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RESOLUTION CANVASSING RETURNS OF THE 2023 CITY OF EL PASO CITIZEN LED CHARTER PETITION SPECIAL ELECTION

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

WHEREAS, the City Council of the City of El Paso ordered a special election to be held in said City on May 6, 2023, for the purpose of determining whether certain amendments to the City Charter should be adopted; and

WHEREAS, the election officers who held said election have duly made returns of the results thereof, and said returns have been duly delivered to said City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That the City Council officially finds and determines that said election was duly given, that proper notice of said election was duly given, that proper election officers were duly appointed prior to said election, that said election was duly held, that due returns of the results of said Special Election have been duly made and delivered, that the election returns have properly been made out and duly certified by the officers of said election in the different voting precincts of the City, and that the City Council has duly canvassed said returns, all in accordance with law and the ordinance thereto calling said election.

2. That the City Council officially finds and determines that the following votes were cast at said election for the measure by the resident, qualified electors of said City, who voted at the Special Election on the following proposed Amendment to the Charter of the City of El Paso, the text of which is attached as **Exhibit A**:

CHARTER AMENDMENT K

For: 9,209
Against: 40,767

3. (a) That the City Council officially finds, determines, and declares the result of said Special Election for the submission of City Charter Amendments and that the following **City Charter Amendment by measure K** did not receive a majority vote and therefore did not carry.

(b) That the City Council declares that the **City Charter Amendment by measure K** shall not be adopted.

ADOPTED this 16th day of May 2023.

THE CITY OF EL PASO

Oscar Leeser
Mayor

ATTEST

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Karla A. Saenz
Assistant City Attorney

EXHIBIT A

AMENDMENT NO. K

Text of Amendment

Adding Article IX to the City Charter, to create a climate policy requiring the City to use all available resources and authority to accomplish three goals outlined in the petition to read in pertinent part as follows:

Article IX – Climate Policy

Section 9.1 CLIMATE POLICY It is the policy of the City of El Paso to use all available resources and authority to accomplish three goals of paramount importance: first, to reduce the City's contribution to climate change; second, to invest in an environmentally sustainable future; and third, to advance the cause of climate justice. Section

9.2 – DEFINITIONS

A. Climate change: a phenomenon that includes both (1) the ongoing increase in the overall temperature of the earth's atmosphere, attributed to the greenhouse effect caused by increased levels of carbon dioxide, chlorofluorocarbons, and other pollutants; and (2) the side-effects of that temperature increase, including melting glaciers, heavier rainstorms, and more frequent drought.

B. Climate jobs: jobs that advance one or more of the City's policy objectives of (1) reducing the City's contribution to climate change, (2) investing in an environmentally sustainable future, and (3) advancing the cause of climate justice.

C. Climate justice; ensuring that historically underserved communities do not bear a disproportionate share of the negative impacts of climate change, while at the same time investing in those same communities as part of the work to respond to climate change, mitigate its impacts, and build an environmentally sustainable society. For purposes of this analysis, "historically underserved communities" include Black, Indigenous, and people of color; people with disabilities; and people living at or below the poverty line.

D. Climate impact statement: a statement of how major City decisions impact the City's climate policy. The statement is to be prepared by the Climate Department under the supervision of the Climate Director. The elements of the climate impact statement shall include, at a minimum, the following elements: (1) a statement of how the proposed action fulfills the three aims of the City's climate policy; (2) an analysis of fossil fuel emissions and other climate change impacts of the proposed action; (3) a statement of any climate jobs that will be created by the proposed project; (4) a statement of whether the proposed action will negatively impact any historically underserved communities; and (5) a consideration of alternatives, if any, that would better advance the City's climate policy.

E. Fossil fuel industry: the companies involved in the fossil fuel economy, including (a) companies that extract fossil fuel products including coal, oil, and natural gas from the earth; (b) companies that transport fossil fuel products; (c) companies that turn fossil fuel products into sellable products, including companies that operate refineries and other fossil fuel production facilities; (d) companies that convert fossil fuel energy into electricity by methods such as burning coal, oil, and natural gas; (e) companies that sell electricity generated by the burning of fossil fuel products; (f) companies that provide services to assist companies that conduct any of the activities described under (a), (b), (c), (d), or (e); and (g) companies that finance fossil fuel activities such as those described above. El Paso Electric shall be considered part of the fossil fuel industry for purposes of this climate policy.

