

**FILED**

**NOV 16 2023**

BY  DEPUTY  
REGISTRAR OF VOTERS

**RESOLUTION NO. R-95-23**

1  
2  
3 **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLTON,**  
4 **CALIFORNIA, SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF**  
5 **COLTON A MEASURE AMENDING SECTION 2.12.010 OF CHAPTER 2.12 AND**  
6 **ADDING CHAPTER 2.14 (CITY CLERK) TO TITLE 2 (ADMINISTRATION AND**  
7 **PERSONNEL) OF THE COLTON TO MUNICIPAL CODE CHANGE THE OFFICE**  
8 **OF CITY CLERK FROM AN ELECTED OFFICE TO AN APPOINTED OFFICE,**  
9 **AT A SPECIAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE**  
10 **STATEWIDE PRIMARY ELECTION TO BE HELD ON MARCH 5, 2024; AND**  
11 **SETTING RULES AND DEADLINES FOR THE SUBMITTAL OF ARGUMENTS**  
12 **FOR AND AGAINST THE MEASURE**

12 **WHEREAS,** pursuant to California Government Code section 36501(c), the office of the Colton  
13 City Clerk is currently an elected office; and

14 **WHEREAS,** due to the recent passing of Carolina Padilla, the office of elected City Clerk is vacant  
15 at the present time; and

16  
17 **WHEREAS,** the office of City Clerk stands for election every four years, the last election for this  
18 office being November 2, 2020 and the current term for this office will expire in November, 2024; and

19  
20 **WHEREAS,** California Government Code sections 36508 and 36510 provide that:

21 "At any municipal election, or a special election held for that purpose, the city council may  
22 submit to the electors the question whether the elective officers, or any of them except  
23 council members, shall be appointed by the city council; provided, however, that the city  
24 council shall not submit such question to the electors more often than once in an 11-month  
25 period.

26 . . . . .

27 If a majority of the votes cast on the proposition is for it, the city council shall appoint such  
28 officers at the expiration of the terms of the officers then in office, and on a vacancy in any  
such office. Such officers shall hold office during the pleasure of the city council and,

1 notwithstanding [Government Code] Section 36502 to the contrary, are not required to be  
2 residents or electors in the city. The city council may by ordinance vest in the city manager  
3 its authority to appoint such officers.”

4 **WHEREAS**, California Elections Code section 9222 authorizes the City Council to submit  
5 local measures to the voters; and

6  
7 **WHEREAS**, the City Council desires to submit to Colton voters a measure that would change  
8 the office of City Clerk from an elected office to an appointed office; and

9 **WHEREAS**, the question of an appointed City Clerk has not been submitted to Colton  
10 voters within the last 11 months; and

11  
12 **WHEREAS**, the City Council desires to consolidate the Special Municipal Election for the  
13 ballot measure described herein with the Statewide Primary Election to be held on March 5, 2024; and

14 **WHEREAS**, the City Council further desires to set rules and deadlines for the submittal of written  
15 arguments and rebuttals for and against the measure; and

16  
17 **WHEREAS**, the specific terms of the measure are provided for in the ordinance to be considered  
18 by the qualified voters, attached hereto as Exhibit “A” (the “Ordinance” or “Measure”) and by this reference  
19 made an operative part hereof, and in accordance with all applicable laws.

20 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON,**  
21 **CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS**  
22 **FOLLOWS:**

23  
24 **SECTION 1. Recitals-** The City Council of the City hereby finds and determines that the foregoing  
25 recitals are true and correct, are incorporated herein and by this reference made an operative part hereof.

26 **SECTION 2. Submission of Ballot Ordinance/Measure-**The City Council of the City, pursuant to its  
27 right and authority as contained in California Elections Code section 9222 and Government Code  
28 section 36508, hereby orders the Ordinance/Measure attached hereto as Exhibit “A” to be submitted to

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

the qualified voters of the City at the Special Municipal Election to be held and consolidated with the Statewide Primary Election on Tuesday, March 5, 2024. The proposed Ordinance shall be in the form attached hereto as Exhibit "A" to this Resolution and is incorporated by this reference as if fully set forth herein.

