

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2024-

**RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL TO CENSURE
COUNCILMEMBER VICTOR AGUILAR FOR A VIOLATION OF CITY OF SAN LEANDRO
CHARTER SECTION 345, INTERFERENCE IN ADMINISTRATIVE SERVICE**

WHEREAS, on May 8, 2024, the City Attorney and Mayor Juan Gonzalez received a personnel complaint from then City Manager Fran Robustelli; and

WHEREAS, on or around May 20, 2024, Carl Botterud, an independent investigator, was retained by the City and began an investigation into Ms. Robustelli's personnel complaint; and

WHEREAS, on October 30, 2024, the City received Mr. Botterud's written report (hereinafter the "Investigation Report"); and

WHEREAS, specifically as to Councilmember Victor Aguilar, the investigator substantiated Ms. Robustelli's complaint that Councilmember Aguilar breached his obligation under City Charter Section 345 to not interfere with Ms. Robustelli's execution of her duties as City Manager; and

WHEREAS, on October 21, 2024 the City of San Leandro City Council passed a resolution to amend Title 1 of the San Leandro Administrative Code to add a new Chapter 13, "City Council Internal Discipline Policy"; and

WHEREAS, on November 4, 2024 Mayor Juan Gonzalez, Councilmember Ballew, Councilmember Bowen, and Councilmember Viveros-Walton, in accordance with San Leandro Administrative Code Section 1.13.110(c), submitted to the City Clerk a timely request to censure Councilmember Aguilar, which contained the specific charges on which the proposed censure is based; and

WHEREAS, in accordance with San Leandro Administrative Code Section 1.13.110(c), Mayor Juan Gonzalez, Councilmember Ballew, Councilmember Bowen, and Councilmember Viveros-Walton, comprising a majority of the City Council, did direct the City Attorney, with assistance from the City Manager, to prepare the specific facts and allegations as to the charges for censure, and to proceed with the censure procedures in San Leandro Administrative Code Section 1.13.120; and

WHEREAS, the specific facts and allegations as to the charges for censure are within the Investigation Report, attached hereto and made a part hereof in its entirety with redactions for individuals' personal phone numbers and email addresses, and in accordance with California Government Code Section 7927.700 because release of such information would constitute an unwarranted invasion of personal privacy, and is information contained in confidential personnel files. Under California Government Code Section 7922.000, in this case the public interest served by not disclosing the personal

telephone numbers and emails, especially since such individuals are not witnesses, clearly outweighs the public interest served by disclosing such information in the Investigation Report.

NOW, THEREFORE, the City of San Leandro City Council does **RESOLVE** that:

1. The City Council set the matter for Councilmember Aguilar’s censure hearing at the City Council’s regular meeting of November 18, 2024.

2. In accordance with San Leandro Administrative Code Section 1.13.120(a), the correspondence associated with this Resolution shall serve as the written notice of the hearing, and was served at least ten (10) days in advance of the scheduled hearing.

3. San Leandro Administrative Code Section 1.13.120(b) and this resolution provide the hearing procedures. At the censure hearing, Councilmember Aguilar shall be given a total of ten (10) minutes to make an opening and closing statement, call witnesses on his behalf, and to question the Councilmembers bringing this censure resolution. The questioning or cross-questioning of Councilmember Aguilar’s witnesses may be reasonably limited during the censure hearing by the Mayor. Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration. The rules of evidence and judicial procedure applicable in courts of law shall not apply to this hearing, and the procedures for the conduct of the hearing shall be generally informal; and

BE IT FURTHER RESOLED that in accordance with San Leandro Administrative Code Section 1.13.125, if a majority of the Council finds, based on the Investigation Report and the substantiated finding and after the censure hearing, that Councilmember Aguilar violated Charter Section 345, then Councilmember Aguilar is hereby censured for the violation cited above, and the Council hereby takes the following disciplinary measures:

- a. 50% reduction in Councilmember Aguilar’s travel and training budget, equivalent to \$5,000 for the remainder of FY 2024-2025.
- b. Should the policy be approved by the City Council, Councilmember Aguilar shall not be able to access the City Council’s excess travel and training budget pool of funds for his future Council travel and training needs.
- c. Within six months of the date this Resolution is passed, Councilmember Aguilar shall attend a Council/Manager relations training. Fees and costs for this training, including any travel to attend this training, shall be paid out of Councilmember Aguilar’s existing travel budget.
- d. Councilmember Aguilar is immediately removed from and is not eligible for future appointments to all legislative bodies or committees external to the City. Councilmember Aguilar may be eligible for such appointments upon proof that he completed the mandatory training in subsection c.; and

BE IT FURTHER RESOLVED that the City Council does hereby demand that Councilmember Aguilar henceforth endorse, adopt, and abide by the City Charter, and all other Codes, Procedures, and Policies of the City Council.

Introduced by _____ and passed and adopted this 18th day of November 2024, by the following vote:

Members of the Council:

AYES:

NOES:

ABSENT:

ATTEST: _____
Kelly B. Clancy, City Clerk