



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE CALLING A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF SUNNYVALE ON TUESDAY, NOVEMBER 6, 2018, FOR THE PURPOSE OF SUBMITTING TO CITY VOTERS A MEASURE CONCERNING AN AMENDMENT TO THE CITY CHARTER TO AMEND SECTION 604 RELATING TO COUNCIL VACANCIES; REQUESTING CONSOLIDATION WITH THE STATEWIDE GENERAL ELECTION AND ELECTION SERVICES FROM SANTA CLARA COUNTY; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND SETTING PRIORITIES FOR BALLOT ARGUMENTS

WHEREAS, on June 12, 2018, the City Council adopted Resolution No. 874-18, calling a General Municipal Election to be held in the City of Sunnyvale on November 6, 2018, and requesting election consolidation and the services of the Santa Clara County Registrar of Voters; and

WHEREAS, the City Council is interested in submitting to the voters a measure concerning a proposed amendment to the City Charter to change how to fill a vacancy when it occurs on the City Council; and

WHEREAS, the City Clerk will set the dates for submittal of arguments for and against the measure; and

WHEREAS, a City may allow for submittal of rebuttal arguments for City ballot measures if the City Council adopts a resolution which adopts the provisions of Elections Code Section 9285 concerning rebuttal arguments; and

WHEREAS, whenever two or more elections of any legislative or congressional district, public district, city, county or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, such elections may be either completely or partially consolidated pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, and Section 5342 of the Education Code; and

WHEREAS, Elections Code Section 10002 empowers the City Council to request the assistance of the County Registrar of Voters to provide election services to the City and the City Council intends to call a General Municipal Election on November 6, 2018, and for the consolidation of that election.

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

1. GENERAL ELECTION. A General Municipal Election hereby is called to be held in and for the City of Sunnyvale on Tuesday, November 6, 2018, for the purpose of submitting to the voters of the City the below-designated measure.

2. MEASURE. The City Council hereby submits to the voters of the City, at the General Municipal Election called for November 6, 2018, the following measure:

CITY OF SUNNYVALE MEASURE	
Shall Sunnyvale City Charter section 604 be amended to allow the City Council to decide whether to fill a City Council vacancy by calling a special election, or by making an appointment, with the person appointed to fill the vacancy holding the office until a successor is elected at the next regularly scheduled municipal or statewide election that can be consolidated?	YES
	NO

3. ADOPTION OF MEASURE. In the event a majority of the electors voting on the measure set forth above vote in favor thereof, Sunnyvale City Charter Section 604 shall be amended to read as set forth in Exhibit "A," attached hereto and incorporated herein, effective upon the date of filing.

4. NOTICE OF ELECTION. Notice of the time and place of holding the election is given, and the City Clerk hereby is authorized, instructed and directed to coordinate with the County of Santa Clara Registrar of Voters to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

5. CONSOLIDATION REQUEST. Pursuant to the requirements of Part 3 (Consolidation of Elections; §§10400 et seq.) of Division 10 of the Elections Code, the City Council hereby requests the governing body of any other political subdivision, or any officer otherwise authorized by law, to partially or completely consolidate such elections, and to further provide that, upon consolidation, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots opened and returned, returns canvassed, and all other proceedings in connection with the election shall be regulated and done by any body or official authorized to perform such functions and canvass the returns of the elections; and that this City Council consents to such consolidation.

6. REQUEST FOR COUNTY SERVICES. Pursuant to Section 10002 of the California Elections Code, the City Council hereby requests the Board of Supervisors of the County of Santa Clara to permit the Registrar of Voters to render services to the City of Sunnyvale relating to the conduct of Sunnyvale's General Municipal Election to be held on Tuesday, November 6, 2018. Services shall be of the type normally performed by the Registrar of Voters in assisting the clerks of municipalities in the conduct of elections including, but not limited to, those certain

services set forth in Section 4 hereof.

7. ELECTION COSTS. Subject to the approval of the Board of Supervisors of the foregoing requests, the City Clerk is hereby authorized to engage the services of the Registrar of Voters of the County of Santa Clara to aid in the conduct of the election. The City Director of Finance is authorized and directed to pay the costs of services, provided that no payment shall be made for services which the Registrar of Voters is otherwise required by law to perform.

8. BALLOT AND REBUTTAL ARGUMENTS FOR MEASURE. Primary and rebuttal arguments for the measure may be filed consistent with Elections Code Section 9282, *et seq.*

9. BALLOT ARGUMENT [IN FAVOR] OR [AGAINST] MEASURE. The Council hereby selects the following course of action regarding arguments [in favor] or [against] the measure: [*Council to select one of the following concurrent with adoption of resolution*]:

- a. Authorizes the City Council as a body to submit a written argument [in favor] or [against] the measure, and in the event an argument is filed for the measure, a rebuttal argument.
- b. Authorizes [#] member(s) of the City Council to submit a written argument [in favor] or [against] the measure: [one or more name(s)] . At [Name(s)] discretion, the argument may also be signed by other members of the City Council, bona fide associations, or individual voters who are eligible to vote on the measure. In the event that an argument is filed for the measure [Name(s)] is also authorized to submit a rebuttal argument on behalf of the City Council, which, at [Name(s)] discretion, may also be signed by members of the City Council, bona fide associations, or individual voters who are eligible to vote on the measure. Signatures on the rebuttal argument may be different from those who signed the primary argument. OR
- c. Takes no action with regard to authorizing the Council, or member or members of the Council to submit a written argument [in favor] or [against] the measure; in which case the City Clerk shall select an argument against the measure in accordance with the priority order set forth in Elections Code section 9287.