**SECTION 3. Ballot Question-** The City Council, pursuant to its right and authority under California Government Code section 36509(b), does hereby order that the ballot question shall be presented and printed upon the ballot submitted to the qualified voters in the manner and form set forth in this Section 3. On the ballot to be submitted to the qualified voters at the election to be held at the Special Municipal Election to be consolidated with the Statewide Primary Election on Tuesday, March 5, 2024, in addition to any other matters required by law, there shall be printed substantially the following ballot question:

"Shall the office of Colton City Clerk be appointive?"	YES	
	NO	

**SECTION 4. Election Procedures/Request for Consolidation.**

- A. The City Council consents to the consolidation of the election on this Measure with all other elections being held in the same territory on March 5, 2024, and to hold and conduct the consolidated election in the manner prescribed in Election Code Section 10418.
- B. The ballots to be used at the election shall be in the form and content as required by law.
- C. In accordance with Section 10403 of the Elections Code, the Board of Supervisors of San Bernardino County is hereby requested to consent to consolidation of the election on this Measure with the Statewide Primary Election and all other elections being held in the same territory on March 5, 2024, and to having the Registrar of Voters render such election services to the City of Colton as may be requested by the City Clerk's Office of said City, the County of San Bernardino to be reimbursed in full for such services as are performed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

D. The election services which the City of Colton requests the Registrar of Voters, or such other official as may be appropriate, to perform and which such officer is hereby authorized and directed to perform, if said Board of Supervisors consents, include: the preparation, printing and mailing of sample ballots and voter information guides; the establishment or appointment of precincts, voting centers, and election officers, and making such publications as are required by law in connection therewith; the furnishing of ballots, voting booths and other necessary supplies or materials for voting centers; the canvassing of the returns of the election and the furnishing of the results of such canvassing to the City Clerk's Office of the City of Colton; and the performance of such other election services as may be requested by the City Clerk.

E. The City Clerk's Office is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia, or cause such actions to be made, that may be necessary in order to properly and lawfully conduct the election.

F. That the precincts, ballot drop box locations and hours of operations, vote center locations and hours of operations, vote-by-mail procedures and timing, and election officers, and all other persons and procedures for the Special Municipal Election shall be the same as those utilized by the County of San Bernardino; and

G. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.

H. Notice of the time and place of holding the election is given and the City Clerk's Office is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

I. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.

J. The San Bernardino County Registrar of Voters is hereby authorized to canvass the returns of said election.

1 K. The City Clerk's Office of the City of Colton shall receive the canvass as it pertains to the  
2 election on the measure, and shall certify the results to the City Council, as required by law.

3 **SECTION 5- Arguments and Analysis.**  
4

5 A. The City Council authorizes (i) the City Council or any member(s) of the City Council, (ii) any  
6 individual voter eligible to vote on the above measure, (iii) a bona fide association of such  
7 citizens or (iv) any combination of voters and associations, to file a written argument in favor of  
8 or against the City measure, in accordance with Article 4, Chapter 3, Division 9 of the Elections  
9 Code of the State of California and may change the argument until and including Monday,  
10 November 20, 2023 at 6:00 p.m. after which no arguments for or against the measure may be  
11 submitted to the City Clerk. Arguments in favor of or against the measure shall each not exceed  
12 300 words in length. Each argument shall be filed with the City Clerk, signed, and include the  
13 printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an  
14 organization, the name of the organization, and the printed name and signature of at least one of  
15 its principal officers who is the author of the argument.

16 B. The City Clerk shall comply with all provisions of law establishing priority of arguments for  
17 printing and distribution to the voters, and shall take all necessary actions to cause the selected  
18 arguments to be printed and distributed to the voters.

