

DRAFT 8/17/2022

*Jan*

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF SUNNYVALE APPOINTING LINDA SELL TO THE  
CITY COUNCIL TO REPRESENT COUNCIL DISTRICT 1  
FOR A FULL-TERM OF FOUR YEARS BEGINNING IN 2023  
IN LIEU OF AN ELECTION; AND CANCELLING THE  
NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION  
FOR CITY COUNCILMEMBER COUNCIL DISTRICT 1,  
PURSUANT TO CALIFORNIA ELECTIONS CODE  
SECTION 10229**

WHEREAS on June 7, 2022, the City Council adopted Resolution No. 1120-22, calling and giving notice of the holding of a general municipal election for the purpose of electing one person each from Council Districts 1, 3, and 5 to the City Council of the City of Sunnyvale for full four-year terms; and

WHEREAS, as of the close of the nomination period on Friday, August 12, 2022, only one person filed nomination papers to run for the office of City Councilmember representing District 1; and

WHEREAS, Section 10229 of the California Elections Code allows the City Council to take one of the following courses of action when only one person has filed nomination papers for an office: (1) Appoint to the office the person who has been nominated, or (2) hold the election if either no one or only one person has been nominated.

WHEREAS, pursuant to Section 10229 of the California Elections Code, a notice, (Proof of Publication), herein attached and incorporated by reference as Exhibit "A", was published on August 17, 2022, in the San Jose Mercury News, certifying these facts and the options available to the City Council; and

WHEREAS, pursuant to Section 10229 of the California Elections Code, if by the 75th day before the scheduled General Municipal Election (August 25, 2022), no person has been appointed to this office pursuant to (1) above, the election for Council District 1 is required to be held along with all other elective offices on the ballot. If an appointment is made to this office, the General Municipal Election for Council District 1 must be cancelled, but the General Municipal Election will be held for all other elective offices on the ballot; and

WHEREAS, if the City Council makes an appointment pursuant to Section 10229 of the California Elections Code, the City Clerk/Elections Official shall not accept for filing any statement of write-in candidacy for City Councilmember from Council District No. 1 which is submitted after the appointment is made; and

WHEREAS, cancelling the uncontested election for Council District 1 will save the City the unnecessary costs of holding that uncontested election; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUNNYVALE THAT:

1. That the above recitals are true and correct.
2. Pursuant to Section 10229 of the California Elections Code, the following action is taken:

The following person is appointed to the office to which she was nominated, and is considered to be the same as being elected, pursuant to Section 10229(a) of the California Elections Code:

<u>Name</u>	<u>Office</u>	<u>Term</u>
Linda Sell	City Councilmember Council District 1	Full-Term of four years

3. Pursuant to Elections Code Section 10229, the General Municipal Election scheduled to be held on Tuesday, November 8, 2022, to elect a candidate for City Council Member from Council District 1 is hereby cancelled because only one person is nominated to be elected in that District, and the City Council has made the above appointment. The General Municipal Election shall still be held to elect candidates for City Council Member from Council Districts 3 and 5.

SECTION 4. The person appointed shall qualify and take office and serve exactly as if elected at the General Municipal Election for the office.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Resolution and so notify the Santa Clara County Registrar of Voters and Board of Supervisors of the City Council's action, and is authorized to take any other administrative actions necessary to cancel the 2022 general municipal election for Council District 1.

Adopted by the City Council at a special meeting held on August 22, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
(SEAL)

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**EXHIBIT A**

**SAN JOSE MERCURY NEWS**  
**PROOF OF PUBLICATION**

NOTE: The proof of publication is on the following page.

# San Jose Mercury News

75 E. Santa Clara St , Suite 1100  
San Jose, CA 95113  
408-920-5332

2083317

CITY OF SUNNYVALE  
CITY OF SUNNYVALE  
ACCOUNT PAYABLE DEPT  
PO BOX 3707  
SUNNYVALE, CA 94088

## PROOF OF PUBLICATION IN THE CITY OF SAN JOSE IN THE STATE OF CALIFORNIA COUNTY OF SANTA CLARA

### FILE NO. Elections Code of the State of California San Jose Mercury News

The undersigned, being first duly sworn, deposes and says: That at all times hereinafter mentioned affiant was and still is a citizen of the United States, over the age of eighteen years, and not a party to or interested in the above entitled proceedings; and was at and during all said times and still is the principal clerk of the printer and publisher of the San Jose Mercury News, a newspaper of general circulation printed and published daily in the City of San Jose, County of Santa Clara, State of California as determined by the court's decree dated June 27, 1952, Case Numbers 84096 and 84097, and that said San Jose Mercury News is and was at all times herein mentioned a newspaper of general circulation as that term is defined by Sections 6000; that at all times said newspaper has been established, printed and published in the said County and State at regular intervals for more than one year preceding the first publication of the notice herein mentioned. Said decree has not been revoked, vacated or set aside.

I declare that the notice, of which the annexed is a true printed copy, has been published in each regular or entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

08/17/2022

Dated at San Jose, California  
August 17, 2022

I declare under penalty of perjury that the foregoing is true and correct.



Principal clerk of the printer and publisher of the San Jose Mercury News

Legal No.

**Attachment 1**  
**Page 5 of 5**  
0006691534

#### CITY OF SUNNYVALE NOTICE OF CITY CLERK'S CERTIFICATION THAT THERE ARE NOT MORE CANDIDATES THAN OFFICES TO BE ELECTED

NOTICE IS HEREBY GIVEN, pursuant to Section 10229 of the Elections Code of the State of California, to the following facts relating to the general municipal election to be held on Tuesday, November 8, 2022:

As of the close of the nomination period on August 12, 2022 for the election of one (1) Member of the Councilmember District No. 1 of said City for the full term of four (4) years, there are not more candidates than offices to be elected.

The person so nominated is: **Linda Sell**  
Mother / Engineer

That Section 10229 of the Elections Code allows one of the following courses of action to be taken by the City Council:

1. Appoint to the office the person who has been nominated.
2. Appoint to the office any eligible voter if no one has been nominated.
3. Hold the election if either no one or only one person has been nominated.

On August 22, 2022, the City Council will meet to either make the appointments or direct an election to be held. The persons appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office. If, by the 75th day before the municipal election, no person has been appointed to the office(s) pursuant to (1) or (2) above, the election shall be held for such office(s).

If the City Council makes an appointment pursuant to Section 10229 of the Elections Code, the City Clerk shall not accept for filing any statement of write in candidacy which is submitted after the appointment is made.

Dated: August 17, 2022  
David Carnahan  
City Clerk, City of Sunnyvale

**SJMN #6691534; August 17, 2022**