

# County of San Diego



## Sample Ballot & Voter Information Pamphlet

### GENERAL ELECTION TUESDAY, NOVEMBER 2, 2004

#### ABSENTEE VOTERS:

- ✓ Save this pamphlet for voting; another will not be sent with your ballot

#### POLL VOTERS:

- ✓ Check back cover for your polling place. Polls open at 7 a.m. and close at 8 p.m.
- ✓ Don't wait! Call before Election Day if directions are needed or check [www.sdvote.com](http://www.sdvote.com)
- ✓ Mark and take this pamphlet with you to the polls

---

Secretary of State will mail information  
about the state propositions.

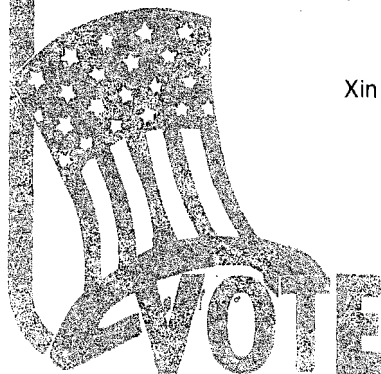
---

Go to [www.sdvote.com](http://www.sdvote.com) for election night results.

Llame al 858-565-5800 para solicitar información sobre  
los servicios de votación disponibles en español.

Tumawag sa 858-565-5800 upang magtanong tungkol sa  
mga serbisyo sa pagboto na makukuha sa  
wikang Filipino.

Xin gọi số 858-565-5800 để hỏi về các dịch vụ  
bầu cử bằng tiếng Việt.



Sally McPherson, Registrar of Voters  
5201 Ruffin Road, Suite I  
San Diego, CA 92123  
858-565-5800 or 1-800-696-0136

OFFICIAL BALLOT

COUNTY OF SAN DIEGO - GENERAL ELECTION - NOVEMBER 2, 2004

CITY

CITY

CITY OF SAN DIEGO

**PROP D** AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 216.1, ACCESS TO GOVERNMENT INFORMATION. Shall the City Charter be amended to provide that the people have the right of access to information concerning the conduct of the people's business?

YES

NO

CITY OF SAN DIEGO

**PROP F** AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING ARTICLE XV TO PROVIDE FOR A STRONG MAYOR FORM OF GOVERNANCE. Shall the City Charter be amended to change from a City Manager structure of government to a Strong Mayor structure of government for a five year trial period starting January 1, 2006?

YES

NO

CITY OF SAN DIEGO

**PROP E** AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY AMENDING SECTIONS 40 AND 41(D) TO PROVIDE FOR INDEPENDENT LEGAL COUNSEL FOR THE ETHICS COMMISSION. Shall the City Charter be amended to enable the Ethics Commission to retain its own legal counsel, rather than be represented by the City Attorney whose clients include City Officials who may be investigated by the Ethics Commission?

YES

NO

CITY OF SAN DIEGO

**PROP G** AMENDS THE CITY CHARTER RELATING TO CITY CONTRIBUTIONS TO THE RETIREMENT SYSTEM. Shall the City Charter be amended to preclude any future multi-year agreement between the City and the Retirement Board delaying full actuarial funding of City contributions to the Retirement System, and defining the amortization schedules to be used for payment of costs associated with past service liability and costs associated with reducing the unfunded accrued actuarial liability of the pension system?

YES

NO

OFFICIAL BALLOT

COUNTY OF SAN DIEGO - GENERAL ELECTION - NOVEMBER 2, 2004

CITY

CITY

CITY OF SAN DIEGO

**PROP H AMENDS THE CITY CHARTER TO CHANGE THE COMPOSITION OF THE RETIREMENT BOARD.** Shall the Charter be amended to change the composition of the Retirement Board as follows: seven highly qualified citizen appointees without interests in the City's pension system, four members elected from classifications of active membership (one police, one fire, two general), one member elected from the ranks of the retired, and one member appointed by the City Manager from City management?

YES

NO

CITY OF SAN DIEGO

**PROP K MOUNT SOLEDAD NATURAL PARK.** Shall the City be authorized to remove from dedicated park status and sell to the highest bidder a portion of Mount Soledad Natural Park, subject to a lease to the Mount Soledad Memorial Association to preserve and maintain the existing granite walls and plaques, and to transfer ownership of the cross to the new buyer who will determine whether to maintain, relocate, or remove the cross or to replace it with another appropriate monument?

YES

NO

CITY OF SAN DIEGO

**PROP J TRANSIENT OCCUPANCY TAX.** Shall the City Charter and the San Diego Municipal Code be amended to increase the transient occupancy tax (TOT) paid solely by hotel and motel visitors from 10.5% to 13% to be used for general governmental purposes?

YES

NO

## CITY OF SAN DIEGO

### Proposition D

(This proposition will appear on the ballot in the following form.)

---

**PROP D** AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING SECTION 216.1, ACCESS TO GOVERNMENT INFORMATION. Shall the City Charter be amended to provide that the people have the right of access to information concerning the conduct of the people's business?

---

This proposition requires approval by a majority (over 50%) of the voters.

<p>Full text of this proposition follows the argument.</p>
--

### CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City Council has authorized the placement of a proposition on the ballot seeking voter approval to amend the San Diego City Charter by adding new section 216.1, titled "Access to Government Information," and containing language regarding the public's right to access government meetings and documents. Such language acknowledges that the people have a right of access to information concerning the conduct of the public's business, and that meetings of public bodies and writings of public officials shall be open to public scrutiny. The measure also contains the following provisions: (1) that authorities shall be construed broadly if they effectuate the people's right of access, and narrowly construed if they limit access; (2) that any statute, court rule, or other authority adopted after the effective date of the measure that limits the right of access shall be adopted with findings demonstrating the interest protected by the exception and need to protect that interest; and (3) that nothing in its provisions supersedes or modifies any existing rights to privacy, or repeals or nullifies any existing laws that provide exceptions to rights of access.

The provisions of this measure relating to the adoption of statutes or court rules will not be controlling over actions of the state legislature or the courts because the City has no jurisdiction over those entities.

The City of San Diego will continue to be governed by state constitutional provisions and pre-emptive state laws regarding open meetings (the Brown Act) and access to public documents (the Public Records Act), and future changes to those laws may affect the application of this measure. In addition, a proposed constitutional amendment, entitled "Access to Government Information," and designated as "Proposition 59" will appear on the November 2, 2004, ballot and contains provisions that are virtually identical to this proposed Charter amendment. If adopted, this Charter amendment will be effective for the City irrespective of the vote on Proposition 59.

This ballot measure will take effect if passed by a majority of the City's voters.

### CITY MANAGER'S FISCAL ANALYSIS

This ballot measure would amend the City Charter to add a provision similar to California Senate Constitutional Amendment No. 1 (SCA 1), assuring the right of the people to have access to public information pertaining to the conduction of the people's business. The City of San Diego currently provides full access to applicable information to the public. It is anticipated that the passage of this measure would not result in any additional expense to the City of San Diego.

## **ARGUMENT IN FAVOR OF PROPOSITION D**

### **MORE ACCOUNTABLE GOVERNMENT**

The public has a right to a government that is open, responsive and accountable to the people it serves. The citizens of San Diego deserve to know what their government is doing, how decisions are made and what information was used to make those decisions.

### **MORE OPEN GOVERNMENT**

The Access to Government Information Charter Amendment will help create a more open government, by requiring public officials to make it easier for the public to access information and obtain documents. The burden will be on the government to show there is a real and legitimate need for secrecy before any requested information is kept secret.

### **MORE RESPONSIBLE GOVERNMENT**

At the same time, the Access to Government Information Charter Amendment ensures that private information about ordinary citizens will remain private. It specifically states that "Nothing in the Section supercedes or modifies the right of privacy guaranteed by Section 1 of the California Constitution. . . ."

The public, not the politicians, should decide on the people's right to know. **Please vote "YES" on Prop D** – for more accountable, open and responsible government.

Thank you.

DONNA FRYE  
San Diego City Councilmember

TONI ATKINS  
San Diego Deputy Mayor

J. W. AUGUST  
Chairman FOI/Open Government Committee  
Society of Professional Journalists  
San Diego Chapter

JOSEPH T. FRANCKE  
General Counsel  
Californians Aware

NORMA DAMASHEK  
VP Public Policy  
League of Women Voters San Diego

## **ARGUMENT AGAINST PROPOSITION D**

No argument against the proposition was filed  
in the office of the City Clerk.

## PROPOSED CHARTER AMENDMENT

(The portions of the charter to be added are underlined.)

### **Section 216.1: Access to Government Information**

- (a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.
- (b) (1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- (2) A statute, court rule, or other authority, including those in effect on the effective date of this Section, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access. A statute, court rule or other authority adopted after the effective date of this Section that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.
- (3) Nothing in this Section supersedes or modifies the right of privacy guaranteed by Section 1 of the California Constitution or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
- (4) Nothing in this Section supersedes or modifies any provision of this Charter or the California Constitution, including the guarantees that a person may not be deprived of life, liberty or property without due process of law, or denied equal protection of the laws.
- (5) This Section does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this Section, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

**CITY OF SAN DIEGO**

**Proposition E**

(This proposition will appear on the ballot in the following form.)

---

**PROP E** AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY AMENDING SECTIONS 40 AND 41(D) TO PROVIDE FOR INDEPENDENT LEGAL COUNSEL FOR THE ETHICS COMMISSION. Shall the City Charter be amended to enable the Ethics Commission to retain its own legal counsel, rather than be represented by the City Attorney whose clients include City Officials who may be investigated by the Ethics Commission?

---

This proposition requires approval by a majority (over 50%) of the voters.

