

DRAFT 11/7/19 MCT

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SUNNYVALE CALLING A SPECIAL MUNICIPAL
ELECTION TO BE HELD IN THE CITY OF SUNNYVALE
ON TUESDAY, MARCH 3, 2020, FOR THE PURPOSE OF
SUBMITTING TO CITY VOTERS AN ORDINANCE
CONCERNING AN AMENDMENT TO ARTICLE VI OF
THE CITY CHARTER RELATING TO ELECTION OF CITY
COUNCIL MEMBERS BY DISTRICT; REQUESTING
CONSOLIDATION WITH THE STATEWIDE
PRESIDENTIAL PRIMARY ELECTION AND ELECTION
SERVICES FROM SANTA CLARA COUNTY; DIRECTING
THE CITY ATTORNEY TO PREPARE AN IMPARTIAL
ANALYSIS; AND SETTING PRIORITIES FOR BALLOT
ARGUMENTS**

WHEREAS, the City began exploring changing from the City's current at-large with numbered seats system for electing City Council members to a district-based form of elections (RTC No. 18-0776) in the fall of 2018, shortly before receiving a letter from a potential plaintiff alleging the City's current electoral system violates the California Voting Rights Act ("CVRA") because it "dilutes the voting power of Asian American voters;" and

WHEREAS, Council adopted a resolution of intent to change to district-based elections in November 2018 (Resolution No. 907-18) and adopted an amended Resolution of Intent on March 19, 2019 (Resolution No. 931-19) declaring its intent to place a charter amendment measure on the March 2020 ballot to transition to district-based elections; and

WHEREAS, following a robust community outreach effort, on June 18, 2019 (RTC No. 19-0362), the City Council voted 5-2 to direct staff to prepare a ballot measure for the March 3, 2020 election amending the City Charter to change the City's electoral system from seven at-large numbered City Council seats to six district seats and an at-large, directly-elected mayor, and return at the appropriate time to complete the steps necessary to order an election; and

WHEREAS, the City Council desires to submit to the voters at a special municipal election to be consolidated with the statewide presidential primary election held on March 3, 2020, a measure concerning proposed amendments to Article VI of the City Charter to implement City Council by-district elections and related changes to implement that change; 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 Special Municipal Election on March 3, 2020, 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 Special Municipal Election hereby is called to be held in and for the City of Sunnyvale on Tuesday, March 3, 2020, 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 March 3, 2020, the following measure:

CITY OF SUNNYVALE MEASURE	
Shall Article VI of the City of Sunnyvale Charter be amended to establish "by-district" elections for six Council members required to be residents of a district and elected only by the voters of that district, and one Mayor who will be directly elected by all City voters; change term limits to permit service on the Council for three consecutive terms but only two as Council member or Mayor; and make other conforming amendments?	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, the Charter of the City of Sunnyvale 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 Special Municipal Election to be held on Tuesday, March 3, 2020. 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 Sections 4 and 5 hereof, assignment of a ballot measure letter, printing the full text of the measure as set forth in Exhibit B in the County's Voter Information Guide (CVIG), and other matters as may be necessary for the City Clerk to coordinate under the authority provided in Section 4 of this Resolution.

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.* December 10, 2019 at 5:00 p.m. shall be the deadline for submission of arguments in favor of, and arguments against this measure on the ballot. If more than one argument for and/or against is received, the City Clerk shall give priority to the direction from the Council set forth in section 9 of this resolution, or if none, the priorities established by Elections Code Section 9287 shall control. The deadline for filing rebuttal arguments shall be December 17, 2019 at 5:00 p.m.

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 and transmit such impartial analysis to the City Clerk on or before December 17, 2019.

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. MISCELLANEOUS.

(a) In all particulars not cited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

(b) This resolution shall apply only to the election to be held on Tuesday, March 3, 2020.

13. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, that this resolution is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15320, 15378, and 15061(b)(3) because it is an organizational structure change and does not have the potential to result in either a direct or reasonable foreseeable indirect physical change in the environment.

Adopted by the City Council at a regular meeting held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor

APPROVED AS TO FORM:

City Attorney

EXHIBIT A

PROPOSED AMENDMENTS 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 Article VI (The Council) to read as follows:

Section 600. Elective Officers of the City.