10. IMPARTIAL ANALYSIS. Pursuant to Elections Code Section 9280, the City Council hereby directs the City Attorney to prepare an impartial analysis of the measure.

11. TRANSMITTAL OF RESOLUTION. The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Registrar of Voters.

12. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15378(b)(4) and 15378(b)(5), that this resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) as it will not result in direct or indirect changes to the environment, and which do not commit the City to any specific project that may result in a potentially significant impact on the environment.

EXHIBIT "A" TO RESOLUTION NO. ____-18

PROPOSED AMENDMENT TO THE
CITY CHARTER OF THE CITY OF SUNNYVALE

The provisions of the City Charter of the City of Sunnyvale to be deleted are printed in ~~strikeout~~ type, and the new provisions to be added are printed in underscore type.

The City Charter of the City of Sunnyvale shall be amended by amending Sections 604 of Article VI (The Council) to read as follows:

Section 604. Vacancies.

(a) In addition to any other cause from which vacancies in the City Council may occur, the office of a member of the Council shall become vacant when a member:

- (1) Resigns or dies;
- (2) Is absent from all regular meetings of the Council for a period of sixty days consecutively from and after the last regular Council meeting attended by such member, unless by permission of the Council expressed in its official minutes;
- (3) Is convicted of a crime involving moral turpitude;
- (4) Ceases to be an elector of the City of Sunnyvale;
- (5) Ceases to maintain his/her principal place of residence within the City limits during such member's term of office; or
- (6) Is involuntarily removed pursuant to Article II of the Constitution of the State of California, as may be amended from time to time.

(b) In the event of a vacancy on the City Council, the Council shall officially declare the seat vacant within thirty days of the commencement of any vacancy.

(c) Within sixty days of the date the seat is officially declared vacant, the City Council shall, by affirmative vote of at least four of the remaining Councilmembers, elect to fill the vacancy by appointment or by calling an election.

(d) If the vacancy is filled by appointment, the appointee shall hold office until the next General Municipal Election or Special Municipal Election consolidated with the next statewide election, whichever occurs sooner, and a successor is elected and qualified. The Councilmember then elected shall serve for the remainder of any unexpired term, and until a successor is elected and qualified.

(e) The City Council shall adopt an ordinance establishing a public process for appointment.

(f) If the City Council elects to fill the vacancy by election or fails to fill the vacancy by appointment, it shall call an election to be held within two hundred and forty days of the date the vacancy is declared.

(g) Notwithstanding any other provision of this section, the City Council shall not make an appointment to fill a vacancy if the appointment would result in more than two of the members currently serving on the Council as appointees, and shall call a Special Municipal Election to be held within one hundred and eighty days from the date the Council declares the vacancy.

~~Except as otherwise provided herein, in the event of a vacancy in the City Council, from whatever cause arising, within thirty days of the commencement of any vacancy the City Council shall officially declare the seat vacant and call a Special Municipal Election for the purpose of filling such vacancy. In the event of a vacancy in the City Council created by the death or other involuntary removal of a member, pursuant to Article II, Section 4, of the Constitution of the State of California, where the unexpired term of the deceased or removed member does not exceed one hundred eighty days, the City Council shall, within sixty days after such office shall have been declared vacant, fill such vacancy by appointment. Should the Council fail to fill the vacancy within the sixty-day period, it shall treat such vacancy in the same manner as one created by a cause other than death or involuntary removal.~~

~~Any Special Municipal Election called to fill an unexpired term shall be held within one hundred and twenty days from the date the Council declares the vacancy to exist except that no election shall be held on the day before, day of, or day after a state holiday. The Council shall promptly declare or take the required steps to declare the existence of the vacancy. Such special election shall be consolidated with a general municipal or statewide election if a municipal or statewide election is scheduled within one hundred and eighty days from the date that the vacancy is declared. As used herein, the next general municipal or statewide election means the next such election at which it is legally possible to place the matter on the ballot and elect a successor.~~

~~Any person elected or appointed to fill a vacancy shall serve for the remainder of the unexpired term and until his/her successor is elected and qualified.~~

~~In addition to any other cause from which vacancies in the City Council may occur, the office of a member of the City Council shall become vacant and it shall be so declared by the Council where such member is absent from all regular meetings of the Council for a period of sixty days consecutively from and after that last regular Council meeting attended by such member, unless by permission of the Council expressed in its official minutes; or such member is convicted of a crime involving moral turpitude; or he/she ceases to be an elector of the City of Sunnyvale or ceases to maintain his/her principal place of residence within the City limits during his/her term of office.~~