F. Clean renewable energy: energy generated without burning carbon or releasing greenhouse gases. Includes renewable energy sources such as solar, wind, hydroelectric, and geothermal. Includes hydrogen energy that is produced by splitting water by electrolysis ("green" hydrogen) or hydrogen produced by solar driven processes, but does not include hydrogen energy produced using natural gas ("blue" or "grey" hydrogen) or nuclear ("pink" hydrogen).

Section 9.3 - CLIMATE DIRECTOR

Section 9.3-1 — Appointment; Qualifications.

The City Council, including the Mayor and District Representatives, shall appoint a Climate Director to serve as the lead City representative charged with fulfilling the Climate Policy. Such appointment shall occur at a publicly noticed meeting subject to the Texas Open Meetings Act. The City Council shall fix the Climate Director's compensation.

The Climate Director shall be appointed on the basis of qualifications to fulfill the City's climate mandates of (1) reducing the City's contribution to climate change, (2) investing in an environmentally-sustainable future, and (3) advancing the cause of climate justice. No person shall be eligible for appointment as Climate Director if they have worked in the fossil fuel industry.

Section 9.3-2 Disclosure of investments.

Prior to taking action to appoint a Climate Director, the City shall request and publish a Personal Financial Statement Report from the candidate, to include all fields included in Form PFS-TEC of the Texas Ethics Commission and to cover both the current calendar year and the prior calendar year.

Section 9.3-3 — Accountability; Removal.

The Climate Director shall report directly to the City Council. The Director may be removed by resolution approved by the majority of the total membership of the City Council, with or without cause.

Section 9.3-4 — Representative of the City of El Paso.

Under the guidance and direction of the City Council and City Manager, the Climate Director shall serve as the City's representative in local, state, and federal proceedings impacting the City of El Paso and its climate policy, including but not limited to proceedings under the Texas Commission on Environmental Quality, the Texas Public Utilities Commission, the Texas Railroad Commission, the New Mexico Public Regulatory Commission, the Environmental Protection Agency, the Army Corps of Engineers, the Department of Energy, and the Federal Energy Regulatory Commission.

Section 9.4 - CLIMATE DEPARTMENT

The City shall establish a Climate Department to be led by the Climate Director and provided with sufficient personnel and resources to carry out the Climate Policy and related duties and responsibilities herein described. The Climate Director shall be the chief executive officer of the Climate Department.

Section 9.5 - CLIMATE IMPACT OF CITY DECISIONS

The Climate Director shall provide the City Council with a climate impact statement prior to any City Council vote affecting the City's Climate Policy. Decisions that require a climate impact statement shall include, but not be limited to: adoption of the City budget and any amendments thereto; zoning decisions; right-of-way permits; new or expanded streets, road, highways, bridges and other significant infrastructure; capital improvement projects including proposed capital improvements put to the public in the form of bond issues; new subdivision approvals; and procurement decisions.

In addition, the City Manager shall collaborate with the Climate Director to prepare an annual climate impact statement for City activities, with specific analysis of the climate impact of each City department. The City Manager shall ensure that the Climate Director has access to City information on an ongoing basis to allow for ongoing monitoring and analysis of the City's climate impact.

Section 9.6 - TRACKING CLIMATE EMISSIONS

The Climate Director shall prepare an annual report on climate impacts for the City of El Paso, to include all emissions generated within the City limits. The Climate Director shall be authorized to collaborate with outside research institutions and consultants to develop and prepare the annual emissions report.

Section 9.7 – CLIMATE JOBS

Section 9.7-1 — Annual goal for climate jobs.

The City Manager shall collaborate with the Climate Director to create an annual goal for the creation of climate jobs, including specific goals for each City department. This goal shall be announced when the City Manager proposes the City's annual budget.

Section 9.7-2 — Preference for climate jobs when new funding becomes available.

Whenever the City becomes eligible for new funding, including new funding due to tax increases, grants from the Texas government, grants from the United States government, grants from private entities, contracts, or other funding opportunities, the City Manager shall ensure that such funds are used to create climate jobs and associated training programs, whenever such jobs are consistent with funding requirements, City needs, and available resources.

Section 9.7-3 — Transitioning current City employees to climate work.

As part of the City Manager's annual goal for climate jobs, pursuant to Section 9.7.1, the City Manager shall identify opportunities to transition current City employees into positions that would qualify as climate jobs. This requirement shall not be construed to encourage elimination of any existing City employee; rather, the City Manager shall identify opportunities to transition existing personnel into new positions, with equal or superior pay and benefits, that would advance the City's climate policy.

Section 9.7-4 — Preference for contractors who advance the City's climate policy.

The City Manager shall adopt and implement a policy, subject to City Council approval, that will provide a preference for contractors who are able to advance the City's climate policy, so long as such contractors can provide services in a manner that is consistent with City needs and available resources.

Section 9.8 – SOLAR ENERGY

Section 9.8-1 — Solar Power Generation Plan.

The Climate Director shall create an annual Solar Power Generation Plan for the City of El Paso. This plan shall include a feasibility analysis to describe how the City can develop internal capacity to generate energy for the City through solar power.

Section 9.8-2 — Rooftop solar power generation.

The City Manager shall establish and maintain policies that encourage the development of rooftop solar power generation capacity within the City of El Paso. These policies shall encourage development of rooftop solar power generation using existing City facilities and require both new buildings and retrofitted buildings to include solar power generation capacity whenever feasible.

Section 9.9 — RENEWABLE ENERGY GOALS

The City of El Paso shall employ all available methods to require that energy used within the City is generated by clean renewable energy, with the goals of requiring (1) 80% clean renewable energy by 2030 and (2) 100% clean renewable energy by 2045.

Within one year of the adoption of this Climate Policy, the City Manager and Climate Director shall produce a plan for the City to achieve its renewable energy goals. In developing this plan, the City shall include consideration of public transportation, solar power generation at City facilities, and energy efficiency of City buildings.

The City Manager and Climate Director shall provide a joint, annual report to the City Council to chart progress toward these goals.

Section 9.10 — MUNICIPALIZATION OF EL PASO ELECTRIC

The City of El Paso shall employ all available efforts to convert El Paso Electric to municipal ownership. In consultation with the Climate Director, the City Manager shall provide the City Council with an annual report to describe the feasibility of converting El Paso Electric into a municipal electric company, including any actions required to advance this objective. Section

9.11 – CLIMATE DISASTER MITIGATION, PREPAREDNESS AND RESPONSE

The City of El Paso shall undertake all necessary efforts to prepare city infrastructure to withstand extreme weather conditions and ensure uninterrupted provision of basic services and utilities to City residents. In consultation with the Climate Director, the City Manager shall create an annual Climate Disaster Mitigation and Preparedness plan. This report shall include provisions to protect water quality and quantity, create a resilient electric grid, and protect residents during extreme weather events.

Section 9.12 - WATER CONSERVATION

Section 9.12-1 — Ban on using City water for fossil fuel industry activities outside of the city limits.

The City of El Paso shall not sell or transfer any water for purposes of fossil fuel industry activities outside of the city limits, or otherwise allow any City water to be used for such purposes, except as provided in Section 9.12-2.

Section 9.12-2 — Cancellation of City contracts subject to the ban.

To the extent that any contracts to sell or transfer City water for fossil fuel industry activities outside of the city limits were enacted prior to adoption of this charter provision, the City Manager shall prepare a report to the City Council, within three months of the adoption of this charter amendment, identifying the relevant contracts and presenting all available methods for cancelling such contracts. To coincide with the presentation required by this section, the City Manager shall schedule a public vote by the City Council to consider cancellation of each applicable contract. This section shall not be read to permit the City to extend or renew any existing contracts subject to this provision.

Section 9.13 - ELIMINATION OF IMPEDIMENTS TO RENEWABLE ENERGY

The City shall not impose any fees, fines, or other financial or nonfinancial burdens that limit the purchase, use, or generation of renewable energy. Any such fees, fines, or other burdens in existence at the time this charter amendment takes effect are hereby null and void, including but not limited to interconnection fees.

Section 9.14 - CLIMATE COMMISSION

Section 9.14-1 — General.

The Climate Commission exists for the purposes of overseeing the implementation and fulfillment of the City's Climate Policy and related provisions of this article. The Commission shall establish its own procedures within the framework of this charter to carry out these functions.

Section 9.14-2 — Functions and duties of the Climate Commission.

Special meetings shall be held as required for the proper discharge of the duties of the Commission, due notice having been given. Five members of the Commission will constitute a quorum. It shall be the duty of the Commission to: (1) Recommend to the Council adoption of legislation and policy that will advance the City's Climate Policy and related charter provisions; and (2) Investigate matters concerning the City's implementation and fulfillment of the Climate Policy and related charter provisions.

Section 9.14-3 — Appointment.

The Commission shall consist of nine persons appointed by the Council. Each City Council member, including the Mayor, shall nominate one person to the Commission. Appointments shall be for three-year terms. All terms shall commence on February 1st. As part of the appointment process, each City Council member who nominates a person for appointment shall provide a written statement in support of the nominee's qualifications to serve on the Commission. If a Commissioner resigns their commission or otherwise ceases to serve on the Commission, the City Council member representing that district shall nominate a replacement in a manner consistent with this charter to complete the remainder of the replaced Commissioner's term.

Section 9.14-4 — Qualifications.
Commission members shall be members of the El Paso community who have specific expertise and experience that will help the City advance its Climate Policy, with a preference for residents who have been negatively impacted by climate change or who represent communities that have been negatively impacted by climate change. No person who worked in the fossil fuel industry shall be appointed to the Commission. Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. Commission members must reside in the District represented by that City Council member who appointed them.

Section 9.15-5 — Compensation.

Members of the Commission shall serve without salary.

Section 9.15-6 — Staff.

The Climate Director shall be responsible for providing staff support to the Climate Commission.

Section 9.15-5 — Organization.

The Commission shall elect from its members a Chairman and a Vice-Chairman, each for a term of one year. The Chairman may not be re-elected for successive terms.

Section 9.15-8 — Removal.

Members of the Commission will not be removed from office except for incompetence or nonfeasance, misfeasance or malfeasance in office, such as neglect of duty or refusal to perform the duties imposed by this Charter. Action may be initiated in writing by any member of the Council or Commission. Any removal will require an affirmative vote of two-thirds of the Council.

Section 9.16 – SEVERABILITY

If any portion of this Article shall be deemed unlawful by a court of law, that portion shall be severed from the Charter and the rest shall continue in force.

Ballot Proposition

FOR ( ) Should the City Charter be amended, as proposed by a petition, to add Article IX to create a climate policy requiring the City to use all available resources and authority to accomplish three goals: to reduce the City's contribution to climate change, invest in an environmentally sustainable future, and advance the cause of climate justice; to require the City Council to employ a Climate Director, who shall be appointed and removed by City Council and report directly to City Council; to require the creation of a Climate Department to be directly overseen by the Climate Director; to require the creation of a nine member climate commission appointed by City Council, with recommending and investigative powers, for the purposes of overseeing the implementation and fulfillment of a City climate policy, with removal of individual members only for incompetence or nonfeasance, misfeasance or malfeasance in office; to require the creation of an annual goal for climate jobs and the adoption and implementation of a policy that will transfer current City employees to climate work and provide a preference for contractors who are able to advance the City's climate policy; to require the creation of an annual Solar Power Generation Plan for the City of El Paso and to require the City Manager to establish and maintain policies that encourage the

development of rooftop solar power generation capacity within the City of El Paso using existing City facilities and require both new buildings and retrofitted buildings to include solar power generation capacity; to require the employment of all available methods so that all energy used within the City is generated by clean renewable energy, with the goals of requiring (1) 80% clean renewable energy by 2030 and (2) 100% clean renewable energy by 2045; to require the City of El Paso to employ all available efforts to convert El Paso Electric to municipal ownership; to require the City of El Paso to undertake all necessary efforts to prepare City infrastructure to withstand extreme weather conditions and ensure uninterrupted provision of basic services and utilities to City residents; to require the City of El Paso to ban the use of City water for fossil fuel industry activities, defined to include El Paso Electric, outside of the city limits and prohibit the City of El Paso from selling or transferring any water for purposes of fossil fuel industry activities outside of the city limits, or otherwise allow any City water to be used for such purposes; to prohibit the City of El Paso from imposing any fees, fines, or other financial or nonfinancial burdens that limit the purchase, use, or generation of renewable energy and nullifying any such fees, fines, or other burdens in existence at the time the charter amendment takes effect.

AGAINST ( )