- (a) The elective officers of the City shall consist of a City Council ~~composed of seven members,~~ consisting of six Council members and a Mayor.
- (b) The term "City Council," "Council," "legislative body," or other similar terms as used in this Charter or any other provision of law shall be deemed to refer to the collective body composed of the Mayor and six City Council members unless another provision of this Charter or other law expressly provides to the contrary.

Section 601. Term and Election.

- (a) Commencing with the general municipal election of November 2020, the City Council members shall be residents of their respective Districts, as established pursuant to Section 602, and nominated and elected only by the voters of their respective Districts. The Mayor shall be directly elected by the voters of the City. The elective officers shall be elected at the times and in the manner provided in this Charter. Notwithstanding any other provision of this Charter, members of the City Council in office at the time this Charter provision takes effect shall continue in office until the expiration of their respective terms.
- (b) The Mayor and Each member of the City Council shall be elected ~~from the City at large~~ at the General Municipal Election for a term of four years. The term shall commence at the first regular meeting in January, at which the City Council shall certify the election results, and shall continue until a successor is ~~elected and~~ qualified.
- (c) The offices of Mayor and each member of the Council ~~is~~ are separate elective offices to be separately filled at any election. The person receiving the highest number of all the votes cast for a particular elective office at any election shall be deemed and declared elected to that office.

~~Each Council seat shall be designated by a number from 1 through 7 and shall be known as "Councilmember Seat Number ____." The designation given to each elective office shall be used in all elections, nomination papers, certificates of election, and all other papers pertaining to such office, and to designate the incumbent of such office.~~

~~—Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in 1977 and every fourth year thereafter. Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in 1979 and every fourth year thereafter.~~

~~—Commencing in 2016, Seats numbered 4, 5, 6, and 7 shall be filled at the General Municipal Election held in 2016, and every fourth year thereafter, and Seats numbered 1, 2, and 3 shall be filled at the General Municipal Election held in 2018, and every fourth year thereafter.~~

~~—Notwithstanding the four year City Councilmember term limit set forth above, City Councilmembers in Seats 4, 5, 6 and 7, whose term of office would have expired in January 2016 when their successors were elected and qualified, shall continue in their offices an additional year until their successors are elected and qualified at the first regular meeting in January 2017.~~

~~—Notwithstanding the four year City Councilmember term limit set forth above, City Councilmembers in Seats 1, 2, and 3, whose term of office would have expired in January 2018, when their successors were elected and qualified, shall continue in their offices an additional year until their successors are elected and qualified at the first regular meeting in January 2019.~~

Section 602. City Council Districts.

District-based elections established in accordance with this section shall commence in the November 2020 general election. To elect the members of the City Council commencing with the November 2020 general municipal election, the City shall be divided into single-member districts equal in number to the number of City Council members, exclusive of the Mayor (each such district a "District" and, collectively, "Districts"). The City Council shall by ordinance establish the names and respective boundaries of the Districts that shall be used for the election of the Council members, and the transition plan from at-large elections to District elections. The Districts shall comply with applicable laws and such other permissible criteria as the City Council may specify.

Section 602603. Qualifications.

(a) No person shall be eligible to hold office as the Mayor-a member of the City Council unless he/she shall be a registered voter of the City at the time of and for the thirty-day period his/her nomination or appointment immediately preceding filing of his or her nominating papers or such other equivalent declaration of candidacy as may be required or authorized by law, or at the time of, and for the thirty-day period immediately preceding, his or her appointment to such office, and throughout the full term of his or her office, if elected or appointed.

(b) No person shall be eligible to hold office as a member of the City Council unless he/she shall be a registered voter of the City at the time of and for the thirty-day period immediately preceding filing of his or her nominating papers or such other equivalent declaration of candidacy as may be required or authorized by law, or at the time of, and for the thirty-day period immediately preceding, his or her appointment to such office, and throughout the full term of his or her office, if elected or appointed.

(c) Notwithstanding any other provision of law, a candidate shall not file nomination papers for more than one City elective office for the same election. No person shall be a candidate for more than one elective office.

No incumbent member of the Council shall be a candidate for a Council seat other than the one which that person then holds.

Section 604. Term limits.

