

## RESOLUTION NO. \_\_\_\_-23

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ CALLING FOR AND GIVING NOTICE OF THE SUBMISSION TO THE VOTERS OF AN ORDINANCE TO CONVERT THE ELECTIVE OFFICE OF CITY CLERK TO AN APPOINTIVE OFFICE TO BE PLACED ON THE BALLOT AT THE MARCH 5, 2024 SPECIAL MUNICIPAL ELECTION AND CONSOLIDATING OF THAT ELECTION WITH THE STATEWIDE PRIMARY ELECTION

**WHEREAS**, pursuant to California Elections Code §9222, the City Council has authority to place initiative measures on the ballot to be considered at a special or general Municipal Election; and

**WHEREAS**, the office of the City Clerk is currently an elective office; and

**WHEREAS**, Government Code §36508 authorizes the City Council to submit to the voters the question whether the City Clerk shall be appointed; and

**WHEREAS**, the City Council may submit to the voters, without a petition, an ordinance for the repeal, amendment, enactment of any ordinance pursuant to Election Code §9222; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARTINEZ DOES HEREBY FIND, DETERMINE AND RESOLVE AS FOLLOWS:**

**SECTION 1.** Findings. The City Council finds that all of the preceding recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

**SECTION 2.** The City Council hereby submits the ordinance to the electorate for approval, and requests that the Contra Costa County Board of Supervisors consent to consolidation of the Special Election with the Primary Election to be conducted by the County Registrar of Voters on March 5, 2024. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be issued. The election will be held and conducted in accordance with the provisions of law regulating a special election consolidated with a statewide election. The City Council acknowledges and requests that the consolidated election be held and conducted in the manner prescribed in Elections Code §10418. Pursuant to election Code Section 10002, the City will bear all costs customarily charged by the County to a city in connection with a ballot question submitted at a municipal election that is consolidated with an election conducted by the County.

**SECTION 3.** The City Council hereby proposes the ordinance attached hereto as "Exhibit A" to make the office of City Clerk appointive and authorize the City Manager to appoint a new City Clerk.

**SECTION 4.** The City Clerk is hereby authorized, instructed, and directed to procure and furnish (or cause to be procured and furnished) any and all official ballot notices, printed matter, and all other supplies, equipment, and paraphernalia that may be necessary to prepare and lawfully conduct the election.

**SECTION 5.** The City Clerk is authorized to canvass the returns of the election and to certify the same to City Council at the time and in the manner provided by law.

**SECTION 6.** If approved by a majority of the electorate voting on the measure, the ordinance will make the office of City Clerk appointive rather than elective and authorize the City Manager to appoint a new City Clerk following execution of the ordinance. If voters approve the change from elected to appointed City Clerk, there will be no election for a new City Clerk in November 2024.

**SECTION 7.** The full text of the ordinance is hereby ordered to be printed in the sample ballot pamphlet provided to the registered voters of the County.

**SECTION 8.** The question to be submitted to the City voters at said election shall be:

<b><u>APPOINTMENT OF CITY CLERK</u></b>  Shall the Office of City Clerk be appointive?	YES
	NO

**SECTION 9.** Approval of this Ordinance shall require a majority vote of the total number of valid ballots cast and counted.

**SECTION 10.** Impartial Analysis. Pursuant to California Elections Code §9280, the City Council hereby directs the City Clerk to transmit a copy of the Measure as set forth herein to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure, not to exceed 500 words in length, showing the effect of the Measure on the existing law and the operation of the measure, and transmit such impartial analysis to the City Clerk within ten (10) days following the adoption of this Resolution.

**SECTION 11.** Filing with County. The City Clerk shall, not later than the 88<sup>th</sup> day prior to the Special Municipal Election to be held on March 5, 2024, file with the Board of Supervisors and the County Clerk a certified copy of this Resolution.

**SECTION 12.** Public Examination. Pursuant to California Elections Code §9295, this measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The Clerk shall post notice in the Clerk's office of the specific dates that the examination period will run.

**SECTION 13.** Arguments and Rebuttals. Pursuant to Elections Code Section 9285, the City Council authorizes the following members of its body to file a written argument not exceeding 300 words regarding the City measure as specified above, which shall be submitted to the City Clerk no later than 12:00 Noon on Monday, December 11th, and shall include the names, titles, and an original signature of each signer.

**Name(s):** Vice Mayor Mark Ross and Councilmember Debbie McKillop

Pursuant to Elections Code section 9285, the City Council authorizes the filing of rebuttal arguments for and against measures in the election. Rebuttal arguments concerning this measure shall be submitted to the City Clerk no later than 12:00 Noon on Tuesday, December 26, 2023 and shall include the names, titles, and an original signature of each signer. This paragraph shall expire with the election and shall not authorize rebuttal arguments as to measures present at any future election.

**SECTION 14.** CEQA. The adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code statutes 21000 et. Seq. ("CEQA") and 14 Cal. Code Reg. Section 15000 et.seq. (CEQA guidelines"). The calling and noticing of Municipal Election is not a project with the meaning of CEQA Guidelines section 15378, subsection (b )(3).

**SECTION 15:** Severability. If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the

validity of the remaining portions of the Resolution or its application to other person and circumstances. The City Council of the City of South Gate hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

**SECTION 16.** The City Clerk shall certify to the adoption of this Resolution. Passed, approved and adopted this 15th day of November, 2023.

**PASSED, APPROVED and ADOPTED** on this 15<sup>th</sup> day of November, 2023.

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Brianne Zorn, Mayor

ATTEST:

APPROVED AS TO FORM:

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Kat Galileo, Assistant City Clerk

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Teresa L. Highsmith, City Attorney

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**I HEREBY CERTIFY** that the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the 15th day of November, 2023, and duly passed and adopted at a Regular Meeting of said City Council held on the 6<sup>th</sup> day of December, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Richard G. Hernandez, City Clerk

EXHIBIT "A"

**AN ORDINANCE OF CITY'S QUALIFIED ELECTORS AT THE SPECIAL MUNICIPAL ELECTION  
HELD ON MARCH 5, 2024 TO MAKE THE OFFICE OF CITY CLERK APPOINTIVE**

The People of the City of Martinez do ordain as follows:

**SECTION 1.** The City Clerk shall hereby be appointed by the City Council; this authority is delegated to the City Manager.

**SECTION 2. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 3. ELECTION.** Voter approval of this ordinance shall have the effect of making the office of City Clerk appointive rather than elective. If the measure is defeated, the Municipal Code remains unchanged.

**SECTION 4. ADOPTION.** If a majority of qualified electors vote in favor of the ballot measure regarding this Ordinance, this Ordinance shall be adopted upon the date the vote therefore is declared by the City Council.

**SECTION 5. EFFECTIVE DATE.** If approved by a majority of qualified electors vote in favor of the ballot measure regarding this Ordinance, which shall add Section 2.52.040 to the Municipal Code as specified in Section 1, above, shall be effective December 18, 2024.

**SECTION 6. EXECUTION.** The People of the City of Martinez hereby authorize the Mayor and City Clerk of the City to execute this Ordinance to reflect its adoption at the March 5, 2024 election.