**Full text of this proposition follows the arguments.**

**CITY MANAGER'S FISCAL ANALYSIS**

This ballot measure would affect a transfer of appropriations from the City Attorney Office's budget to the Ethics Commission's budget. The Ethics Commission is currently reliant upon the City Attorney's Office for legal counsel; this funding would enable the Commission to retain independent counsel. It is anticipated that the passage of this measure would not result in any additional expense to the City of San Diego.

## ARGUMENT IN FAVOR OF PROPOSITION E

### **A Yes Vote for Proposition E will provide the Ethics Commission with independent and impartial legal counsel.**

The Ethics Commission was created in June of 2001 to preserve public confidence in City government and to ensure that City Officials abide by campaign finance and ethics laws. The Commission's responsibilities include:

- Investigating reported violations of the City's governmental ethics laws.
- Imposing penalties and sanctions for ethics violations.
- Providing advice to City officials and the public about the City's ethics laws.

As required by the City Charter, which mandates that the City Attorney serve as legal counsel for all of the City's departments and offices, the Office of the City Attorney has been giving legal advice to the Ethics Commission since its inception. The Commission, which strives to maintain the highest level of integrity, recognizes that the current arrangement could affect its impartiality because of the following potential conflicts:

- In addition to advising the Ethics Commission, the City Attorney's Office advises City Officials who are subject to investigation by the Commission.
- Ethics Commission enforcement actions may involve staff in the City Attorney's Office or candidates seeking the office of City Attorney.

This proposition would amend the Charter to allow the Ethics Commission to obtain legal counsel independent from the City Attorney. Obtaining independent legal counsel will ensure that the Commission is completely independent and unbiased with respect to both advice and enforcement.

This is a cost neutral proposal that has been endorsed by the San Diego County Taxpayers Association. Funding for an Ethics Commission attorney will be obtained by transferring existing budgeted funds from the City Attorney's Office to the Ethics Commission.

### **VOTE YES on PROPOSITION E.**

DICK MURPHY  
Mayor  
City of San Diego

CASEY GWINN  
City Attorney  
City of San Diego

DOROTHY SMITH  
Chair  
Ethics Commission

MICHAEL AGUIRRE  
City Attorney Candidate

LESLIE DEVANEY  
City Attorney Candidate

## ARGUMENT AGAINST PROPOSITION E

No argument against the proposition was filed  
in the office of the City Clerk.



## PROPOSED CHARTER AMENDMENT

(The portions of the charter to be added are underlined  
and the portions to be deleted are printed in ~~strike-out~~ type.)

### Section 40: City Attorney

At the municipal primary and general election in 1977, a City Attorney shall be elected by the people for a term of seven (7) years. A City Attorney shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter.

Notwithstanding any other provision of this Charter and commencing with elections held in 1992, no person shall serve more than two (2) consecutive four-year terms as City Attorney. If for any reason a person serves a partial term as City Attorney in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. Persons holding the office of City Attorney prior to the November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.

The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties, except in the case of the Ethics Commission, which shall have its own legal counsel independent of the City Attorney. The attorney and his or her deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office.

The City Attorney shall appoint such deputies, assistants, and employees to serve him or her, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter.

It shall be the City Attorney's duty, either personally or by such assistants as he or she may designate, to perform all services incident to the legal department; to give advice in writing when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of the City Attorney by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each approval of the form or correctness thereof; to preserve in the City Attorney's office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to preserve in the City Attorney's office copies of all written opinions he or she has furnished to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his or her successor in office.

The City Attorney shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, documents, or evidence necessary to be used in any suit, or required for the purpose of the office.

The City Attorney shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption. The City Attorney shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the departments of the City when such

assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

The salary of the City Attorney shall be fixed by the Council and set forth in the annual appropriation ordinance, provided that the salary of the City Attorney may not be decreased during a term of office, but in no event shall said salary be less than \$15,000.00 per year.

In the event of a vacancy occurring in the office of the City Attorney by reason of any cause, the Council shall have authority to fill such vacancy, which said authority shall be exercised within thirty (30) days after the vacancy occurs. Any person appointed to fill such vacancy shall hold office until the next regular municipal election, at which time a person shall be elected to serve the unexpired term. Said appointee shall remain in office until a successor is elected and qualified.

#### **Section 41: Commissions**

[subsections (a)–(c) no change in text]

- (d) Ethics Commission. For so long as an Ethics Commission remains established by ordinance of the Council, the Executive Director of the Commission shall be appointed by the Commission, subject to confirmation by the Council, and shall thereafter serve at the direction and pleasure of the Commission. The Commission may, in accordance with complaint and investigation procedures approved by ordinance of the Council, subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records, or other items material to the performance of the Commission's duties or exercise of its powers. The Ethics Commission shall be authorized to retain its own legal counsel, independent of the City Attorney, for legal support and guidance in carrying out its responsibilities and duties.

## CITY OF SAN DIEGO

### Proposition F

(This proposition will appear on the ballot in the following form.)

---

**PROP F** AMENDS THE CHARTER OF THE CITY OF SAN DIEGO BY ADDING ARTICLE XV TO PROVIDE FOR A STRONG MAYOR FORM OF GOVERNANCE. Shall the City Charter be amended to change from a City Manager structure of government to a Strong Mayor structure of government for a five year trial period starting January 1, 2006?

---

This proposition requires approval by a majority (over 50%) of the voters.

**Full text of this proposition  
follows the arguments.**

### CITY ATTORNEY'S IMPARTIAL ANALYSIS

The current San Diego City Charter provides for a Council-Manager form of government. The San Diego City Council is composed of nine members, eight Councilmembers and the Mayor. The Council governs and sets policy for the City. The Mayor is the chief elective officer and the City Manager is the chief executive officer. The City Manager runs the day-to-day affairs of the City and implements Council policy. The Council has no administrative powers. The Council is forbidden by the Charter's non-interference clause from directing the City Manager's employees.

If adopted, this measure would amend the Charter to suspend certain provisions of the Charter to create a Mayor-Council form of government for a five-year trial period, beginning January 1, 2006, and ending December 31, 2010. Voter action would be required to extend or make this change permanent; otherwise after the December 31, 2010, sunset date, all changes implemented by this measure are repealed and all provisions of the Charter suspended by this measure are revived.

Approval of this measure would remove the Mayor from the Council by providing for an eight-member Council. The eight Council Districts would not be affected by this measure. The Mayor would have the authority to give direction to all City officers and employees, except those in departments and offices recognized in the Charter as being independent, such as the Council offices, City Attorney, Personnel, Retirement, and the Ethics Commission. The Mayor retains the power to veto those resolutions and ordinances adopted by the Council establishing policy. The veto power would not extend to matters of internal governance of the Council or to the application of existing municipal rules to specific decisions of the Council, such as the issuance of land use permits. The Mayor would be responsible for preparing the annual budget for the Council's consideration and adoption. The Council would appoint an Independent Budget Analyst to review and provide budget information to the Council, independent from the Mayor. It would take the affirmative vote of five Councilmembers to take any action, and five votes to override any mayoral veto.

The Council would establish its own rules, elect a presiding officer, establish committees, and set the legislative agenda for the City, including establishing procedures for docketing matters in open session. The Mayor, City Attorney, and presiding officer of the Council would jointly set the agenda for closed session meetings, and, when present, the Mayor would preside over those meetings, but the Mayor would have no right to vote.

The Mayor would appoint the City Manager with Council confirmation. The City Manager would serve at the pleasure of the Mayor. The Mayor would appoint the City Auditor and Comptroller, Police Chief, and Fire Chief, subject to Council confirmation. All other managerial department heads formerly under the City Manager would be appointed by the Mayor and serve at the pleasure of the Mayor. As under the current Charter, the Mayor would appoint all other members of City Boards and Commissions, subject to Council confirmation.

### **CITY MANAGER'S FISCAL ANALYSIS**

The financial impact of this ballot measure is not determinable at this time. It would ultimately depend on whether the approved Fiscal Year 2006 budgets for the Mayor's Office and the City Manager's Office would meet the administrative and operating needs of the respective offices to fulfill their revised responsibilities as set forth in the measure.

There may be a fiscal impact related to the establishment of an Office of Independent Budget Analyst. The cost of the establishment of this office will depend on its composition, staffing level, and operational requirements, which have not been determined as yet. Any budgetary adjustments would have to be approved by the Mayor and City Council.

## ARGUMENT IN FAVOR OF PROPOSITION F

### YES ON PROPOSITION F TO MAKE CITY HALL

More responsive to neighborhood concerns

More accountable to taxpayers

More efficient and effective

#### CITY GOVERNMENT IS OUTDATED

San Diego's population has increased nearly ten-fold since the current City Manager form of government was created in 1931. The issues City officials grapple with today didn't exist back then. It is time to do what most other major American cities have done, and give voters the power to elect a chief executive who is accountable for how the City is run.

#### MAYOR NEEDS AUTHORITY TO MAKE CHANGES

Currently, the authority to run the City of San Diego is held by an unelected City Manager. Proposition F ends the buck-passing and finger-pointing. Proposition F gives you the power to elect someone with the authority to make changes.

#### CHECKS AND BALANCES PROTECT TAXPAYERS

Proposition F includes checks and balances, including an independent Budget Analyst, City Council review of the Mayor's budget and personnel decisions, and Mayoral line-item budget veto to eliminate waste and ensure that limited City resources are used for police, fire and other City priorities.

#### MAKE CITY HALL MORE ACCOUNTABLE TO NEIGHBORHOODS

Proposition F makes the City's chief executive directly accountable to you and your neighbors to ensure adequate street and sidewalk repair, park maintenance, police and fire response times, water and sewer maintenance and other basic neighborhood services.

#### GIVE VOTERS A CHOICE

This change has been debated for decades and reviewed by a variety of citizen committees and commissions. Now it's time to give voters a chance to decide. As an additional safeguard, voters will have the choice in five years to make Proposition F permanent, or return to the old City Manager form.

