IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2024-

RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL TO CENSURE VICE-MAYOR FRED SIMON FOR MULTIPLE VIOLATIONS 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, the investigator substantiated Ms. Robustelli's complaint that Vice-Mayor Simon breached his obligation under City Charter Section 345 to not interfere with Ms. Robustelli's execution of her duties as City Manager; and

WHEREAS, the investigator substantiated Ms. Robustelli's complaint that Vice-Mayor Simon subjected Ms. Robustelli to misconduct based on her decision to terminate the Police Chief's employment; 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 Vice-Mayor Simon, 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 Vice-Mayor Simon'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, including the Investigation Report, shall serve as the written notice of the hearing, all of which were served upon Vice-Mayor Simon 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, Vice-Mayor Simon 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 Vice-Mayor Simon'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 findings and after the censure hearing, that Vice-Mayor Simon violated Charter Section 345 through a breach of his obligation to not interfere with then City Manager Robustelli's execution of her duties as City Manager and Vice-Mayor Simon also subjected City Manager Robustelli to misconduct based on her decision to terminate the Police Chief's employment, then Vice-Mayor Simon is hereby censured for the violations cited above, and the Council hereby takes the following disciplinary measures:

a. 50% reduction in Vice-Mayor Simon's travel and training budget, equivalent to $5,000 for the remainder of FY 2024-2025, and $5,000 in FY 2025-2026.
b. Should the policy be approved by the City Council, Vice-Mayor Simon 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. Vice-Mayor Simon shall not be eligible to submit mileage reimbursement

while driving for City business for the remainder of FY 2024-2025.

d. Within six months of the date this Resolution is passed, Vice-Mayor Simon shall attend a Council/Manager relations training, and a retaliation claims prevention training. Fees and costs for these trainings, including any travel to attend these trainings, shall be paid out of Vice-Mayor Simon's existing travel budget.
e. Vice-Mayor Simon is immediately removed from and is not eligible for future appointments to all legislative bodies or committees external to the City. Vice-Mayor Simon may be eligible for such appointments upon proof that he completed the mandatory training in subsection d.
f. The title and duties of "Vice-Mayor" are immediately removed and rescinded, and Councilmember Simon shall not be eligible to be nominated for Vice-Mayor; and

BE IT FURTHER RESOLVED that the City Council does hereby demand that Vice-Mayor Simon 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