

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA DECLARING THE VACANCY OF THE OFFICE OF THE CITY ATTORNEY; CALLING FOR THE HOLDING OF AN ALL-MAIL BALLOT SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, [ELECTION DATE AS DETERMINED BY CITY COUNCIL], FOR THE ELECTION OF A CITY ATTORNEY TO FILL THE VACANCY PURSUANT TO CHULA VISTA CHARTER SECTION 303(C); REQUESTING THE COUNTY OF SAN DIEGO BOARD OF SUPERVISORS TO PERMIT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION; AUTHORIZING THE CITY CLERK OR HER DULY APPOINTED AUTHORIZED AGENTS TO CARRY OUT THE NECESSARY PROCEDURES FOR THE ELECTION; AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)

WHEREAS, a special municipal election was held and conducted in the City of Chula Vista, California, on Tuesday, November 8, 2022, as required by law, for the purpose of electing a City Attorney for a full term of four years, commencing in December 2022; and

WHEREAS, the Registrar of Voters canvassed the returns of said election and certified the results on December 8, 2022; and

WHEREAS, pursuant to Resolution No. 2022-277, adopted December 13, 2022, deceased candidate Simon Silva was declared the winner of the City Attorney seat; and

WHEREAS, pursuant to Charter Section 503(H) and 303(A)(10), an office shall be deemed vacant if an officeholder dies and the City Council shall declare by resolution the existence of any vacancy as soon as practicable; and

WHEREAS, the term of office in which the vacancy occurs ends December 2026; and

WHEREAS, under the provisions of Chula Vista Charter Section 303(C)(2) and 503(G), the City Council shall cause a special election to be held to fill the vacancy; and

WHEREAS, City Charter Section 303(C)(6) authorizes the City Council to call for a special election to be conducted wholly by mail ballot to fill a vacancy in the office of an Elected Official so long as such election is not consolidated with a scheduled federal, State, or local polling place election; and

WHEREAS, the California Supreme Court, in Peterson v. City of San Diego, 34 Cal.3d 225 (1983), has confirmed that voting by mail can provide significant economies in the

administration of elections while facilitating and increasing exercise of the fundamental right to vote; and

WHEREAS, the City Council desires to fill the vacancy via special election in a manner that balances a desire for expediency, a consideration of costs, the promotion of democracy, and the preservation of the fundamental right to vote; and

WHEREAS, after balancing the above factors, the City Council has determined that it is appropriate to fill the present vacancy by special election to be conducted wholly by mail ballot; and

WHEREAS, the City Council desires that the special election be conducted wholly by mail ballot pursuant to Charter Section 303(C)(6); and

[IF THE DISTRICT 3 VACANCY IS TO BE FILLED BY SPECIAL ELECTION, THE FOLLOWING RECITAL SHALL BE INCLUDED] WHEREAS, the City Council has adopted Resolution No. **[ENTER RESOLUTION NUMBER OF RESOLUTION CALLING DISTRICT 3 ELECTION]** and desires that this resolution and Resolution No. **[ENTER RESOLUTION NUMBER OF RESOLUTION CALLING DISTRICT 3 ELECTION]** be implemented together to call a consolidated special election for both the District 3 City Councilmember and City Attorney seats; and

WHEREAS, Section 439.1 of the Administrative Code of the County of San Diego authorizes the Registrar of Voters of the County of San Diego to render specified services relating to the conduct of an election to any city or district that has, by resolution, requested the Board of Supervisors to permit the Registrar to render the services, subject to requirements set forth in that section; and

WHEREAS, it is desirable that the County of San Diego Registrar of Voters conduct the election and canvass the returns of the special municipal election, and that the City Clerk or her duly appointed authorized agents be authorized to carry out all other necessary procedures for the election; and

WHEREAS, the Environmental Review Coordinator has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that this activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change to the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the actions proposed are not subject to CEQA.

NOW, THEREFORE, BE IT RESOLVED, DECLARED, DETERMINED, AND ORDERED by the City Council of the City of Chula Vista, that:

SECTION 1. All of the foregoing recitals are true and correct.