**Endorsed by**  
**San Diego City Fire Fighters**  
**San Diego County Taxpayers Association**

LISA BRIGGS  
Executive Director  
San Diego County Taxpayers Association

RONALD L. SAATHOFF  
President  
San Diego City Firefighters

STEVEN P. ERIE  
Professor of Political Science  
UC San Diego

EDWARD LOPEZ  
San Diego City Schools,  
Board of Education Member, District E

LEON L. WILLIAMS  
Former Member – San Diego City Council  
Former Member – San Diego County Board of Supervisors

## **ARGUMENT AGAINST PROPOSITION F**

### **PROTECT OUR NEIGHBORHOODS FROM SPECIAL INTEREST CONTROL**

Downtown business interests wrote Prop F behind closed doors to give themselves more access and power. Prop F will **NOT** make government more accountable or efficient. Vote NO on Proposition F.

### **KEEP GOVERNMENT ACCOUNTABLE TO YOU**

When you call your Councilmember, you have a right to expect action. Prop F creates political barriers between Councilmembers and city services to prevent them from responding directly to your neighborhood concerns.

Prop F decreases government accountability and weakens neighborhoods and communities.

### **STOP BACKROOM DEALS**

Prop F is a last-minute, backroom deal. It's a plan based on city hall politics in Los Angeles and Oakland. For decades, San Diego and other 1<sup>st</sup> rate cities have scored high for efficiency under City Council-Manager governments.

Prop F politics doesn't work in L.A. and it won't work here.

### **PROTECT OUR NEIGHBORHOODS**

Prop F puts the Mayor in charge of behind-closed-door meetings . . . eliminates the Mayor's obligation to attend public hearings . . . and allows a majority Council vote to be overruled by one person.

Prop F is a power grab by inside players who would drain public services away from our neighborhoods to subsidize powerful developers.

**THAT IS WHY NEIGHBORHOOD AND COMMUNITY LEADERS, AND EVEN MANY WHO WOULD OTHERWISE SUPPORT A THOUGHTFUL AND REASONABLE REFORM PLAN, OPPOSE PROPOSITION F.**

### **YOU CAN STOP THE SPECIAL INTERESTS. VOTE NO ON PROP F.**

- **Vote No** because Prop F would REDUCE accountability of your elected officials.
- **Vote No** because Prop F would reward downtown interests at the expense of our neighborhoods.
- **Vote No** because Prop F would make it harder for the City Council to clean up an out-of-control bureaucracy.

**KEEP CITY HALL ACCOUNTABLE TO OUR NEIGHBORHOODS. PLEASE JOIN US IN VOTING NO ON PROP F.**

DONNA FRYE  
San Diego City Councilmember

BILL FARRAR  
President, San Diego Police Officers Assn

JERRY SANDERS  
Former Chief of Police

SOL PRICE  
Businessman – Founder of Price Club

NORMA DAMASHEK  
League of Women Voters San Diego

## PROPOSED CHARTER AMENDMENT

(The portions of the charter to be added are underlined.)

### **ARTICLE XV** **Strong Mayor Trial** **Form of Governance**

#### **Section 250: Purpose and Intent**

The City of San Diego has operated under a governance structure known as the City Manager form of government since its current Charter was adopted in 1931. Under the City Manager form of government, the City is governed by a Council consisting of eight members elected by district and a Mayor who is elected citywide. Also under this form of government, the policies, rules, and decisions of the Council are implemented by a city manager. The purpose of this Article is to modify the existing form of governance for a trial period of time to test implementation of a new form of governance commonly known as a Strong Mayor form of government.

#### **Section 255: Operative Date; Sunset of Article; Future Action by Voters**

- (a) The date for the provisions of this Article to become operative is January 1, 2006.
- (b) After January 1, 2006, the provisions of this Article shall remain in effect for a period of five years (until December 31, 2010) at which time this Article shall be automatically repealed and removed from the Charter. However, the Council and the people reserve the right to propose amendments to the Charter at the November 2010 election or sooner to extend, make permanent, shorten or repeal the effective period of this Article and to consider increasing the number of Council districts to nine at the time of the next City Council district reapportionment which follows the national decennial census in 2010.

#### **Section 260: Integration of Article with Charter**

- (a) For the period of time this Article is operative, the following sections or subsections of the Charter shall be deemed inoperative and this Article shall supersede and completely govern the subjects:
- |                      |  |
|----------------------|--|
| <u>Section 12(a)</u> | <u>The Council [superseded by section 270]</u>   |
| <u>Section 13</u>    | <u>Meetings Of The Council [superseded by section 270]</u>   |
| <u>Section 16</u>    | <u>Introduction And Passage Of Ordinances And Resolutions [superseded by sections 275, 280, 285, and 290]</u>                          |
| <u>Section 17</u>    | <u>When Ordinances And Resolutions Take Effect; Emergency Measures [superseded by section 295]</u>                                     |
| <u>Section 22</u>    | <u>Interference By Individual Members Of Council With Administrative Service Prohibited [superseded by sections 270(g) and 270(h)]</u> |
| <u>Section 24</u>    | <u>Mayor [superseded by section 265]</u>   |
| <u>Section 25</u>    | <u>Deputy Mayor [superseded by section 265]</u>  |
| <u>Section 27</u>    | <u>The City Manager [superseded by sections 260 and 265]</u>   |
- (b) All executive authority, power, and responsibilities conferred upon the City Manager in Article V, Article VII, and Article IX shall be transferred to, assumed, and carried out by the Mayor during the period of time this Article is operative.

#### **Section 265: The Mayor**

- (a) The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for purpose of serving civil process, for the signing of all legal instruments and documents, and by the Governor for military purposes.
- (b) In addition to exercising the authority, power, and responsibilities formally conferred upon the City Manager as described in section 260(b), the Mayor shall have the following additional rights, powers, and duties:
- (1) To be the chief executive officer of the City;
  - (2) To execute and enforce all laws, ordinances, and policies of the City, including the right to promulgate and issue administrative regulations that give controlling direction to the administrative service of the City. Nothing in this section shall be interpreted or applied to add or subtract from powers conferred upon the City Attorney in Charter sections 40 and 40.1;

- (3) To recommend to the Council such measures and ordinances as he or she may deem necessary or expedient, and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable;
  - (4) To attend and be heard at any regular or special open session meeting of the Council, but not the right to vote at such meetings;
  - (5) To approve or veto actions passed by the Council in open session, pursuant to sections 280 and 290;
  - (6) To attend and be heard at any closed session meeting of the Council, but not the right to vote at such meetings. When present, the Mayor shall preside over closed session. When the Mayor does not attend closed session, the Presiding Officer of the Council shall chair the closed session meeting;
  - (7) Sole authority to appoint the City Manager, subject to Council confirmation;
  - (8) Sole authority to direct and exercise control over the City Manager in managing those affairs of the City under the purview of the Mayor as expressly permitted in the Charter;
  - (9) Sole authority to dismiss the City Manager without recourse;
  - (10) Notwithstanding contrary language in Charter section 39, sole authority to appoint the City Auditor and Comptroller, subject to Council confirmation;
  - (11) Notwithstanding contrary language in Charter sections 30, 39, 57 or 58, authority to dismiss the City Auditor and Comptroller, the Chief of Police or the Chief of the Fire Department, subject only to a right for these city officials to appeal to the City Council to overturn the Mayor's decision. Any such appeal must be filed with the City Clerk within 10 calendar days of receiving the notice of dismissal or termination from the Mayor. The City Clerk shall thereafter cause the appeal to be docketed at a regular open meeting of the City Council no later than 30 days after the appeal is filed with the Clerk;
  - (12) As provided for in Charter sections 41 and 43, the authority to appoint members of City boards, commissions, and committees, subject to Council confirmation;
  - (13) Sole authority to appoint City representatives to boards, commissions, committees and governmental agencies, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor;
  - (14) To cooperate fully with the Council and the Office of Independent Budget Analyst, including but not limited to, supplying requested information concerning the budget process and fiscal condition of the City to the Council and the Office of Independent Budget Analyst; and
  - (15) To propose a budget to Council and make it available for public review, no later than April 15.
- (c) On or before the 15th day of January of each year, the Mayor shall communicate by message to the City Council a statement of the conditions and affairs of the City, and make recommendations on such matters as he or she may deem expedient and proper. In time of public danger or emergency, the Mayor shall take command of the police, maintain order, and enforce the law.
- (d) No person shall serve more than two consecutive four-year terms as Mayor. If for any reason a person serves a partial term as Mayor in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.
- (e) If a vacancy occurs in the Office of Mayor for any reason other than a successful recall election, and,
- (1) If the vacancy occurs with one year or less remaining in the term, the Council shall appoint a person to fill the vacancy.



- (2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within ninety days of the vacancy, unless there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that regular election.
- (A) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the Office of Mayor.
- (B) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within forty-nine days of the first special election, unless there is a regular municipal or statewide election scheduled to be held within ninety days of the proposed special run-off election date, at which time the City Council may consolidate the special run-off election with that regular election. The two candidates receiving the highest number of votes cast for the Office of Mayor in the first special election shall be the only candidates for the Office of the Mayor and the names of only those two candidates shall be printed on the ballot for that seat.
- (f) If a vacancy occurs by reason of a successful recall election, the Council shall adopt procedures to fill the vacancy.
- (g) Whether a person is appointed or elected to the Office of Mayor, whatever the reason for the vacancy, that person shall serve as Mayor for the remainder of the unexpired term.
- (h) Upon the appointment or election of any person to the Office of Mayor, any other City office held by that person is automatically vacated.
- (i) During the period of time when an appointment or election is pending to fill a vacancy in the Office of Mayor, the presiding officer of the Council shall be vested with the authority to supervise the staff remaining employed in the Office of the Mayor, to direct and exercise control over the City Manager in managing the affairs of the City under the purview of the Mayor and to exercise other power and authority vested in the Office of the Mayor when the exercise of such power and authority is required by law. This limited authority would include circumstances where the expeditious approval of a legislative action is necessary to meet a legal requirement imposed by a court or another governmental agency. Such limited authority would not include the exercise of the power of veto or any other discretionary privilege which is enjoyed by a person appointed or elected to the Office of Mayor. The presiding officer, while acting under this section pending the filling of a mayoral vacancy, shall not lose his or her rights as a member of the Council.
- (j) For purposes of this section, a vacancy may result from death, resignation, or recall. If a vacancy occurs by reason of a resignation, the date of the vacancy will be the date specified in the written letter of resignation or, if there is no date certain specified in the letter, upon the date of receipt of the letter by the City Clerk.