19 C. Pursuant to Section 9280 of the Elections Code, the City Council directs the City Clerk's Office  
20 to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an  
21 impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the  
22 measure on the existing law and the operation of the measure. The City Attorney shall transmit  
23 such impartial analysis to the City Clerk's Office, who shall cause the analysis to be published  
24 in the ballot pamphlet along with the ballot measure as provided by law. The Impartial Analysis  
25 shall be filed by the deadline set for filing of primary arguments as set forth in subsection (A)  
26 above. The impartial analysis shall include a statement indicating whether the measure was  
27 placed on the ballot by a petition signed by the requisite number of voters or by the City Council.  
28 In the event the entire text of the measure is not printed on the ballot, nor in the voter information  
portion of the sample ballot, there shall be printed immediately below the impartial analysis, in  
no less than 10-font bold type, the following: **"The above statement is an impartial analysis**

1 of Ordinance or Measure. If you desire a copy of the ordinance or measure, please call the  
2 election official's office at (909) 370-5001 and a copy will be mailed at no cost to you."

3 **SECTION 6- Rebuttals.**  
4

5 A. That pursuant to Section 9285 of the Elections Code of the State of California, when the Clerk's  
6 Office has selected the arguments for and against the various City initiated measures which will  
7 be printed and distributed to the voters, the Clerk's Office shall send copies of the argument in  
8 favor of the measures to the authors of the argument against, and copies of the argument against  
9 to the authors of the argument in favor. The authors or persons designated by them may prepare  
10 and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed  
11 with the City Clerk's Office not later than Friday, November 24, 2023 at 6:00 p.m. Rebuttal  
12 arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument  
shall immediately follow the direct argument which it seeks to rebut.

13 B. That all previous resolutions providing for the filing of rebuttal arguments for City measures are  
14 repealed.

15  
16 C. That the provisions herein shall apply only to the election to be held on March 5, 2024, and shall  
17 then be repealed.

18 **SECTION 7- Placement on the Ballot.** The full text of the Ballot Ordinance shall be printed in the  
19 voter pamphlet, and a statement shall be printed in the ballot pursuant to Section 9223 of the Elections  
20 Code advising voters that they may obtain a copy of this ordinance, the Ballot Ordinance and/or ballot  
21 measure, at no cost, upon request made to the City Clerk's Office.

22 **SECTION 8- Delivery of Resolution to County.** The City Clerk's Office shall certify to the passage  
23 and adoption of this Resolution and enter it into the book of original resolutions. The City Council directs  
24 the City Clerk's Office to deliver copies of this Resolution, including the Ballot Ordinance attached  
25 hereto as Exhibit "A", to the Clerk of the Board of Supervisors of San Bernardino County and to the  
26 Registrar of Voters of San Bernardino County not later than 88 days prior to the Special Municipal  
27 Election.

28 **SECTION 9- CEQA.** The City Council hereby finds and determines that the ballot measure relates to

1 organizational or administrative activities of governments that will not result in direct or indirect physical  
2 changes in the environment, and therefore is not a project within the meaning of the California  
3 Environmental Quality Act ("CEQA") and the State CEQA Guidelines, section 15378(b)(5).

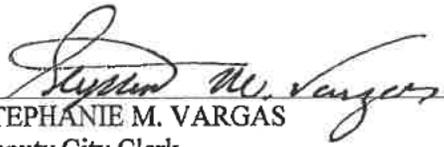
4 **SECTION 10- Severability.** If any provision of this Resolution or the application thereof to any person  
5 or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the  
6 Resolution which can be given effect without the invalid provision or application, and to this end the  
7 provisions of this Resolution are severable. The City Council hereby declares that it would have adopted  
8 this Resolution irrespective of the invalidity of any particular portion thereof.

9 **SECTION 11- Effective Date of Resolution.** This Resolution shall take effect immediately upon its  
10 adoption.

11  
12 **PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF**  
13 **COLTON, CALIFORNIA, AT A REGULAR MEETING HELD ON THIS 7<sup>TH</sup> DAY OF NOVEMBER**  
14 **2023.**

15  
16   
17 FRANK J. NAVARRO  
Mayor

18 ATTEST:

19   
20 STEPHANIE M. VARGAS  
21 Deputy City Clerk

22  
23  
24 APPROVED AS TO FORM:

25  
26   
27 BEST BEST & KRIEGER LLP  
City Attorney

28