(a) No person shall be eligible to serve as Mayor or a member of the Council for more than ~~two~~ three successive four-year elective terms. Subject to the preceding sentence, no person may serve as Mayor for more than two four-year terms, and no person may serve as a member of the Council for more than two four-year terms.

(b) Any person who has served ~~two-three~~ successive four-year elective terms as Mayor or member of the Council as permitted by this subsection (a) above shall not serve again until at least four years have passed since that person last held office. Any Mayor or member of the Council elected or appointed to a term of two years or more shall constitute a four-year elective term for the purposes of this section. Any person who fills an unexpired term of not more than two years in length shall, however, be eligible to serve two successive four-year terms after the expiration of the unexpired term which he/she filled.

(c) Any person who serves a four-year elective term and is either not re-elected or does not run for ~~re-election~~ for a second or third successive term is eligible to serve after two years have passed since that person last held office as Mayor or Councilmember, but is not eligible to run for a second successive term. Subject to the provisions of subsection (a) above, Any person may serve as Mayor or Councilmember for eight-twelve years in any twelvesixteen-year period, unless elected or appointed to serve an unexpired term of less than two years in length as provided in this section.

Section 60~~53~~3. Compensation.

[Renumbered; text unchanged].

Section 60~~64~~4. Vacancies.

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

- (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, and/or within the applicable District boundaries for a member elected by District, during such ~~member's~~ official'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 in the office of Mayor or Councilmember,~~ the Council shall officially declare the seat office vacant within thirty days of the commencement of any vacancy.

- (c) Within sixty days of the date the ~~seat-office~~ 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 ~~Councilof the~~ members ~~or one Councilmember and the Mayor~~ 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.

Section 607~~5~~. Presiding Officer. Mayor.

~~At the first regular meeting in January, at which the City Council shall certify the election results, following each General Municipal Election, and at the first regular meeting in January every two years thereafter, the City Council shall select one of its members as its presiding officer, who shall have the title of Mayor. Such selection shall be by motion of the City Council. The Mayor shall be the presiding officer of the City Council and have a voice and vote in all its proceedings. He/she shall be the official head of the City for all ceremonial purposes. He/she shall perform such other duties as may be prescribed by this Charter or as may be imposed by the City Council consistent with his/her office. The Mayor shall serve in such capacity for a term of two years from and after which the appointment is made, and until a successor is selected; provided, that a person can continue to serve in the capacity of Mayor only while that person remains as a member of the City Council. In the event of a vacancy in the office of Mayor, the City Council shall select one of its members to serve as Mayor for the remainder of the unexpired term.~~

~~Notwithstanding the two year term set forth above, in order to facilitate the transition to even year elections, the Councilmember selected to serve as Mayor at the first regular meeting in January 2016 shall serve a one year term rather than a two year term. Commencing with the January 2017 selection, the two year mayoral term will resume in accordance with the paragraph above.~~

~~The Mayor may be removed from such office prior to expiration of his/her term by a motion of the City Council adopted by the affirmative votes of at least five members of the City Council.~~

Section 6086. Vice Mayor.
[Renumbered; text unchanged].

Section 609. Redistricting.

(a) Following each decennial federal census, and at other such times as provided by law, the City Council shall, by ordinance, adjust the boundaries of any or all the Districts of the City so that the Districts shall be as nearly equal in population as may be, consistent with law applicable to the creation and rearrangement of the boundaries of local districts.

(b) The City Council shall adopt an ordinance establishing a public process for redistricting. Such ordinance shall be adopted in sufficient time for redistricting following release of the 2020 federal Census.

(c) No change in the boundary of any District shall abolish or terminate the term of office of any City Council member prior to the expiration of the term of office for which the member was elected or appointed in lieu of election, notwithstanding any other provision of this Article.

Section-607610. Powers.
[Renumbered; text unchanged].

Section 608611. Regular Meetings.
[Renumbered; text unchanged].

Section-609612. Special Meetings and Emergency Meetings.
[Renumbered; text unchanged].

Section 640613. Place of Meetings.
[Renumbered; text unchanged].

Section 644614. Quorum.
[Renumbered; text unchanged].

Section 642615. Election and Qualification of Councilmembers.
[Renumbered; text unchanged].

Section 643616. Proceedings.
[Renumbered; text unchanged].