RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CYPRESS, CALIFORNIA, CENSURING COUNCIL MEMBER FRANCES MARQUEZ FOR FAILING TO RESPOND TO PUBLIC RECORDS ACT REQUESTS, FAILING TO RESPOND TO PUBLIC RECORDS ACT REQUESTS IN A TIMELY MANNER; DISCLOSING CONFIDENTIAL INFORMATION FROM CLOSED CITY COUNCIL SESSION(S); VIOLATING THE CHARTER; VIOLATING THE CODE OF ETHICS; AND VIOLATING THE CIVILITY, CONDUCT AND GOVERNANCE POLICY

WHEREAS, it is the duty of all Council Members to act in the public’s interest; respect good governance processes; and perform their duties professionally and ethically; and

WHEREAS, the laws of the State of California, the City of Cypress Charter, the Code of Ethics, and the City Council’s Civility, Conduct and Governance Policy establish legal and other obligations on Council Members’ behavior, conduct, and compliance with requests and direction from the city management; and

WHEREAS, Council Member Marquez has repeatedly and intentionally violated laws of the State of California, the City of Cypress Charter, the Code of Ethics, and the City Council’s Civility, Conduct and Governance Policy; and

WHEREAS, from November 2020 through the first quarter of 2021, Council Member Marquez repeatedly interfered with the City Manager’s selection of a department director by insisting in being included in the selection process and pressured the City Attorney to intervene in the selection process on her behalf; and

WHEREAS, this is a direct violation of the Charter requirement that, “Neither the Council or any of its members shall interfere with the execution by the City Manager of his powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the departmental officers in the administrative service of the City, of any person to an office or employment or his removal therefrom”; and

WHEREAS, the Charter also requires that the City Manager shall, “Appoint and remove administrative officers, except those appointed by the Council, and when he deems it necessary for the good of the service suspend or remove any employee”; and

WHEREAS, on November 15, 2021, in a meeting with a department director, Council Member Marquez made the director feel pressure to retire and told the director which city employee to appoint to fill the vacancy arising from the director’s retirement; and
WHEREAS, this is a direct violation of the Charter requirement that, “Neither the Council or any of its members shall interfere with the execution by the City Manager of his powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the departmental officers in the administrative service of the City, of any person to an office or employment or his removal therefrom”; and

WHEREAS, on January 4, 2022, Council Member Marquez directly engaged with a consultant regarding the California Voting Rights Act/Election System community forum presentation.  
WHEREAS, Council Member Marquez contacted the consultant despite clear direction from the City Council at its December 27, 2021 meeting that all input regarding the presentation was due directly to the City Manager and was to be provided no later than January 3, 2022; and

WHEREAS, on January 10, 2022, Council Member Marquez revealed information from a closed City Council session in violation of the Brown Act; and

WHEREAS, on January 13, 2022, Council Member Marquez made complaints to the Human Resources Administrator against Council Members and the City Manager; threatened a civil rights lawsuit against the City Council for racial discrimination; and made a verbal complaint of harassment against other Council Members; and

WHEREAS, this is a direct violation of the Charter requirement that, “the Council and its members shall deal with the administrative service under the City Manager solely through the City Manager;” and

WHEREAS, Council Member Marquez violated the Charter when she made her complaint to an administrator-level position rather than the City Manager or City Attorney; and

WHEREAS, the Charter requires that, “Neither the Council or any of its members shall interfere with the execution by the City Manager of his powers and duties, or order...”; and

WHEREAS, Council Member Marquez violated the Charter when she complained to a city employee about the City Manager; and

WHEREAS, Council Member Marquez violated the City Council’s longstanding commitment to conduct City Council business through the City Manager or department directors; and
WHEREAS, Council Member Marquez violated the City Council’s commitment to address the City Manager’s performance directly with him and likely violated the employment agreement between the city and City Manager; and

WHEREAS, the City Council has received training, and been advised by the City Manager and City Attorney that filing any verbal or written complaint to the Human Resources Division is not a right Council Members have per the City of Cypress Personnel Rules and Regulations; and

WHEREAS, on January 26, 2022 these Charter and other procedural violations forced the City Manager to protect the city, the Charter, and ensure the proper administration of all affairs of the city by requiring that Council Member Marquez conduct all City Council business exclusively and directly through the City Manager; and

WHEREAS, Council Member Marquez has repeatedly violated the January 26, 2022 requirements that she conduct all City Council business exclusively and directly through the City Manager; and

WHEREAS, the City Council adopted the City of Cypress Civility, Conduct and Governance Policy on February 28, 2022 to promote mutual respect, civility, and orderly conduct among elected and appointed City officials, City staff, and our community; and

WHEREAS, the City Council required Council Members to sign the Civility, Conduct and Governance Policy by March 8, 2022; and

