

**ORDINANCE NO. 2422**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE ESTABLISHING DISTRICT-BASED ELECTIONS FOR CITY COUNCILMEMBERS BY AMENDING TITLE 2 OF THE VICTORVILLE MUNICIPAL CODE TO ADD A NEW CHAPTER 2.15 “CITY COUNCIL - DISTRICT-BASED ELECTIONS” AND APPROVING THE DISTRICT BOUNDARY MAP AND SEQUENCE OF ELECTIONS FOR CITY COUNCILMEMBERS**

**WHEREAS**, the City of Victorville (the “**City**”) is a California charter city and municipal corporation, organized under the Constitution and the laws of the State of California, and exercising its authority pursuant Sections 5 and 7 of Article XI of the California Constitution; and

**WHEREAS**, the City Council of the City (the “**City Council**”) is the legislative body of the City, comprised of five Councilmembers, each of whom prior to the adoption of this Ordinance, were elected in at-large elections in which each Councilmember was elected by the registered voters of the entire City in accordance with the City’s charter, on a staggered basis to serve four-year terms; and

**WHEREAS**, on August 12, 2021, the City Clerk received a certified letter from attorney Scott J. Rafferty on behalf of his client (Neighborhood Elections Now) alleging that the City’s at-large Councilmember electoral system violates the California Voting Rights Act of 2001, *California Elections Code Section 14025 et seq.* (the “**CVRA**”), because it impairs the ability of a protected class (Latino voters) to elect candidates of its choice or its ability to influence the outcome of an election, as a result of the dilution of the rights of Latino voters, and threatening legal action if the City declined to adopt a district-based electoral system; and

**WHEREAS**, a violation of the CVRA may be established if it is shown that ‘racially polarized voting’ (“**RPV**”) occurs in elections in which the voters of the City vote; and

**WHEREAS**, as set forth in CVRA Sections 14026(e) and 14028, RPV means voting in which there is a difference, as defined in case law regarding enforcement of the federal Voting Rights Act of 1965 (52 U.S.C. §10301 *et seq.*), in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate; and

**WHEREAS**, the City has broad constitutional authority with respect to municipal affairs (under California Constitution Article XI, Section 5, as implemented by Article I of its Charter), which generally includes the authority to adopt ordinances related to the conduct of elections; however, that authority is subject to limitations set forth in the City Charter and limitations established by state statutes that are narrowly drawn to address "statewide concerns" (*e.g.* those that are not municipal matters or affairs); and

**WHEREAS**, the CVRA is a matter of statewide concern in that it implements the equal protection and voting rights provisions of California Constitution Article I, Section 7, and Article II, Section 2; and the CVRA is narrowly drawn and reasonably related to eliminating dilution of the vote of protected classes when found to occur in an at-large electoral system (see *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781,798-802); and

**WHEREAS**, based on the holding in the *Palmdale* case, notwithstanding the City's municipal affairs authority to adopt ordinances related to the conduct of elections, the City is not authorized to exercise authority that is in conflict with the CVRA (e.g., maintain at-large elections that dilute the voting rights of a protected class); and

**WHEREAS**, California Government Code Section 34886 provides that, notwithstanding any other law, a City Council may adopt an ordinance that requires Councilmembers to be elected in a district-based election system, without being required to submit the ordinance to the voters for approval; and

**WHEREAS**, based on the *Palmdale* case holding and Government Code Section 34886, the City Council is authorized to adopt an ordinance to establish a district-based election system for Councilmembers; and

**WHEREAS**, pursuant to Government Code Section 34886, it is declared that the change in the method of electing Councilmembers made by this Ordinance is in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code), and to protect the City from potential liability under the CVRA; and

**WHEREAS**, the City Council is committed to furthering diversity and inclusion in the City as to its elections and determined that the public interest is better served by initiating a process for transition to a district-based election system and thereby avoiding the high costs associated with defending a lawsuit under the CVRA; and

**WHEREAS**, at an adjourned regular meeting held on September 27, 2021, the City Council adopted Resolution No. 21-100, declaring its intention to transition from at-large to district-based elections for its Councilmembers, including the specific steps it would undertake to facilitate the transition, and an estimated timeframe for so doing, pursuant to California Elections Code Section 10010; and

**WHEREAS**, on October 7, 2021, the City created a webpage dedicated to the transition from at-large to district-based elections of Councilmembers on the City's Website at: [VictorvilleCA.gov/yourdistrictvv](http://VictorvilleCA.gov/yourdistrictvv) (English) and [VictorvilleCA.gov/tudistritovv](http://VictorvilleCA.gov/tudistritovv) (Spanish) (the "**Districting Webpage**") on which public hearing notices, presentations, draft maps, the proposed timeline, and other information relating to the districting transition process and public participation were posted; and

**WHEREAS**, consistent with the provisions of Elections Code Section 10010, at duly noticed special meetings on October 14, 2021, and October 26, 2021, the City Council held two (2) duly noticed and advertised public hearings over a period of no more than thirty days, at which the public was invited to provide input regarding the composition of the districts before drawing a draft map or maps of the proposed boundaries of the districts; and

**WHEREAS**, the City further held three (3) community meetings to describe “Communities of Interest”, seek public input on the districting process, and provide information on drawing and submission of maps to members of the public on November 6, 2021 (in-person, in English with Spanish translation provided); on November 9, 2021 (on-line in Spanish only); and on November 15, 2021 (on-line in English only), all of which were broadly advertised in advance by means of radio ads, door hangars, bus shelter ads, social media blasts, flyers, traditional postings at City Hall and the City Library, and on the City’s Districting Webpage; and

**WHEREAS**, following the input received at the above-described public hearings and community meetings, and consistent with the timeframe in Resolution No. 21-100, the provisions of the CVRA, the Federal Voting Rights Act, Elections Code Section 21621, and the results of a preliminary PRV analysis by the City’s demographic consultant, the City’s demographic consultant prepared three (3) draft district boundary maps for public review and consideration by the City Council, designated as Plan A, Plan B, and Plan C; and

**WHEREAS**, on November 23, 2021, and consistent with the provisions of Elections Code Section 10010 and Resolution No. 21-100, the City published and made available to the public on the City’s Districting Webpage, at the City Library, and at City Hall, said Plan A, Plan B and Plan C draft district boundary maps; and

**WHEREAS**, consistent with the provisions of Elections Code Section 10010, at duly noticed special meetings on November 30, 2021, and December 8, 2021, the City Council held two (2) duly noticed and advertised public hearings over a period of no more than forty-five days, at which the public was invited to provide input regarding the content of the draft map(s) and the proposed sequence of elections, as applicable; and

**WHEREAS**, at the public hearing held on November 30, 2021, the City Council received a summary presentation from its demographic consultant as to how said draft maps were drawn, took input from the public on said draft district boundary maps, and provided direction to its demographer consultant to: (1) revise/refine the Plan A draft district boundary map to keep a community of interest together; (2) retain the Plan B district boundary map for further consideration; (3) discard the Plan C district boundary map; and (4) add required population, district composition, and related demographic analyses to each of the maps submitted by the public to ascertain if such maps met applicable districting law principles and standards so that such maps could be better considered by the City Council at the December 8, 2021 public hearing; and

**WHEREAS**, on December 1, 2021, consistent with the provisions of Elections Code Section 10010 and Resolution No. 21-100, the City published and made available to the public on the City's Districting Webpage, at the City Library, and at City Hall, seven (7) draft district boundary maps, four (4) of which were maps submitted by members of the public; and

**WHEREAS**, at the December 8, 2021 public hearing, the City Council received a presentation by the City's demographic consultant on the draft maps; the public was invited to provide input regarding the content of the draft maps and the potential sequence of elections; the City Council discussed and proposed changes to said draft maps and selected a refined version of a publicly submitted map designated as Plan 2.B and discussed and determined the district numbering and sequence of elections for said Plan 2.B map; and directed staff to prepare an ordinance to be considered at a public hearing on December 16, 2021 which incorporated said map as the final proposed map and the proposed sequence of elections; and

**WHEREAS**, on December 9, 2021, the Plan 2.B district boundary map and sequence of elections as approved by the City Council on December 8, 2021 was published and made available to the public on the City's Districting Webpage, at the City Library, and at City Hall; and

**WHEREAS**, in accordance with Elections Code Section 10010, at a duly noticed special meeting on December 16, 2021, the City Council held a duly noticed and advertised public hearing at which the public was invited to provide input regarding the content of the draft maps, the potential sequence of elections, and this proposed Ordinance No. 2422 establishing district-based elections; and the City Council introduced for adoption and first reading by title only this proposed Ordinance No. 2422, which incorporates the City Council's selected district boundary map Plan 2.B and the sequence of elections attached to, incorporated in, and set forth in this Ordinance and on Exhibit A attached hereto and incorporated herein by this reference; and

**WHEREAS**, this Ordinance is being enacted to provide for the election of Victorville City Councilmembers by district in five single-member districts as reflected in the district boundary map designated as Plan 2.B and attached as Exhibit A to this Ordinance, in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code); and

**WHEREAS**, the City Council has considered all information related to this matter, as presented at the public meetings and hearings identified herein, and as published on the City's Districting Webpage, including any supporting reports and presentations by City staff, the City's demographers, and any other information provided during said public meetings and hearings.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Recitals.**

The recitals set forth above are true and correct and are hereby incorporated by this reference as findings as if set forth in their entirety.

**Section 2.     Addition of a New Chapter 2.15 of Title 2 of the Victorville Municipal Code.**

**A NEW CHAPTER 2.15, TITLED “CITY COUNCIL - DISTRICT-BASED ELECTIONS”, IS HEREBY ADDED TO TITLE 2 OF THE VICTORVILLE MUNICIPAL CODE WHICH CHAPTER SHALL READ IN ITS ENTIRETY AS FOLLOWS:**

**CHAPTER 2.15  
CITY COUNCIL - DISTRICT-BASED ELECTIONS**

**2.15.010     Declaration of Purpose.**

The City Council hereby declares that the purpose of this Chapter is to change the method of electing members of the Victorville City Council (individually a “Councilmember” and collectively “Councilmembers”) to district-based elections as defined in the California Voting Rights Act of 2001.

**2.15.020     City Council Districts Established.**

Five single-member Councilmember districts are hereby established in the City of Victorville. The boundaries and identifying number of each district shall be as described on the district boundary map as shown below.

*[District Boundary Map attached hereto as Exhibit A and incorporated herein to be published in this Section 2.15.020 the Victorville Municipal Code and kept on file in the City Clerk's Office]*

**2.15.030     District-Based Elections for City Councilmembers**

(a) Following the effective date of the Ordinance creating this Chapter and upon the commencement of “by-district” elections in the order established in Section 2.15.040 of this Chapter, district-based elections for each of the five City Councilmembers shall be conducted in accordance with California Government Code Sections 34871 and 34882, meaning that:

- (1) A person is not eligible to hold office as a Councilmember unless he or she resides in, and is a registered voter in the district in which he or she seeks election, beginning at the time nomination papers are issued to candidates as provided in California Elections Code Section 10227; and
- (2) One Councilmember shall be elected for each district by the voters of that district alone.

- (b) Registered voters signing nomination papers or voting for a Councilmember shall be residents of the geographical area making up the district from which the Councilmember is to be elected.
- (c) No term of any Councilmember that commenced prior to the effective date of the Ordinance creating this Chapter shall be affected by the adoption of said Ordinance.
- (d) Notwithstanding any other provision of this Section, the Councilmembers in office at the time this Chapter takes effect shall continue in office until the expiration of the term to which he or she was elected.
- (e) In the event a vacancy occurs before the expiration of the term of a Councilmember in office at the time this Chapter takes effect, a person who is appointed or elected by special election to fill such vacancy may reside anywhere within the corporate boundaries of the City. A person appointed or elected to fill such a vacancy shall hold the office in accordance with Government Code Section 36512.
- (f) The terms of the office of each member elected to the City Council shall remain four (4) years.

**2.15.040 Commencement of District Elections.**

- (a) Commencing at the general municipal election in 2022 and every four years thereafter, the voters in districts 2 and 4 shall elect Councilmembers by district for full four (4) year terms. At the general municipal election in 2024 and every four years thereafter, the voters in districts 1, 3, and 5 shall elect Councilmembers by district for full four (4) year terms.
- (b) The term of office of any Councilmember who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected.

**Section 3. Technical Adjustments and Metes-and-Bounds.**

If necessary to facilitate the implementation of this Ordinance, the City Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts. The City Clerk shall also direct the City's demographer to provide a metes-and-bounds description of each district as shown on the map attached as Exhibit A and incorporated herein by reference, which shall be submitted to the City Council at its next regular meeting and kept on file in the City Clerk's office for public review.

**Section 4. Repeal of Conflicting Provisions.**

All the provisions of the Victorville Municipal Code heretofore adopted by the City Council of the City of Victorville that are in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

**Section 5. Severability.**

The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

**Section 6. CEQA Exemption.**

The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(5), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is a governmental, organizational, or administrative activity that will not result in direct or indirect changes in the environment. The adoption of this Ordinance is further exempt from CEQA as it does not qualify as a “project” pursuant to Title 14 of the California Code of Regulations Section 15061(b)(3), as there is no possibility that such action would cause either a direct, or reasonably foreseeable indirect, physical change in the environment.

**Section 7. Effective Date.**

This Ordinance shall take effect thirty (30) days after its final passage.

**Section 8. Certification.**

The City Clerk of the City of Victorville is hereby directed to certify to the passage and adoption of this Ordinance and to cause it to be published as required by law.

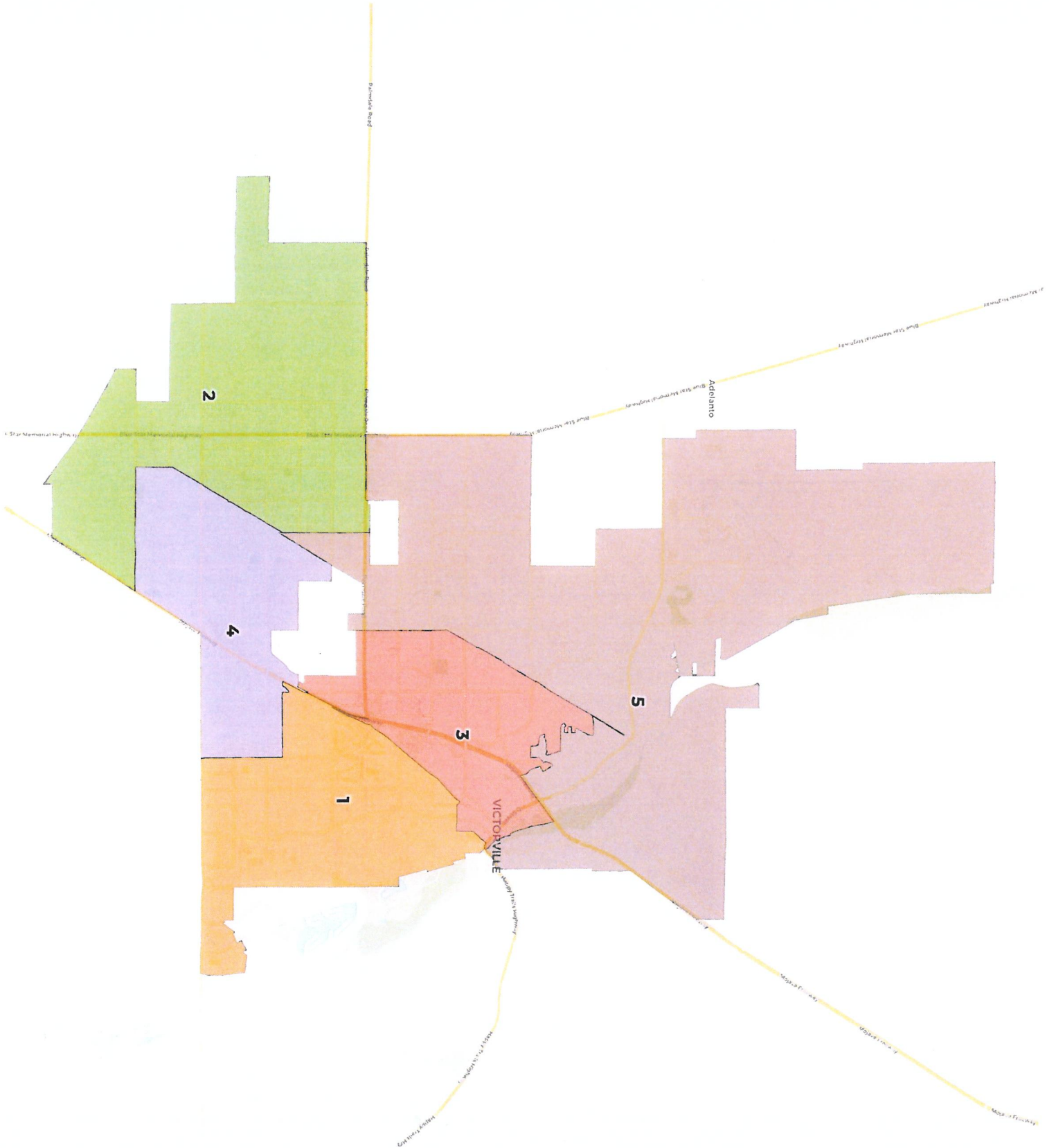
# EXHIBIT A





# REDISTRICTING PARTNERS

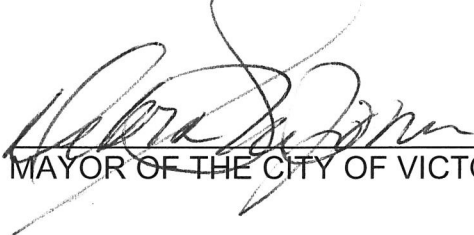
## City of Victorville Final Plan (Proposed) (2B)




ORDINANCE NO. 2422

THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT ON JANUARY 21, 2022.

PASSED, APPROVED AND ADOPTED THIS 22<sup>nd</sup> DAY OF DECEMBER 2021.

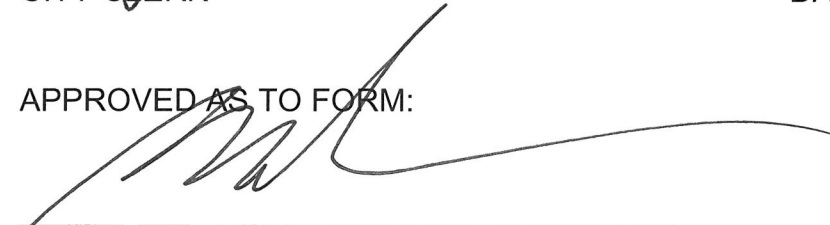
  
MAYOR OF THE CITY OF VICTORVILLE

ATTEST:

  
CITY CLERK

12-22-2021  
DATE

APPROVED AS TO FORM:

  
CITY ATTORNEY

I, JENNIFER THOMPSON, City Clerk of the City of Victorville and ex-officio Clerk to the City Council of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2422 which was introduced at a meeting held on the 16<sup>th</sup> day of December 2021 and duly adopted at a meeting held on the 22<sup>nd</sup> day of December 2021 by the following roll call vote, to wit:

AYES: Mayor Jones, Councilmembers Becerra, Gomez, and Irving

NOES: None

ABSENT: None

ABSTAIN: None

  
CITY CLERK OF THE CITY OF VICTORVILLE