SECTION 2. The City Council does hereby declare the Office of the City Attorney vacant to be filled by the voters although, pursuant to Charter Section 503(F), the term of the incumbent City Attorney will continue until his successor is elected and qualified.

SECTION 3. Pursuant to the requirements of the Chula Vista Charter and the laws of the State of California, there shall be, and there is hereby called and ordered held in the City of Chula Vista, California, on Tuesday, [**ELECTION DATE AS DETERMINED BY CITY COUNCIL**] a special municipal election conducted wholly by all mail ballot of the qualified electors of the City for the purpose of electing a City Attorney for a short term, which shall commence upon the successful candidate taking the oath of office.

SECTION 4. The City Council does hereby authorize the election to be conducted wholly by mail ballot.

SECTION 5. Pursuant to Charter Section 303(C)(2)(b), if no candidate receives a majority of the votes cast in the special election to fill the vacancy, a special runoff election shall be held on the next established election date, as specified in Charter Section 901 and the Elections Code, or within 120 days following the certification of the special election results, whichever is practical, unless there is a federal, State, or local election scheduled to be held within 180 days following the certification of the special election results, at which time the City Council may consolidate the special runoff election with that election, as provided in the Elections Code.

SECTION 6. Pursuant to Elections Code section 10002, the Board of Supervisors of the County of San Diego is hereby requested to permit the Registrar of Voters to perform and render all services and proceedings and to procure and furnish any and all official ballots, notices, printed matter, and all supplies and equipment and paraphernalia incidental to and connected with the conduct of the subject election of the City of Chula Vista, with the cooperation and assistance of the City Clerk of Chula Vista or her duly appointed authorized agents, in order to properly and lawfully conduct such election.

SECTION 7. Pursuant to the City of Chula Vista Municipal Code, and other applicable provisions of the City Charter and Ordinances of the City of Chula Vista, said Election shall be conducted by all mail ballot and shall be conducted pursuant to Chapter 2 of Division 4 (Commencing with Section 4100) of the California Elections Code only insofar as required by law, and only where not inconsistent with the Charter and ordinances of the City of Chula Vista. Notwithstanding Elections Code Section 4103, ballots cast in this Election shall be returned to the Registrar of Voters no later than 8 p.m. on election day in order to be counted. Ballots that are postmarked on election day and received no later than seven days following the day of the election will also be counted.

SECTION 8. The Board of Supervisors of the County of San Diego is hereby requested to permit the Registrar of Voters of the County of San Diego to canvass the returns of the subject election.

SECTION 9. Pursuant to Section 439.1 of the Administrative Code of the County of San Diego, the City will deposit an amount equal to the Registrar of Voters's estimate of the City's share of the election cost upon receipt of an invoice and at least 60 days in advance of the election. The County of San Diego shall be reimbursed in full for the services performed by the Registrar of Voters for the City of Chula Vista upon presentation of a final invoice, and this City agrees to indemnify and save free and harmless the County, its officers, agents and employees from expense or liability, including reasonable attorneys' fees, as a result of an election contest arising after the conduct of this election.

SECTION 10. The City Clerk is hereby directed to forthwith file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters of the County of San Diego and to issue instructions to the Registrar of Voters to take any and all steps necessary for the holding of the election.

SECTION 11. The ballots to be used at said election shall be, both as to form and matter contained therein, such as may be required by law to be used thereat.

SECTION 12. In all particulars not recited in this resolution, said election shall be held and conducted as provided by law for holding municipal elections in this City.

SECTION 13. Notice of the time and place of holding this election is hereby given and the City Clerk is hereby authorized, instructed, and directed to give such further or additional notice of said election in time, form, and manner as required by law.

SECTION 14. The City Clerk is hereby authorized, instructed, and directed to enter the appropriate resolution number and the election date, as determined by the City Council, in the sections indicated throughout this resolution.

SECTION 15. The City Council appropriates up to \$1.5 million from the General Fund reserve to the City Clerk's supplies and services expenditure category to fund the costs of the election.

SECTION 16. The City Clerk shall certify the passage and adoption of this resolution and file it with the City's original resolutions.

Presented by

Approved as to form by

Kerry K. Bigelow, MMC
City Clerk

Glen R. Googins
City Attorney