#### **Section 270: The Council**

- (a) The Council shall be composed of eight councilmembers elected by district, and shall be the legislative body of the City.
- (b) Each councilmember shall have the right to vote upon all questions before the Council.
- (c) No resolution, ordinance, or other action of the Council shall be passed or become effective without receiving the affirmative vote of five members of the Council, unless a greater number is otherwise required by the Charter or other superseding law. All substantive actions of the Council shall be passed by adoption of an ordinance or resolution.
- (d) The Council shall have the right to determine its own rules and order of business as provided for in Charter section 14, including a process for the selection of a presiding officer who shall have responsibility for chairing meetings of the

Council and managing the docket process. Any such rules shall provide a process for the Mayor and independent department heads to propose matters for consideration by the Council in open session and a process for the City Attorney, Mayor, and Presiding Officer to coordinate the docketing of matters for consideration by the Council in any closed session of the Council.

- (e) The Council shall have the right to establish committees of the Council and to establish advisory boards and citizen committees as provided for in Charter section 43.
- (f) The Council shall have the right to establish an Office of Independent Budget Analyst to be managed and controlled by the Independent Budget Analyst. The Council shall appoint this independent officer who shall serve at the pleasure of the Council and may be removed from Office by the Council at any time. The Council shall determine the powers of this Office and its manager by ordinance.
- (g) No member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the City Manager or other officer appointed or confirmed by the Council in the making of any appointment to, or removal from, any City office or employment, or the purchase of any supplies, or discuss directly or indirectly with any candidate for City Manager the matter of appointments to City Offices or employment, or attempt to exact any promises from such candidate relative to any such appointments.
- (h) Except for the purpose of inquiry or communications in furtherance of implementing policies and decisions approved by resolution or ordinance of the Council, individual members of Council shall deal with the administrative service for which the Mayor is responsible only through the Mayor, the City Manager, or the Mayor's designees.
- (i) Any City official or department head in the administrative service may be summoned to appear before the Council or any committee of the Council to provide information or answer any question.

#### **Section 275: Introduction and Passage of Ordinances and Resolutions**

- (a) Ordinances shall be introduced in the Council only in written form. An alteration necessary only to correct a typographical or clerical error or omission may be performed by the City Clerk with the written approval and concurrence of the City Attorney, so long as the alteration does not materially or substantially alter the contents, requirements, rights, responsibilities, conditions, or prescriptions contained in the original text of the ordinance. A typographical or clerical error shall include, but is not limited to, incorrect spelling, grammar, numbering, punctuation, transposed words or numbers, and duplicate words or numbers.
- (b) All ordinances except annual appropriation ordinances and ordinances codifying or rearranging existing ordinances, shall be confined to one subject, and the subject or subjects of all ordinances shall be clearly expressed in the title.
- (c) The following ordinances may be passed by the Council on the day of their introduction: ordinances making the annual tax levy; the annual appropriation ordinance; ordinances calling or relating to elections; ordinances recommended by the Mayor or independent department heads transferring or appropriating moneys already appropriated by the annual appropriation ordinance; ordinances establishing or changing the grade of a public highway; and emergency ordinances as defined by section 295 of this Charter. Other ordinances, however, shall be passed by the Council only after twelve calendar days have elapsed from the day of their introduction.
- (d) Each ordinance shall be read in full prior to passage unless such reading is dispensed with by a vote of five members of the Council, and a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.
- (e) The yeas and nays shall be taken upon the Council's passage of all resolutions and ordinances and entered upon the journal of the proceedings of the Council.
- (f) The enacting clause of ordinances passed by the Council shall be "Be it ordained by the Council of the City of San Diego." The enacting clause of ordinances submitted by initiative shall be "Be it ordained by the People of the City of San Diego."

**Section 280: Approval or Veto of Council Actions by Mayor**

- (a) The Mayor shall have veto power over all resolutions and ordinances passed by Council with the following exceptions:
  - (1) The Mayor's veto power shall not extend to matters that are exclusively within the purview of Council, such as selection of the Independent Budget Analyst, the selection of a presiding officer, or the establishment of other rules or policies of governance exclusive to the Council and not affecting the administrative service of the City under the control of the Mayor.
  - (2) The Mayor's veto power shall not extend to those matters where the Council has acted as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.
  - (3) Emergency Ordinances.
  - (4) The Annual Appropriation Ordinance.
  - (5) The Salary Ordinance, which instead shall be subject to veto in accordance with the process described in section 290.
- (b) Matters that are not subject to the Mayor's veto power shall be clearly indicated as such on the Council's agenda and within the body of the resolution or ordinance, which, pursuant to section 40, shall be signed as to form and legality by the City Attorney.
- (c) The following shall apply to each resolution and ordinance that has been passed by the Council and is subject to the Mayor's veto:
  - (1) Each such resolution or ordinance shall, within forty-eight hours of passage, be transmitted to the Mayor by the City Clerk with appropriate notations of the action taken by the Council.
  - (2) The Mayor shall act upon each resolution or ordinance within ten business days of receiving the City Clerk's transmittal.
  - (3) The Mayor shall either approve the resolution or ordinance by signing and returning it to the City Clerk within the specified time limit, or shall veto any resolution or ordinance and return it to the City Clerk with his or her written objections within the specified time limit.
  - (4) Failure to return the resolution or ordinance within the specified time limit shall constitute approval and such resolution or ordinance shall take effect without the Mayor's signed approval. The City Clerk shall note this fact on the official copy of such resolution or ordinance.

**Section 285: Enactment Over Veto**

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. If, after such reconsideration, at least five members of the Council vote in favor of passage, that resolution or ordinance shall become effective notwithstanding the Mayor's veto. If more than five votes are required for the passage of any resolution or ordinance by the provisions of this Charter or other superseding law, such larger vote shall be required to override the veto of the Mayor. If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty calendar days of such veto, that resolution or ordinance shall be deemed disapproved and have no legal effect.

**Section 290: Council Consideration of Salary Ordinance and Budget; Special Veto Power**

- (a) No later than April 15 of each year, the Council shall introduce a Salary Ordinance fixing the salaries of all officers and employees of the City in accordance with Charter section 70. The Salary Ordinance shall be proposed by the Mayor for Council introduction in a form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City. Upon introduction, the Salary Ordinance shall be transmitted to the Mayor.
  - (1) The Mayor shall, within five business days of receipt of the Salary Ordinance introduced by Council, either approve the ordinance as introduced or veto all or any specific provision within the ordinance.

- (2) The Salary Ordinance shall be returned to the Council within the five-business day period either approved by the Mayor or accompanied by a statement explaining any reasons for the veto. The Council shall thereafter have ten business days within which to override the veto and pass the Salary Ordinance as introduced or otherwise accept the changes proposed by the Mayor in the veto statement and pass the ordinance at second reading with the changes proposed by the Mayor.
- (3) The Salary Ordinance passed by Council shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.
- (b) Prior to June 15 of each year, the Council shall satisfy its obligations under Charter section 71 by holding a minimum of two public hearings to consider the budget submitted by the Mayor. Prior to the June 15 deadline, and after at least two such public hearings have been held, the Council shall pass a resolution that either approves the budget as submitted by the Mayor or modifies the budget in whole or in part. The Council's modifications may call for adding new items or for increasing or decreasing any item.
  - (1) If approved by the Council as proposed by the Mayor, the budget shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.
  - (2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable.
    - (A) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.
    - (B) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the vote of at least five members of the Council. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.
    - (C) Upon the expiration of the Council's five business day period, or sooner if the Council by five votes so directs, the budget as returned by the Mayor, and to the extent modified thereafter by the Council, shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.
- (c) As required by section 71, the Council shall adopt the Annual Appropriation Ordinance during the month of July.
- (d) The Mayor shall have no power of veto over the Annual Appropriation Ordinance.

**Section 295: When Resolutions and Ordinances Take Effect; Emergency Measures**

- (a) In the case of a resolution or ordinance for which the Mayor has veto power:
  - (1) The date of approval by the Mayor pursuant to section 280(c) shall be deemed the date of its final passage.
  - (2) If the time for approval or veto by the Mayor has expired and no action has been taken by the Mayor, the date of expiration of that time shall be deemed the date of its final passage.
  - (3) If a resolution or ordinance is adopted by Council overriding the Mayor's veto, then the date of Council's override vote shall be deemed the date of final passage.
- (b) In the case of a resolution or ordinance for which the Mayor has no veto power, the date of passage by the Council shall be deemed the date of its final passage.
- (c) Resolutions shall become effective immediately upon their final passage, unless otherwise stated therein.
- (d) Ordinances making the annual tax levy, the annual appropriation ordinances,

ordinances calling or relating to elections, and emergency measures, shall take effect at the time indicated therein. All other ordinances passed by the Council shall take effect at the time indicated therein, but not less than thirty calendar days from the date of their final passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or the date the final canvass is issued by the County Registrar of Voters, whichever occurs later.

- (e) An emergency measure is an ordinance to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least six members elected to the Council shall be required to pass any ordinance as an emergency measure. No measure making or amending a grant, renewal, or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the Council except as defined in this section, and it is the intention of this Charter that the courts shall strictly construe compliance with such definition.

## CITY OF SAN DIEGO

### Proposition G

(This proposition will appear on the ballot in the following form.)

---

**PROP G** AMENDS THE CITY CHARTER RELATING TO CITY CONTRIBUTIONS TO THE RETIREMENT SYSTEM. Shall the City Charter be amended to preclude any future multi-year agreement between the City and the Retirement Board delaying full actuarial funding of City contributions to the Retirement System, and defining the amortization schedules to be used for payment of costs associated with past service liability and costs associated with reducing the unfunded accrued actuarial liability of the pension system?

---

This proposition requires approval by a majority (over 50%) of the voters.

**Full text of this proposition follows the arguments.**

### CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City Council has authorized the placement of a proposition on the ballot seeking voter approval of a measure that would amend Article IX section 143 of the San Diego City Charter to insert new language to specify how the City's Retirement Board should determine the amount of the City's annual contribution to the San Diego City Employees Retirement System.

Under existing language in the City Charter, the City's Retirement System is a contributory plan, with the City contributing jointly with the employees. Employees are required to contribute according to the actuarial tables adopted by the Retirement Board for normal retirement allowances. The City is required to contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount.

The result of application of the contribution requirements described above is that the City, not the City employees, is legally responsible for making any contributions necessary to rectify a situation where the Unfunded Accrued Actuarial Liability [UAAL] is unacceptably high, such as where the Retirement System is in an underfunded status.

This measure adds language into the City Charter which, commencing July 1, 2008, sets amortization schedules recommended by the Pension Reform Committee for the Retirement Board and the City to use in making the calculations necessary to determine the component of the City's annual contribution associated with paying down the UAAL. Between now and July 1, 2008, the minimum obligations of the City with respect to contributions is provided for both in the City Charter and the terms of a recently approved court settlement agreement settling litigation brought by a group of City retirees.

In addition, this measure adds language into the City Charter that precludes the City and the Retirement Board from entering into any future multi-year contracts or agreements delaying full funding of City obligations to the Retirement System, except for court-approved settlement agreements.

The California Constitution, at article XVI, section 17, provides that certain pension administration responsibilities are vested exclusively with local retirement boards. This provision was included in the California Constitution to ensure that retirement board members would not be artificially constrained by any law or policy that would interfere with the ability of these boards to exercise fiduciary duties in the most prudent manner. It is the City Attorney's opinion that the setting of contribution rates is one of those responsibilities vested exclusively with the Retirement Board. Therefore, at the suggestion of the City Attorney, language has been incorporated into the measure providing the Retirement Board with the ability to deviate from the amortization standards provided for in this measure, but only in a circumstance where adherence to the standard would prevent the Retirement Board from fulfilling its fiduciary duties prescribed in article XVI, section 17 of the California Constitution.

### **CITY MANAGER'S FISCAL ANALYSIS**

This proposition would preclude the ability of the City of San Diego to negotiate multi-year delays of full actuarial funding of the Retirement System. Additionally, the basis upon which new retirement benefits are amortized would be limited to no more than a five-year schedule and the basis upon which net accumulated actuarial losses are amortized would be limited to no more than a fifteen-year schedule. The charter currently places no restrictions on any of these actions.

A determination of fiscal impact due to the change in amortization schedules for new retirement benefits requires a full and complete actuarial report, which time did not permit.

## ARGUMENT IN FAVOR OF PROPOSITION G

**Vote Yes on Proposition G to make sure the City's pension system is financially sound.**

A year ago the Mayor and City Council appointed a Pension Reform Committee to examine the City's Retirement System and make recommendations for improvements. In order to prevent future underfunding of the pension plan liability, the Pension Reform Committee has made a series of recommendations and determined that changes should be made on how the City pays for retirement benefits.

Proposition G is a result of recommendations by the Pension Reform Committee designed to help prevent future underfunding of the City's Retirement System.

**Proposition G amends the City Charter to:**

1. Prohibit the City of San Diego from ever again repeating multi-year underfunding of the City's pension system such as began in 1996.
  2. Tell the Retirement Board to set amortization schedules for retiring the pension system debt on no more than a 15-year schedule. Under the current system, it is actually possible for the liability to increase rather than decrease.
  3. Tell the Retirement Board to set amortization schedules for newly granted benefits on no greater than a five-year schedule.
- **VOTE YES on Proposition G to ensure that the City's pension fund debt is paid down, not increased.**
  - **VOTE YES on Proposition G to force the City and the Retirement Board to understand the true costs associated with increasing employee retirement benefits and to force the City to pay for those benefits over a responsible period of time.**

**A YES VOTE WILL PROTECT TAXPAYERS, CITY EMPLOYEES AND CITY RETIREES.**

**Endorsed by the Pension Reform Committee!!**

DICK MURPHY  
Mayor  
City of San Diego

SCOTT H. PETERS  
Councilmember,  
District 1

LISA BRIGGS  
Executive Director,  
San Diego County Taxpayers Association

APRIL BOLING  
Chair,  
Pension Reform Committee



## ARGUMENT AGAINST PROPOSITION G

This measure **continues the billion-dollar Pension underfunding that you will eventually pay for. VOTE NO!**

Pension systems are simple. If the City grants pension benefits, the Pension actuary tells you how much to put in the system each year to pay for those benefits. Put that amount in, and you are NEVER underfunded. How hard is that?

But, this impossible to understand measure, drafted by the very people that created the problem, approves the City's recent underfunding action which funds **\$70 million less** this year than the amount the Pension Reform Committee recommended to just keep the City from going **further in debt**.

It attempts to **validate future underfunding 'deals'** if part of "approved settlement agreement(s)". It specifically allows the City to **"enter into multi-year contracts or agreements delaying full funding of City obligations to the system."** The City recently did that in a Court settlement with retirees. This could become the norm for getting around full funding.

This **is exactly** the type of thinking that got us into this **billion-dollar mess** in the first place!

It also does not set a 'fixed' amortization time for paying off the Pension deficit. So, it could be 'rolled' forever! It allows the City to issue Pension Bonds to be paid off **many decades into the future**. That means the City could be financing billion-dollar deficits long after the existing employees are retired. Does that make sense?

This is a terrible measure. It condemns San Diego to a future of mountainous debt.

Worst of all, **IT DOES NOT FIX ANY OF THE PROBLEMS! IT MAKES THEM PERMANENT!**

Don't be fooled! **VOTE NO!**

DIANN SHIPIONE  
Pension Board Trustee  
(Public Representative)

## PROPOSED CHARTER AMENDMENT

(The portions of the charter to be added are underlined and the portions to be deleted are printed in ~~strike-out~~ type.)

### Section 143: Contributions

The retirement system herein provided for shall be conducted on the contributory plan, the City contributing jointly with the employees affected thereunder. Employees shall contribute according to the actuarial tables adopted by the Board of Administration for normal retirement allowances, except that employees shall, with the approval of the Board, have the option to contribute more than required for normal allowances, and thereby be entitled to receive the proportionate amount of increased allowances paid for by such additional contributions. The City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employees. The mortality, service, experience or other table calculated by the actuary and the valuation determined by him and approved by the board shall be conclusive and final, and any retirement system established under this article shall be based thereon. Funding obligations of the City shall be determined by the Board on an annual basis and in no circumstances, except for court approved settlement agreements, shall the City and the Board enter into multi-year contracts or agreements delaying full funding of City obligations to the system. When setting and establishing amortization schedules for the funding of the unfunded accrued actuarial liability, the Board shall place the cost of the past service liability associated with a new retirement benefit increase on no greater than a fixed, straight-line, five year amortization schedule. Effective July 1, 2008, the Board shall place the cost associated with net accumulated actuarial losses on no greater than a fifteen year amortization schedule and the Board shall place the benefit associated with net accumulated actuarial gains on no less than a five year amortization schedule. Notwithstanding the above, the Board shall retain plenary authority and fiduciary responsibility for investment of moneys and administration of the system as provided for in article XVI, section 17 of the California Constitution. The setting and establishing of amortization schedules by the Board pursuant to this section is not intended and shall not be interpreted to preclude the City from issuing pension obligation bonds or other similar instruments containing repayment terms exceeding fifteen years.

## CITY OF SAN DIEGO

### Proposition H

(This proposition will appear on the ballot in the following form.)

---

**PROP H** AMENDS THE CITY CHARTER TO CHANGE THE COMPOSITION OF THE RETIREMENT BOARD. Shall the Charter be amended to change the composition of the Retirement Board as follows: seven highly qualified citizen appointees without interests in the City's pension system, four members elected from classifications of active membership (one police, one fire, two general), one member elected from the ranks of the retired, and one member appointed by the City Manager from City management?

---

This proposition requires approval by a majority (over 50%) of the voters.

**Full text of this proposition  
follows the arguments.**

### CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City Council has authorized the placement of a proposition on the ballot seeking voter approval to amend Article IX, section 144 and Article X, section 7 of the City Charter to change the composition of the City's Retirement Board and change the qualifications for appointment to the Board.

Under the current Charter, the Board is composed of thirteen members: the City Manager, the City Auditor and Comptroller, the City Treasurer, three members elected by the active general membership, one member elected from City retirees, one member elected by the active membership from Fire Safety, one member elected by the active membership from Police Safety, and four citizens appointed by the Council, one of whom must be a local bank officer. The Charter prescribes six-year terms for Board members.

Voter approval of this measure would maintain the total number of Board members at thirteen, but change the terms of office to four years and change the composition of the Board as follows: seven citizens with professional qualifications appointed by the Council, two members elected by the active general membership, one member elected from City retirees, one member elected by the active membership from Fire Safety, one member elected by the active membership from Police Safety, and one top ranking City management employee appointed from the administrative service of the City.

The measure includes qualifications for the citizen appointees to the Board. The seven citizen appointees must have a college degree in finance, economics, law, business, or other relevant field of study, or a relevant professional certification. Additionally, a citizen appointee must have a minimum of fifteen years experience in pension administration, pension actuarial practice, investment management, real estate, banking, or accounting.

The measure also contains qualifications for citizen appointees in order to prevent conflicts of interest. First, "no person who is a City employee, participant in the Retirement System, or City union representative may be eligible for appointment in this category." Second, "appointees shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee." At the Council hearing regarding placement of the measure on the ballot, the City Attorney interpreted this language with more specificity and obtained Council concurrence to verify the Council's intent. A "participant" in the Retirement System is a person who has assets invested with the Retirement System or who is designated as a beneficiary for someone with assets invested in the Retirement System. A "personal interest" that conflicts with Retirement Board duties means an income interest that is reportable on a Statement of Economic Interests in the City, the Retirement System, or any entity contracting as a plan sponsor with the Retirement System. A person who is a "participant" or who has a "personal interest" is not eligible for appointment to the Board as a citizen appointee. Additionally, a stockbroker or bond broker actively engaged in doing business with the City or the Retirement System is ineligible for appointment.

### **CITY MANAGER'S FISCAL ANALYSIS**

The effect of this proposition changes the composition of the Retirement Board, requiring seven of the thirteen members to be professionals with at least fifteen years experience in related fields, and with no personal or professional stakes in the Retirement System. No board members receive compensation to serve on the Retirement Board.

The proposed ballot measure to change the composition of the Retirement Board carries no fiscal impact.

## ARGUMENT IN FAVOR OF PROPOSITION H

**Vote YES on Proposition H to protect your tax dollars.**

**Vote YES on Proposition H to safeguard the City Retirement system.**

**Vote YES on Proposition H for an independent professionally qualified City Retirement Board.**

Proposition H is the result of recommendations made by the Pension Reform Committee which was established by the Mayor and City Council to review the City's pension system and make recommendations for reform and change.

Currently the 13-member Retirement Board has nine (9) members who represent City management and employees and four (4) outside independent members.

The Pension Reform Committee recommended a seven (7) member board with no representatives from City employees or City management. After hearing public testimony, the City Council agreed that the majority of the Retirement Board should be independent professionally qualified members but that City management and City employees should also be represented. That's fair.

**Proposition H accomplishes that goal. Independence and fairness.**

A YES vote on Proposition H will change the existing Retirement Board from having a majority of City employees and City managers to a Board having a majority of independent professionally qualified outside members. There will be seven outside members and six City management-City employee members on the new Retirement Board.

A YES vote on Proposition H will also establish tough professional and ethical qualifications for appointments to the Retirement Board that will enhance the ability of the Board to professionally manage the City's pension fund.

**Proposition H specifically says persons appointed to the Retirement Board "shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee."**

**A YES VOTE ON PROPOSITION H WILL PROTECT TAXPAYERS, CITY EMPLOYEES AND CITY RETIREES.**

### **Endorsed by the Pension Reform Committee!!**

APRIL BOLING  
Chair,  
Pension Reform Committee

LISA BRIGGS  
Executive Director,  
San Diego County Taxpayers Association

DICK MURPHY  
Mayor  
City of San Diego

## ARGUMENT AGAINST PROPOSITION H

Our Pension System is **underfunded by over a billion dollars**. It is irregularly managed by the Pension Board and irregularly funded by the Mayor and City Council majority. Real funding and management changes need to occur. This measure **does nothing** to solve the underfunding or management problems.

If we do not correct both the underfunding and management problems soon, it will exacerbate the City's current debt. This could **result in cuts in safety** and environmental services, and **limit our ability to fund** recreation activities and **basic neighborhood services**.

This proposal addresses **none** of these problems.

The latest underfunding proposals voted through the Pension Board were **opposed** by both a public representative **and** a labor representative. Most of the "Public Representatives" on the board voted to continue the underfunding.

The problem isn't who sits on the board. The problem is the **private underfunding agreements** and **deals that occur behind closed doors**, before the Pension Board ever meets.

**A majority of the Pension Board Members that voted for underfunding** the last time are **still eligible to serve** under this measure. Where is the reform in that?

We all agree that reform of the Pension System is needed. This proposal suggests that reshuffling a few seats on the Pension Board from labor representatives to public representatives will somehow solve the problem. It is only a ruse to give the impression of a solution, when **it clearly does nothing to solve the real problem**.

**Please Vote NO!**

DONNA FRYE  
San Diego City Councilmember

DIANN SHIPIONE  
Pension Board Trustee  
(Public Representative)

## PROPOSED CHARTER AMENDMENT

(The portions of the charter to be added are underlined  
and the portions to be deleted are printed in ~~strike-out~~ type.

### Section 144: Board of Administration

~~The system shall be managed by a Board of Administration which is hereby created, consisting of the City Manager, City Auditor and Comptroller, the City Treasurer, three members of the Retirement System to be elected by the active membership, one retired member of the retirement system to be elected by the retired membership, an officer of a local bank, and three other citizens of the City, the latter four to be appointed by the Council. Such appointees shall serve without compensation. Members of the Board, other than ex-officio, shall serve six years or until their successors are elected and qualified, and shall so classify themselves by lot that one term shall expire each year. The members of the existing Board shall serve out their unexpired terms.~~

~~The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.~~

~~The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as are approved by resolution of the Council of The City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.~~

Effective April 1, 2005, the system shall be managed by a newly constituted Board of Administration which shall consist of 13 members. Seven members shall constitute a quorum of the Board and the concurring vote of seven members shall be required for the Board to take any action. Prior to April 1, 2005, in anticipation of the effective date, and thereafter, members shall be selected to serve as follows:

- (a) Seven (7) members shall be appointed by the Mayor and confirmed by the Council. No person who is a City employee, participant in the Retirement System, or City union representative may be eligible for appointment in this category. Such appointees shall have the professional qualifications of a college degree in finance, economics, law, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have a minimum of fifteen (15) years experience in pension administration, pension actuarial practice, investment management, real estate, banking, or accounting. Members of the Board serving in this category shall serve staggered terms of four (4) years each (inaugural appointments shall have three (3) members serving two year terms) and members in this category shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed. Such appointees shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee.
- (b) One (1) police safety member of the Retirement System elected by the active police safety members to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.
- (c) One (1) fire safety member of the Retirement System elected by the active fire safety members to serve a four (4) year term.
- (d) Two (2) general members of the Retirement System elected by active general members of the Retirement System to serve a four (4) year term.

- (e) One (1) retired member of the Retirement System elected by the retired members of the Retirement System to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.
- (f) One (1) City management employee in the administrative service appointed by the City Manager to serve at the pleasure of the City Manager selected from the following: City Manager, City Treasurer, Deputy or Assistant City Manager, or person in a similar position who reports to the City Manager.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as are approved by resolution of the Council of the City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.

#### **Article X: Transfer Of Police And Fire Department Employees Into The Retirement System**

Notwithstanding any language in Article IX of this Charter to the contrary the City Council shall, upon the taking effect of this amendment, by ordinance provide for the transfer into The City Employees' Retirement System of all members of the Police and Fire Departments of The City of San Diego who were regularly employed and members of their respective Pension systems on June 30, 1946; provided, however, that in any such ordinance said Council shall provide as follows:

- (1) A minimum retirement allowance of \$200.00 per month when a member has completed the required number of years of service as provided in this Charter, and who at the effective date of the ordinance is receiving a monthly salary of at least \$400.00.
- (2) For retirement of members of the Police Department who entered the service of the department on or prior to the 8th day of May, 1941, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Police Department who entered the service of the department subsequent to the 8th day of May, 1941, after completion of 25 years of service in the aggregate.
- (3) For retirement of members of the Fire Department who entered the service of the Department on or prior to January 1, 1936, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Fire Department who entered the service of the department subsequent to the 1st day of January, 1936, after completion of 25 years of service in the aggregate.
- (4) Each member of either the Fire or Police Department who is entitled to retire after 20 years of aggregate service with the City shall receive a pension credit of 2 1/2% of his final compensation for each year completed at the effective date of said ordinance, but in no case shall such credit exceed 50% of such final compensation. For each year completed after the effective date of said ordinance the member shall be credited with 1/60th of his final compensation. The pension credits specified above will not be allowable until after such member shall have reached the age of 50 years. No member of either department who is entitled to retire after 20 years as above and who has had 20 years of service in the aggregate shall receive less than the following: \$200.00 per month as retirement allowance, together with such additional amount per month as will represent the actuarial equivalent of that portion of the contributions of such member contributed after his 20th year of service but before his attainment of age 50.



- (5) Members of the Fire and Police Departments who are not eligible for retirement until the completion of 25 years of service in the aggregate shall receive a pension credit of 2% of their final compensation for each year completed at the effective date of said ordinance, provided that such credit shall not exceed 50% of such final compensation, and in addition thereto shall be entitled to credits of 1/60th of their final compensation for each year completed after the effective date of the ordinance. The pension credits specified in this paragraph will not be allowable until after such member shall have reached the age of 55 and has completed 20 years of aggregate service in the department, provided, however, that such member may be permitted to retire at the age of 50 years after 20 years of aggregate service in the department with a reduced allowance, as provided in Article IX and the ordinance passed pursuant thereto.

Except as to those members who are forced to retire because of disability or who die, 'Final Compensation' within the meaning of paragraphs 4 and 5 hereof shall be the highest average compensation received during any five consecutive years of service, limited, however, to the following monthly maximums for members who retire: During the first year after the ordinance is adopted, \$400.00; during the second year, \$500.00; during the third year, \$600.00; during the fourth year, \$700.00; during the fifth year, \$800.00; and after the end of the fifth year there shall be no ceiling considered in determining the amount of the final compensation.

As to those members who are compelled to retire because of disability or who die after the ordinance becomes effective 'Final Compensation' shall be defined as above, but with the following monthly maximums: For death or disability occurring during the first year, after the ordinance is adopted, \$500.00; during the second year, \$600.00; during the third year, \$700.00; during the fourth year, \$800.00; during the fifth year, \$900.00; and after the end of the fifth year no ceiling shall be considered in determining the amount of the final compensation.

- (6) No member of either the Fire or Police Departments transferred pursuant to the provisions of this Article of the Charter shall be required to contribute in excess of 8% of his total salary; and each member so transferred shall be classed as a safety member of a special class and shall be entitled to all of the service credit earned by such member in the Police and Fire Retirement System up to the date of transfer without further contributions from said member because of absences prior thereto while serving in the armed forces of the United States.
- ~~(7) The membership of the Board of Administration created by Article IX of the Charter, upon the taking effect of this amendment, shall be increased to the extent of one additional member to represent the Police Department and one additional member to represent the Fire Department, such members to be chosen by the members of the respective departments.~~

Immediately upon the taking effect of the ordinance making the transfer of members into the City Employees' Retirement System, all of the provisions of Article IX not inconsistent with the hereinabove provided, together with any ordinance passed pursuant thereto, shall be applicable to such transferred members, and the Police and Fire Retirement System heretofore created in 1947 is abolished, and except as prescribed by this amendment all benefits therein authorized are canceled.

All moneys in the Police and Fire Retirement Fund at the date of the taking effect of the ordinance transferring said members are hereby transferred to the City Employees' Retirement Fund.

Nothing herein contained shall be construed in any way so as to affect the vested rights of members of the Police and Fire Departments who have been heretofore retired by virtue of any retirement or pension system of The City of San Diego.

## CITY OF SAN DIEGO

### Proposition J

(This proposition will appear on the ballot in the following form.)

---

**PROP J** **TRANSIENT OCCUPANCY TAX.** Shall the City Charter and the San Diego Municipal Code be amended to increase the transient occupancy tax (TOT) paid solely by hotel and motel visitors from 10.5% to 13% to be used for general governmental purposes?

---

This proposition requires approval by a majority (over 50%) of the voters.

**Full text of this proposition  
follows the arguments.**

### CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City Council has authorized the placement of a proposition on the ballot seeking voter approval of a measure that would amend the San Diego City Charter and the San Diego Municipal Code to raise the Transient Occupancy Tax [TOT] from the current rate of 10.5 percent to 13 percent. The TOT is a tax paid by hotel and motel guests who reside for one month or less in a hotel or motel in the City. Because the revenues derived from raising the TOT rate would be used for general governmental purposes, and because the increase will be implemented by an amendment of the City's Charter, this measure is a general tax which will take effect if passed by a simple majority of City voters.

### CITY MANAGER'S FISCAL ANALYSIS

This ballot measure, if passed, would increase the City's Transient Occupancy Tax (TOT) rate to a total of 13 percent. The City's TOT is currently levied at a rate of 10.5 percent, which is estimated to generate approximately \$120 million in Fiscal Year 2005.

Based on the current TOT revenue estimate at the 10.5 percent rate, the proposed increase could generate additional revenue in excess of \$28 million annually into the City's General Fund. Since this proposition would become effective February 1, 2005, it would generate approximately \$12 million in additional revenue in Fiscal Year 2005.

## ARGUMENT IN FAVOR OF PROPOSITION J

### NO NEW TAXES ON SAN DIEGO RESIDENTS!

**YES on Proposition J will provide much needed revenue to the City's General Fund which can be used to improve PUBLIC SAFETY.**

- Reduce emergency response times for fire fighters and police.
- Replace outdated 20 year old fire trucks.
- Hire more fire fighters and police.
- Improve our 911 emergency communications system.

**YES on Proposition J Does Not Tax the People of San Diego.**

The hotel room tax in this proposition will not increase your taxes. In return for enjoying our beaches and using our roads and other services, it asks tourists to pay 2½ cents more per dollar spent on hotel rooms. While San Diego taxpayers won't pay this tax, we will still get **BIG** benefits, from enhancing public safety and neighborhood services to providing funds that can be used to solve our affordable housing crisis.

**YES on Proposition J means hotel visitors will provide revenues to help the City buy new public safety equipment we badly need.**

Last year's wildfires endangered lives and destroyed neighborhoods. Proposition J will provide money that can pay to modernize our outdated 911 emergency system that hindered fire fighters' response to the fires.

"As a parent and fire fighter for 28 years, I want to know families are safe and that emergency services can respond when we need help. Proposition J will help improve response times and protect San Diego's families."

*John Thomson  
San Diego Fire Fighter*

**YES on Proposition J will support OUR LOCAL FIRE FIGHTERS AND POLICE OFFICERS.**

The San Diego City Fire Fighters and the San Diego Police Officers Association understand the public safety needs of our communities, and they urge you to join them in voting **YES on Proposition J.**

**BETTER EMERGENCY SERVICES. NO TAX INCREASE ON RESIDENTS.**

**YES ON J!**

JEFF BOWMAN  
Fire Chief  
San Diego Fire-Rescue Department

WILLIAM M. LANSDOWNE  
Chief of Police  
San Diego Police Department

RONALD L. SAATHOFF  
President  
San Diego City Firefighters

BILL FARRAR  
President  
San Diego Police Officers Association

NORMA DAMASHEK  
Vice President  
League of Women Voters

## ARGUMENT AGAINST PROPOSITION J

Vote NO on Proposition J. It's a city council sponsored TAX INCREASE that doesn't include any taxpayer protections against misuse of funds for politician's pet projects.

**VOTE NO on J** – Protect taxpayers against misuse of our tax dollars!

**NOT EARMARKED – WASTE/MISUSE IS GUARANTEED**

Proposition J is NOT earmarked for ANY specific purpose. If politicians WANTED to guarantee funding for public safety or other legitimate uses they could have earmarked the tax for those uses. They chose NOT to earmark.

Here is what a public safety leader says:

*“Proposition J is fatally flawed. It DOESN'T GUARANTEE new revenue for desperately needed public safety equipment, apparatus or communications systems in San Diego. Vote NO on Proposition J.”*

Mark Muir, Chairman

**Golden State Fire Fighters**

Proposition J funds can legally be used for ANY PURPOSE supported by the city council. 100% of the tax could be used for salary increases at city hall, or for a new football stadium.

If taxes are to be raised politicians should earmark them so we know exactly how our money will be spent.

**Vote NO on J** – Let's hold politicians accountable for how our taxes are spent!

**HURTS TOURISM, JOBS, LOCAL ECONOMY**

Tourism generates 110,000 jobs and \$11 BILLION in annual economic benefits to our region. This politician sponsored tax hike will DRIVE TOURISM BUSINESS AWAY – REDUCING LOCAL JOBS and harming one of our most vital economic engines.

**Vote NO on J** – This is no time to harm our local economy!

**BLANK CHECK FOR BAD GOVERNMENT**

Proposition J is a blank check tax hike that throws good money after bad. The city hasn't been accountable for its finances. Instead of eliminating bureaucratic waste, now the politicians want EVEN MORE OF OUR TAX MONEY.

**Vote NO on J** – Don't reward poor performance!

C. TERRY BROWN  
Chairman  
San Diego Lodging Industry Association

JON COUPAL  
President  
Howard Jarvis Taxpayers Association

LISA BRIGGS  
Executive Director  
San Diego County Taxpayers Association

MARK A. MUIR  
Chairman  
Golden State Fire Fighters

## PROPOSED CHARTER AMENDMENT

(The portion of the charter to be added is underlined.)

That Article VII of the City Charter is amended by adding section 77c to read as follows:

### **Section 77c: General Tax Increase to Transient Occupancy Tax**

Notwithstanding any provision of law to the contrary, and in addition to any transient occupancy tax being imposed by the City as of the effective date of this section, commencing on February 1, 2005, for the privilege of Occupancy in any Hotel, each Transient is subject to and shall pay an additional tax in the amount of two and one-half percent (2.5%) of the Rent charged by operators of such Hotels. Such tax to be imposed and administered consistent with Chapter 3, Article 5, Division 1, of the San Diego Municipal Code.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, and 35.0108, which collectively have imposed a 10.5 percent transient occupancy tax for the privilege of occupancy in hotels, recreational vehicle parks, and campgrounds.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new section 35.0103, to read as follows:

#### **§ 35.0103 Tax Imposed**

For the privilege of Occupancy in any Hotel, any Recreational Vehicle Park, or any Campground, each Transient is subject to and shall pay a tax in the amount of 13 percent (13%) of the Rent charged by the Operator.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0128, 35.0129, 35.0130, 35.0131, 35.0132, and 35.0133, which collectively have established the process for utilizing revenues collected from transient occupancy taxes.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new sections 35.0130 to read as follows:

#### **§ 35.0130 Utilization of Revenues from Tax Imposed by Section 35.0103**

All revenues collected pursuant to the tax imposed by the City under section 35.0103 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's Annual Appropriation Ordinance.

That the amendments to Article VII of the City Charter and Chapter 3, Article 5, Division 1, of the San Diego Municipal Code described in this proposition shall not take effect until February 1, 2005.

If, at the time this ballot measure is presented to the people for their approval, there is on the same ballot any additional ballot measures relating to an increase in transient occupancy taxes, and more than one ballot measure relating to an increase in transient occupancy taxes is approved by the voters, the ballot measure receiving the most votes shall be declared the prevailing measure, and shall be given full force and effect.

## CITY OF SAN DIEGO

### Proposition K

(This proposition will appear on the ballot in the following form.)

---

**PROP K** **MOUNT SOLEDAD NATURAL PARK** Shall the City be authorized to remove from dedicated park status and sell to the highest bidder a portion of Mount Soledad Natural Park, subject to a lease to the Mount Soledad Memorial Association to preserve and maintain the existing granite walls and plaques, and to transfer ownership of the cross to the new buyer who will determine whether to maintain, relocate, or remove the cross or to replace it with another appropriate monument?

---

This proposition requires a two-thirds vote.

#### Mount Soledad Natural Park

Shall the City be authorized to remove from dedicated park status and sell to the highest bidder a portion of Mount Soledad Natural Park, subject to a lease to the Mount Soledad Memorial Association to preserve and maintain the existing granite walls and plaques, and to transfer ownership of the cross to the new buyer who will determine whether to maintain, relocate, or remove the cross or to replace it with another appropriate monument?

#### CITY ATTORNEY'S IMPARTIAL ANALYSIS

This proposition seeks renewed authorization for the City to sell a portion of Mount Soledad Natural Park to cure constitutional violations associated with the presence of a cross atop Mount Soledad.

The cross was constructed by the Mount Soledad Memorial Association [Association] and dedicated to military veterans in 1954. In 1991, the federal court ruled that the presence of the cross on public property violated the California Constitution. To cure the violation, the City sold a portion of parkland surrounding the cross to the Association. The City Charter requires that such a sale of parkland be authorized by a two-thirds vote of the electorate. The citizens of San Diego provided this authority in 1992 when 76% of the voters approved Proposition F, which authorized the City to sell a portion of Mount Soledad to maintain an historic war memorial.

The federal court subsequently found that the sale of the property to the Association violated provisions of the California Constitution prohibiting government support of religion. The City then conducted a second sale of parkland around the cross, this time by a competitive bid process. The Association was the highest bidder, and, after taking possession of the property, built a memorial composed of granite plaques honoring veterans. In a recent decision, the Ninth Circuit Court of Appeals ruled that the conduct of the second sale to the Association violated the California Constitution. The decision also indicated that the sale itself may be void and that constitutional issues associated with the previous passage of Proposition F in 1992 may invalidate the proposition. This proposition is intended to cure these problems.

If two-thirds of the electorate vote "YES" for this proposition, the City will be authorized, but not required, to resell by open, competitive bid process a portion of parkland around the cross atop Mount Soledad. If the City acts on this authority and conducts a third sale of Mount Soledad parkland, the City first would lease the property around the veterans' memorial to the Association and then sell a portion of parkland around the cross and the memorial to the highest bidder. The Association's lease would not include any rights to the cross. The highest bidder would own the property subject to the Association's lease and would be free to choose whether to maintain the cross, remove the cross, or replace the cross with another appropriate monument. "Appropriate monument" means a replacement monument that would conform to regulatory restrictions such as zoning code requirements and would be suitable for placement immediately adjacent to the Association's veterans' memorial.

If two-thirds of the electorate do not approve this proposition, the City may be required to remove or relocate the cross to private property at another location to comply with the 1991 federal injunction prohibiting the presence of the cross on city-owned land.

### **CITY MANAGER'S FISCAL ANALYSIS**

The fiscal impact of the passage of this measure is unknown at this time. If the measure passes, and the previous sale of land to the Mt. Soledad War Memorial Association is set aside, the City may have to reimburse the Association the previous purchase price of \$106,000. In addition, the City may have to compensate the Association in some amount for the cost of improvements at the site. These expenses may be offset by an undetermined amount of revenue generated by a new sale of the site, which will depend on future negotiations, and the size and market value of the parcel sold. If the prior sale to the Association is not set aside the fiscal impact is unknown.

## **ARGUMENT IN FAVOR OF PROPOSITION K**

For 50 years, the Mt. Soledad Cross has stood as a memorial to San Diego's military veterans. In 1992, in response to a federal court ruling, the city sold a portion of the site to the Mt. Soledad Memorial Association – a transaction that was approved by 76% of San Diego's voters. But earlier this year, a federal appeals court voided the sale, ruling that the city improperly gave preference to a buyer who promised to retain the Cross.

Today, the future of the memorial, and the will of San Diego's voters, is threatened by special interests trying to strip San Diego of its historical identity.

Proposition K offers a final resolution to the debate over ownership of this property by legally transferring it to a private party, and permanently removing any potential constitutional violations.

A YES vote on Prop. K means:

- San Diego voters decide for themselves the future of a monument of historical significance
- The walls and plaques of the Mt. Soledad Memorial Association will remain in place
- A competitive bid process for a portion of the parkland on top of Mt. Soledad that ensures no preference to any potential buyers of the property
- Permanent resolution of this costly 15-year legal battle by allowing the voters, not special interests, to decide how this land will be owned
- Because the proposed sale does not aid or endorse religion, a person purchasing the land at the public auction can decide to keep the cross, as part of the existing memorial, without violating the California or U.S. Constitutions

Please join San Diego's most respected civic leaders, military veterans, and clergy in supporting a lawful and fair resolution to the ownership of Mt. Soledad.

### **Prop. K Gives San Diego Voters The Right to Choose**

ROBERT B. ARNOLD  
Captain, USN (Retired), Ph.D.

RICHARD G. HANECAK  
Captain, USN (Retired)

JOHN F. STEEL M.D.  
Former Navy Fighter Pilot  
and Medical Officer

JAMES B. GILBERT  
Rev. (Senior Pastor Fairmount Baptist)

CHARLES S. LIMANDRI  
West Coast Regional Director  
Thomas More Law Center



## **ARGUMENT AGAINST PROPOSITION K**

Vote **NO** to preserve the Mt. Soledad cross and save our tax dollars!

This proposal puts the cross and Veterans Memorial which surrounds it in jeopardy. If passed, litigation against the City will continue at enormous cost to taxpayers.

In 1991, the court ruled the presence of the cross on Mt. Soledad was unconstitutional. Since then, the courts have repeatedly found the City's attempts to sell land under the cross unconstitutional, requiring the City to pay attorney's fees and costs.

Against the veterans' wishes, the City now seeks voter approval for another sale of our valuable parkland in a scheme more unconstitutional than the last two sales. If this proposal passes, the court will find this third sale unconstitutional and the City will again be required to pay fees and costs.

**IF THIS PROPOSAL PASSES, THE CROSS AND THE LAND UNDER THE VETERANS MEMORIAL WILL BE SOLD TO THE HIGHEST BIDDER. THAT BIDDER MAY CHOOSE TO DESTROY THE CROSS OR TO ERECT A MONUMENT IN ITS PLACE THAT IS NOT COMPATIBLE WITH THE VETERANS MEMORIAL.**

The highest bidder will own the land and could legally replace the cross at the center of the Veterans Memorial with a 30 foot tall monument to whatever it chooses, such as Scientology, Atheism or Buddha.

The Memorial Association, which built the cross and maintained it for over 50 years, has agreed to a settlement that ends 15 years of litigation by moving the cross approximately 1000 yards to a neighboring church thus preserving the cross and allowing a world class monument honoring all veterans to be erected in its place.

**Vote **NO** to save the cross from destruction!**

**Vote **NO** to save the integrity of the Veterans Memorial on Mt. Soledad!**

**Vote **NO** to end 15 years of litigation at taxpayers expense!**

WILLIAM J. KELLOGG, President  
Mt. Soledad Memorial Association, Inc.

TIMOTHY J. SMITH, Commander  
American Legion Post 275

WALDO JOE BRUNNER, Chairman  
United Veterans Council

**OFFICIAL BALLOT**

COUNTY OF SAN DIEGO - GENERAL ELECTION - NOVEMBER 2, 2004

CITY	MEASURES SUBMITTED TO THE VOTERS
<b>CITY OF SAN DIEGO MAYOR</b> Vote for One	<b>STATE</b>
<input type="checkbox"/> <b>DICK MURPHY</b> Mayor, City of San Diego	<b>PROP 1A PROTECTION OF LOCAL GOVERNMENT REVENUES.</b> Ensures local property tax and sales tax revenues remain with local government thereby safeguarding funding for public safety, health, libraries, parks, and other local services. Provisions can only be suspended if the Governor declares a fiscal necessity, and two-thirds of the Legislature concur. Fiscal Impact: Higher local government revenues than otherwise would have been the case, possibly in the billions of dollars annually over time. Any such local revenue impacts would result in decreased resources to the state of similar amounts.
<input type="checkbox"/> <b>RON ROBERTS</b> County Supervisor	<input type="checkbox"/> <b>YES</b>
<input type="checkbox"/>	<input type="checkbox"/> <b>NO</b>
<b>CITY OF SAN DIEGO CITY ATTORNEY</b> Vote for One	<b>PROP 59 PUBLIC RECORDS; OPEN MEETINGS. LEGISLATIVE CONSTITUTIONAL AMENDMENT.</b> Amends Constitution to include public's right of access to meetings of government bodies and writings of government officials. Preserves specified constitutional rights; retains existing exclusions for certain meetings and records. Fiscal Impact: Potential minor annual state and local government costs to make additional information available to the public.
<input type="checkbox"/> <b>MICHAEL J. AGUIRRE</b> San Diego Consumer Fraud Attorney	<input type="checkbox"/> <b>YES</b>
<input type="checkbox"/> <b>LESLIE DEVANEY</b> Executive Assistant City Attorney	<input type="checkbox"/> <b>NO</b>
<input type="checkbox"/>	

CITY OF SAN DIEGO  
MAYOR



MAYOR DICK MURPHY

**Mayor Dick Murphy promised you results in 2000. He delivered on those promises!**

- Balanced the City budget without raising taxes
- Increased funding for fire including new fire stations and a city fire/rescue helicopter
- Increased funding for police including 132 new police officers
- Reduced sewer spills and beach closures by 60%
- Created the San Diego River Conservancy to protect the environment
- Tripled the undergrounding of overhead power lines
- Established the first City Ethics Commission
- Opened State Route 56 to reduce traffic congestion
- Eliminated the Charger ticket guarantee
- