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November 9, 2018

Honorable Members of the
Los Angeles City Council
c/o Office of the City Clerk
Room 395 City Hall

**SUBJECT: SPECIAL ELECTION FOR CITY OF LOS ANGELES COUNCIL
DISTRICT 12**

Honorable Members:

This report discusses the options available to the City Council to fill the anticipated vacancy in the Office of Member of the City Council, 12th District. Based on the statements of the incumbent Councilmember, the office is likely to be vacant starting January 1, 2019. The Council has the authority under Charter Section 409 to fill the vacancy in the Council District office by either: 1) appointing a person to fill the office for the remainder of the term; or 2) calling a Special Election to elect a person to fill the office for the remainder of the term. If the Council opts to fill the vacancy by Special Election, it also may appoint a person to temporarily fill the office until that Special Election is completed.

Should the City Council opt to call a Special Election to fill the vacancy, the earliest date the Special Election could be reasonably held is June 4, 2019. The corresponding runoff date, if necessary, would be August 13, 2019. In addition, the City Clerk is recommending that the Los Angeles Registrar-Recorder/County Clerk (LARR/CC) administer this Special Election, if called, for the same reasons in the LAUSD 5 Special Election report, and as mentioned below.

OPTIONS – APPOINTMENT OR SPECIAL ELECTION

Appointment - Charter Section 409(a)

The Council has the authority to make an appointment to fill a vacancy once the vacancy exists. The person to be appointed must meet the eligibility requirements set forth in Charter Section 407, which requires the person to be a registered voter of the Council District at the time of appointment and be a resident of the Council District at least 30 days prior to appointment.

This long-term appointment would last for that portion of Mr. Englander's term remaining through December 13, 2020. The Council has not opted to exercise its authority to make a long-term appointment to fill a vacancy since the mid-1960s when former Councilmember John Ferraro was appointed to fill a vacancy. The Council has usually opted to call a Special Election.

The appointment option would fill the vacancy more rapidly than a Special Election and would avoid the cost of conducting a Special Election; however, the argument against the appointment option is that the voters of the 12th Council District should have the right to choose their City Council representative.

Special Election - Charter Section 409(b)

The City Council may alternatively choose to adopt an Ordinance to call a Special Election. If the Special Election is called by Tuesday, January 8, 2019, the earliest date a Special Election could reasonably be held would be June 4, 2019, with a corresponding run off date, if necessary, on August 13, 2019. Please note that this schedule would also allow the City to benefit from the fact that other elections are already scheduled to take place in the County of Los Angeles on June 4, 2019. (If the Special Election is called later than January 8, 2019, it would move the election date accordingly.)

These election dates would minimize the time Council District 12 would be without representation on the Council, while still providing reasonable notice for prospective candidates to meet election residency requirements and organize their campaigns, providing adequate time for this Office to prepare for the election, and avoiding holidays, which may hinder voter turnout. While it is possible to call and schedule the election on a slightly earlier date, May 14, 2019, it is not feasible or recommended under the circumstances because it would compress the election schedule and require adopting the Special Election Ordinance prior to the actual vacancy. Based on the longstanding advice of the City Attorney's Office, the legal risks in calling a Special Election prior to the date of the actual vacancy may be reduced if several conditions are met. For example, the City Clerk would need to receive a date certain resignation letter from the outgoing official prior to the City Council calling the Special Election and no candidate filing activities could take place until the date of the actual vacancy. It is unknown if these and other conditions can be met here prior to December 31, 2018.

If the Council opts to fill the vacancy by Special Election, Charter Section 409(b) provides that Council may appoint a person to temporarily fill the office as a full voting member of the City Council until that Special Election is completed. Alternatively, Council may opt to leave the office vacant and assign a caretaker to handle the office's administrative affairs until the election.

Background

While either the City of Los Angeles or the County of Los Angeles can administer this election as stated in the Los Angeles Unified School District Board 5 Special Election report, the City Clerk is recommending the LARR/CC also administer this Special Election, if called. The LARR/CC has recently received State Certification of its new Vote-By-Mail tally system that was used this November 2018. Additionally, the County is conducting elections for other municipalities on June 4, 2019, in surrounding areas. Finally, recent changes in the administration of the statewide voter registration database and its relationship to local voter data management make it best for the LARR/CC to conduct the Special Election.

The LARR/CC has informed the City Clerk of the estimated \$2.25M to conduct the two potential Special Elections. Additionally, the City Clerk estimates it will cost approximately \$150,000 to conduct candidate filing and candidate petition verification services, for a total of \$2.4M to fill the Council District 12 vacancy. As of the writing of this report, it appears the election costs will not be shared with any other jurisdictions' elections being held on the same dates and this Special Election will stand alone.

Accordingly, the City Clerk recommends that the City Council adopt the Special Election Ordinance prepared and submitted by the City Attorney. In addition to setting the election dates, the Special Election Ordinance establishes that the candidate filing period start on February 11, 2019, with nominating petitions due no later than March 4, 2019. This filing and nomination period will allow the City Clerk to transmit candidate names to the LARR/CC so they can prepare and mail the Official Sample Ballot to Council District 12 voters in time for the June 4, 2019 Election. It should also be noted that, per the City Charter, candidates must be residents of Council District 12 at least 30 days prior to the first day to file for office (in this case, candidates would have to be residents no later than January 12, 2019).

Recommendations for Council action:

1. ADOPT the Special Election Ordinance prepared and submitted by the City Attorney that calls and orders a Special Election to be held on June 4, 2019, and a Special Runoff Election to be held, if necessary, on August 13, 2019, to fill the vacancy in the Office of Member of the City Council, 12th District.
2. Appropriate \$1.3M from a funding source to be identified from Fiscal Year 2018/19, to the City Clerk Fund No. 100/40 as follows for the June 4, 2019 Special Primary Election:

\$ 120,000 to Account 1070 (Salaries As-Needed)
\$ 12,000 to Account 1090 (Salaries Overtime)
\$1,168,000 to Account 4170 (Election Expense)

3. Appropriate \$1.1M from a funding source to be identified by the City Administrative Officer (CAO) from Fiscal Year 2019/2020, to the City Clerk Fund No. 100/40 as follows for the August 13, 2019, Special Runoff Election:

\$1,100,000 to Account 4170 (Election Expense)

4. Authorize the City Clerk, in conjunction with the CAO and the Controller, to make any technical corrections or clarifications to the above fund transfer instruction in order to effectuate the intent of this action.
5. Authorize the City Clerk to negotiate and execute any agreements, as appropriate, as may be needed relative to the Office of Member of the City Council, 12th District, Special Election, subject to the approval of the City Attorney as to form and legality.

Fiscal Impact Statement

Calling, ordering, and conducting the Special Election(s) to fill the vacancy in the Office of Member of the City Council, 12th District, is estimated to cost the City \$2.4M.

Respectfully submitted,



Holly L. Wolcott
City Clerk