159
	% Latino est.	47%	43%	31%	54%	43%
	% Spanish-Surnamed	42%	39%	28%	48%	38%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	2%	2%
	% NH White est.	44%	49%	63%	35%	49%
	% NH Black	6%	5%	3%	6%	5%
Voter Turnout (Nov 2016)	Total	2,040	2,273	2,665	1,791	8,769
	% Latino est.	43%	41%	29%	52%	40%
	% Spanish-Surnamed	39%	37%	26%	47%	36%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	3%	2%
	% NH White est.	47%	51%	66%	37%	51%
	% NH Black	6%	5%	3%	5%	5%
Voter Turnout (Nov 2014)	Total	1,005	1,158	1,602	688	4,453
	% Latino est.	32%	31%	20%	42%	29%
	% Spanish-Surnamed	29%	28%	18%	38%	26%
	% Asian-Surnamed	1%	0%	0%	1%	1%
	% Filipino-Surnamed	1%	2%	2%	5%	2%
	% NH White est.	61%	63%	77%	45%	65%
	% NH Black est.	4%	4%	1%	8%	4%
ACS Pop. Est.	Total	6,987	6,604	6,573	7,017	27,181
Age	age0-19	30%	28%	25%	31%	28%
	age20-60	57%	56%	56%	58%	57%
	age60plus	13%	16%	20%	11%	15%
Immigration	immigrants	22%	20%	20%	24%	22%
	naturalized	54%	45%	42%	40%	45%
Language spoken at home	english	45%	58%	63%	42%	52%
	spanish	48%	33%	27%	50%	40%
	asian-lang	6%	7%	8%	7%	7%
	other lang	1%	2%	1%	1%	1%
Language Fluency	Speaks Eng. "Less than Very Well"	18%	14%	13%	19%	16%
Education (among those age 25+)	hs-grad	61%	65%	65%	66%	64%
	bachelor	12%	12%	12%	9%	11%
	graduatedegree	4%	6%	10%	2%	6%
Child in Household	child-under18	32%	29%	24%	43%	32%
Pct of Pop. Age 16+	employed	60%	51%	48%	53%	53%
Household Income	income 0-25k	24%	22%	21%	25%	23%
	income 25-50k	34%	27%	25%	34%	30%
	income 50-75k	22%	18%	15%	22%	19%
	income 75-200k	16%	30%	36%	19%	26%
	income 200k-plus	4%	2%	2%	1%	3%
Housing Stats	single family	52%	59%	64%	52%	57%
	multi-family	48%	41%	36%	48%	43%
	rented	74%	67%	59%	80%	69%
	owned	26%	33%	41%	20%	31%
Total population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.						

Rose 2

Population balanced by NDC at the request of the submitter.

City of Imperial Beach Districting 2018



City of Imperial Beach - Rose 2 Balanced						
District		**1**	**2**	**3**	**4**	**Total**
Ideal	Total Pop	6,496	6,736	6,484	6,608	26,324
6,581	Deviation from ideal	-85	155	-97	27	252
	% Deviation	-1.29%	2.36%	-1.47%	0.41%	3.83%
Total Pop	% Hisp	60%	45%	34%	57%	49%
	% NH White	27%	42%	52%	23%	36%
	% NH Black	5%	3%	4%	5%	4%
	% Asian-American	5%	8%	6%	11%	8%
Citizen Voting Age Pop	Total	3,921	4,982	4,519	3,926	17,347
	% Hisp	54%	39%	25%	51%	41%
	% NH White	30%	49%	61%	30%	44%
	% NH Black	8%	5%	4%	5%	5%
	% Asian/Pac.Isl.	6%	6%	8%	12%	8%
Voter Registration (Nov 2016)	Total	2,550	3,557	3,303	2,748	12,159
	% Latino est.	56%	37%	29%	55%	43%
	% Spanish-Surnamed	50%	33%	26%	49%	38%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	2%	2%
	% NH White est.	33%	55%	64%	37%	49%
	% NH Black	8%	4%	2%	6%	5%
Voter Turnout (Nov 2016)	Total	1,751	2,674	2,510	1,834	8,769
	% Latino est.	54%	35%	26%	53%	40%
	% Spanish-Surnamed	49%	31%	23%	48%	36%
	% Asian-Surnamed	1%	1%	1%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	2%	2%
	% NH White est.	34%	57%	67%	38%	51%
	% NH Black	8%	4%	2%	6%	5%
Voter Turnout (Nov 2014)	Total	740	1,526	1,455	732	4,453
	% Latino est.	44%	26%	17%	43%	29%
	% Spanish-Surnamed	39%	23%	15%	39%	26%
	% Asian-Surnamed	1%	1%	0%	1%	1%
	% Filipino-Surnamed	2%	2%	2%	4%	2%
	% NH White est.	47%	69%	79%	45%	65%
	% NH Black est.	7%	2%	2%	7%	4%
ACS Pop. Est.	Total	6,872	6,862	6,253	7,193	27,181
Age	age0-19	33%	26%	23%	31%	28%
	age20-60	57%	56%	56%	58%	57%
	age60plus	11%	18%	20%	11%	15%
Immigration	immigrants	24%	19%	17%	26%	22%
	naturalized	51%	46%	46%	39%	45%
Language spoken at home	english	41%	60%	67%	40%	52%
	spanish	51%	31%	24%	51%	40%
	asian-lang	6%	7%	7%	8%	7%
	other lang	1%	2%	1%	1%	1%
Language Fluency	Speaks Eng. "Less than Very Well"	20%	13%	10%	20%	16%
Education (among those age 25+)	hs-grad	62%	64%	66%	65%	64%
	bachelor	10%	14%	12%	10%	11%
	graduatedegree	2%	7%	11%	2%	6%
Child in Household	child-under18	36%	27%	22%	42%	32%
Pct of Pop. Age 16+	employed	60%	52%	47%	54%	53%
Household Income	income 0-25k	25%	23%	19%	25%	23%
	income 25-50k	34%	27%	27%	33%	30%
	income 50-75k	23%	17%	16%	21%	19%
	income 75-200k	16%	29%	36%	21%	26%
	income 200k-plus	2%	5%	2%	1%	3%
Housing Stats	single family	46%	67%	60%	55%	57%
	multi-family	54%	33%	40%	45%	43%
	rented	81%	59%	61%	77%	69%
	owned	19%	41%	39%	23%	31%
Total population data from the 2010 Decennial Census.						
Surname-based Voter Registration and Turnout data from the California Statewide Database.						
Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.						

ATTACHMENT 2

ORDINANCE NO. 2018-1178

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FOUR COUNCIL DISTRICTS WHILE CONTINUING WITH AN ELECTIVE OFFICE OF MAYOR PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10010 AND CALIFORNIA GOVERNMENT CODE SECTIONS 34871(C) AND 34886 AND AMENDING IMPERIAL BEACH MUNICIPAL CODE TITLE 2 (ADMINISTRATION AND PERSONNEL) TO PROVIDE FOR CITY COUNCIL ELECTION DISTRICTS

WHEREAS, the City of Imperial Beach currently elects its four City Councilmembers using an at-large election system, and the Mayor is directly elected using an at-large election system; and

WHEREAS, in the at-large election system, candidates may reside in any part of the City and each City Councilmember is elected by the voters of the entire City; and

WHEREAS, the City's current electoral system observes the guarantees of Section 7 of Article I and Section 2 of Article II of the California Constitution, the Equal Protection Clause of the United States Constitution, and the federal Voting Rights Act; and

WHEREAS, in a by-district election system, a candidate for City Council must reside in the district which he or she wishes to represent, and only the voters of that district are entitled to vote to decide who their representative will be; and

WHEREAS, on August 6, 2018, the City received a letter from an attorney, Kevin Shenkman, asserting the City's at-large electoral system violated the California Voting Rights Act and threatening litigation if the City declined to adopt by-district elections; and

WHEREAS, the letter did not contain any evidence of a violation, but the cost of defending against a claim under the California Voting Rights Act is extremely high, even if the City is successful, and at this time such an expensive defense would severely burden the City's budget and curtail the City's ability to provide needed services to its residents; and

WHEREAS, under the provisions of California Government Code sections 34870-34884, a proposal to adopt a by-district method of election in a general law city must ordinarily be submitted to the voters of the city; and

WHEREAS, California Government Code section 34886 permits the City Council, to change the City's method of election by ordinance, with certain formalities, to a "by-district" system; and

WHEREAS, California Government Code section 34886, as amended effective January 1, 2017, provides:

> Notwithstanding Section 34871 or any other law, the legislative body of a city may adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor, as

> described in subdivisions (a) and (c) of Section 34871, without being required to submit the ordinance to the voters for approval. An ordinance adopted pursuant to this section shall include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code); and

WHEREAS, California Government Code section 34871(c) provides for the election of members of the legislative body of a city by districts in four districts, with a separately elected mayor; and

WHEREAS, the City wishes to avoid litigation and take advantage of the provisions of Government Code section 34886, and therefore, pursuant to California Government Code section 34886, it is declared that the change in the method of electing members of the City Council of the City Imperial Beach made by this Ordinance also implements the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Elections Code section 14031 of the California Voting Rights Act, and

WHEREAS, at its regular meeting on September 19, 2018, the City Council adopted a resolution of intent to establish a by-district voting process pursuant to Elections Code section 10010, Resolution No. 2018-7963; and

WHEREAS, under the provisions of California Elections Code section 10010, a political subdivision that changes from an at-large method of election to a by-district method of election shall hold at least two public hearings over a period of no more than thirty days, at which the public is invited to provide input regarding the composition of the districts before drawing a draft map or maps of the proposed boundaries of the districts; and

WHEREAS, before any maps of the proposed boundaries of the districts were considered, the City held public hearings on September 25, 2018, and September 26, 2018, at which time input from the public on the proposed composition of the districts was invited and heard; and

WHEREAS, on October 10, 2018, consistent with the provisions of California Elections Code section 10010, the City published and made available for public review, 13 draft maps for consideration by the Council, three of which were prepared by the City's demographic consultant, and the rest of which were submitted by members of the public; and

WHEREAS, as required by California Elections Code section 10010, the City held a third public hearing on October 17, 2018, at which the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

WHEREAS, after the close of the public hearing on October 17, 2018 the City Council provided instruction to the City's demographic consultant about revisions to draft

maps, which had been submitted by the City's demographer and members of the public; and

WHEREAS, the revised maps were published and made available for public review on October 31, 2018; and

WHEREAS, as required by California Elections Code section 10010, the City held a fourth public hearing on November 7, 2018, at which the public was again invited to provide input regarding the content of the draft maps and the potential sequence of elections; and

WHEREAS, as required by California Elections Code section 10010, the City held a fifth public hearing on December 5, 2018, at which the public was again invited to provide input prior to the City Council's consideration to adopt the ordinance creating district elections; and

WHEREAS, it is the view of the City Council that map _____, attached hereto as Exhibit A, will serve the best interests of the City of Imperial Beach; and

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for the election of the members of the City Council of the City of Imperial Beach by-district in four (4) single-member districts and continue to have a separately elected office of Mayor.

NOW, THEREFORE, the City Council of the City of Imperial Beach, California, does ordain as follows**:**

Section 1: The above-listed recitals are true and correct, have served as a basis for the findings, and are a substantive part of this Ordinance.

Section 2: Pursuant to California Government Code section 34886, it is declared that the change in the method of electing members of the City Council of the City Imperial Beach made by this Ordinance also implements the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Elections Code section 14031 of the California Voting Rights Act.

Section 3: The City of Imperial Beach is hereby divided into four (4) Council districts with the boundaries of the districts as shown in Exhibit A, which is attached hereto and incorporated by this reference.

Section 4: Chapter 2.14 "City Council By-District Electoral System" is hereby added to Title 2 "Administration and Personnel" of the Imperial Beach Municipal Code to read as follows:

"Chapter 2.14 City Council By-District Electoral System

2.14.010. By-District Electoral System.

Pursuant to California Government Code section 34886 and the schedule established in Section 2.14.030 of this Chapter, commencing with the November 2020 general municipal election, the members of the Imperial Beach City Council shall be elected by-districts in four (4) single-member districts. The Mayor shall be separately elected on a City-wide basis. Each Councilmember shall serve a term of four years. The Mayor shall serve a term of four years. The City's by-district electoral system shall be conducted in accordance with California Government Code section 34871(c).

2.14.020. Establishment of City Council Electoral Districts.

A. Pursuant to Section 2.14.010 of this Chapter and beginning with the general municipal election in November 2020, members of the City Council shall be elected on a by-district basis as that term is defined in California Government Code section 34871(c), from the four (4) Council districts as established and amended from time to time by ordinance, and numerically designated as District 1, District 2, District 3, and District 4.

B. One member of the City Council shall be elected from each electoral district established by this Section and subsequently reapportioned pursuant to applicable State and federal law, by the voters of that district alone, except for the Mayor, who shall be elected City-wide. In accordance with section 2.14.010, each Councilmember shall serve a four-year term until his or her successor has qualified.

C. Except as provided in subdivision (D) hereof, the Councilmember elected to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must live, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued, pursuant to California Government Code section 34882 and Elections Code section 10227. Termination of residency in a district by a Councilmember shall create an immediate vacancy for that Council district unless a substitute residence within the district is established within thirty (30) days after the termination of residency.

D. Notwithstanding any other provision of this section, each of the Councilmembers in office at the time this Chapter takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is qualified. Vacancies in Councilmember offices elected at-large may be filled from the City at-large. At the end of the term of each Councilmember, excluding the separate office of Mayor, that member's successor shall be elected on a by-district basis in the districts established in Subsection A and as subsequently reapportioned as provided by law. A vacancy in a Councilmember office elected by-district

shall be filled by a person qualified to hold the office, who is a resident of the district.

E. Nothing in this section shall affect the election of the Mayor, who shall remain elected on a City-wide basis in accordance with Government Code sections 34871(c) and 34900 *et seq.*

2.14.030. Election Schedule for Councilmembers Elected By-District.

A. Consistent with Sections 2.14.010 and 2.14.020, Councilmembers from Council Districts ___ and ___ shall be elected beginning at the General Municipal Election in November 2020, and every four years thereafter, as such Council Districts shall be amended.

B. Consistent with Sections 2.24.010 and 2.14.020, the Councilmembers from Council Districts ___ and ___ shall be elected beginning at the General Municipal Election in November 2022, and every four years thereafter, as such Council Districts shall be amended.

D. The election schedule for the Mayor is not affected by this Section.

2.14.040 Map of Council Districts

The City Clerk shall maintain a map of the City showing the current boundaries and numbers of each city council district as they are established and may be amended from time to time by ordinance of the City Council.

Section 5: IMPLEMENTATION

If necessary to facilitate the implementation of this Ordinance, the City Manager or his or her designee is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Manager shall consult with the City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

Section 6: ENVIRONMENTAL REVIEW

The City Council finds that the proposed amendments to the Imperial Beach Municipal Code are exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) in that it is not a project which has the potential for causing a significant effect on the environment.

Section 7: SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Imperial Beach hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Section 8: INCONSISTENCIES

To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

Section 9: INTERPRETATION

In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its stated purposes.

Section 10: CVRA

If the California Voting Rights Act, Elections Code sections 14025 through 14032, as it now exists or may hereafter be amended, is repealed, or declared by a court of competent jurisdiction to be facially unconstitutional, in whole or in part, or unconstitutional, in whole or in part, as applied to the City of Imperial Beach, or is amended such that its provisions no longer apply to the City of Imperial Beach, the City Council reserves its right to review, amend or repeal this Ordinance. In the event this Ordinance is repealed, the incumbent Councilmembers elected pursuant to the provisions of this Ordinance shall complete their terms of office until their successors are qualified, and their successors shall be elected at-large in the order in which the terms of the then-incumbent Councilmembers expire and in accordance with all other provisions of law, until such time as the voters of the City of Imperial Beach shall approve a different method of election for City Councilmembers in accordance with Government Code section 34871, *et seq.*

EFFECTIVE DATE: This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Imperial Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code section 36933.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California on the 7th day of November 2018; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Imperial Beach, California on the 5th day of December, 2018, by the following vote:

AYES: Councilmembers –

NOES: Councilmembers –

ABSTAIN: Councilmembers –

ABSENT: Councilmembers –

_____
Serge Dedina, Mayor

ATTEST:

_____
Jacqueline Kelly, City Clerk

APPROVED AS TO FORM:

_____
Jennifer M. Lyon, City Attorney

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be an exact copy of Ordinance No. 2018-____, "AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF IMPERIAL BEACH, CALIFORNIA, ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FOUR COUNCIL DISTRICTS WHILE CONTINUING WITH AN ELECTIVE OFFICE OF MAYOR PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10010 AND CALIFORNIA GOVERNMENT CODE SECTIONS 34871(C) AND 34886 AND AMENDING IMPERIAL BEACH MUNICIPAL CODE TITLE 2 (ADMINISTRATION AND PERSONNEL) TO PROVIDE FOR CITY COUNCIL ELECTION DISTRICTS"

_____ _____
JACQUELINE KELLY, CITY CLERK DATE

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