WHEREAS Mayor Morales, Mayor Pro-Tem Hertz-Mallari, Council Member Minikus and Council Member Peat signed the Civility, Conduct and Governance Policy by March 8, 2022; and

WHEREAS, Council Member Marquez failed to sign the Civility, Conduct and Governance Policy by March 8, 2022; and

WHEREAS, Council Member Marquez signed the Civility, Conduct and Governance Policy on March 28, 2022 after Mayor Pro-Tem Hertz-Mallari placed an item on the City Council agenda to “Issue Direction to Correct to Council Member Marquez for refusing to sign the Civility, Conduct and Governance Policy and Code of Ethics as required by City Council action at its February 28, 2022 regular meeting”; and

WHEREAS, Council Member Marquez has consistently failed to follow Code of Ethics and Civility, Conduct and Governance Policy protocols, especially those requiring Council Members to treat City staff professionally; prepare for and engage in meetings; preserve order and decorum during meetings; keep comments clear, concise, and on-topic; alert the City Manager or City Attorney in advance when asking questions about an
agenda item; speak directly to the City Manager in a timely manner about concerns about City operations, City staff analyses, or City staff performance; and support a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City; and

WHEREAS, the City Clerk has received three requests for records under California’s Public Records Act. One each from Keep Cypress United, Fortis, LLP, and Californians Aware; and

WHEREAS, on March 29, 2022, Council Member Marquez was asked to provide records in response to the Keep Cypress United request by April 5, 2022; and

WHEREAS, Council Member Marquez failed to meet the April 5, 2022 deadline and did not complete her response until April 11, 2022; and

WHEREAS, on May 9, 2022, Council Member Marquez, was asked to provide records in response to the Fortis, LLP request by June 3, 2022; and

WHEREAS, Council Member Marquez has failed to provide a complete response to the request; and

WHEREAS, on May 20, 2022, Fortis, LLP challenged the appropriateness of the City’s response to its request, presented a series of questions to the City and Council Member Marquez, and threatened legal action if records for which Council Member Marquez asserted attorney-client privilege with her personal legal counsel were not produced; and

WHEREAS, on May 22, 2022, the City Attorney referred the questions from Fortis, LLP to Council Member Marquez and her separate attorney; and

WHEREAS, Council Member Marquez has failed to provide a complete response to Fortis, LLP; and

WHEREAS, on May 31, 2022, Council Members, including Council Member Marquez, were asked to provide records in response to the Californians Aware request by June 6, 2022; and

WHEREAS, Mayor Morales, Mayor Pro-Tem Hertz Mallari, Council Member Minikus and Council Member Peat responded to the request by June 6, 2022; and

WHEREAS, Council Member Marquez has failed to provide any response to the request; and
WHEREAS, Council Member Marquez has repeatedly failed to communicate in a timely manner with City management about the Public Records Act requests; failed to provide timely responses to the Public Records Act requests; and failed to earnestly comply with the Public Records Act requests; and

WHEREAS, Council Member Marquez’s failure to respond (or respond timely) to the requests, as required by the Public Records Act, exposes the City to litigation; damages its reputation; wastes valuable City resources; and violates State law, the Charter, the Code of Ethics, and the Civility, Conduct and Governance Policy; and

WHEREAS, records discovered and provided in response to the Public Records Act requests include communications between Council Member Marquez and third parties that disparage other Council Members; include racist language; and otherwise demonstrate that Council Member Marquez has violated the City’s Code of Ethics’ requirements that Council Members’ professional and personal conduct must be above reproach and should avoid even the appearance of impropriety; and that Council Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the City Council, City staff or public; and

WHEREAS, Council Members have spoken to Council Member Marquez informally on multiple occasions to try to resolve concerns regarding her misconduct; and

WHEREAS, on January 6, 2022, Mayor Morales and the City Attorney met with Council Member Marquez for approximately two hours to resolve concerns regarding her misconduct;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CYPRESS DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. The recitals set forth above are incorporated herein by this reference.

Section 2. The City Council finds that Council Member Marquez has repeatedly and intentionally violated the Public Records Act, the Charter, the Code of Ethics, and the Civility, Conduct and Governance Policy.

Section 3. The City Council formally censures Council Member Marquez for the reasons stated herein.

Section 4. This Resolution shall be effective upon its adoption. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED and ORDERED by the City Council of the City of Cypress, California at a regular meeting held on ___ day of June, 2022.
I, Alisha Farnell, City Clerk of the City of Cypress, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of the said City Council held on the ___ day of June, 2022, by the following roll call vote:

AYES:    COUNCIL MEMBERS:
NOES:    COUNCIL MEMBERS:
ABSENT:  COUNCIL MEMBERS:

CITY CLERK OF THE CITY OF CYPRESS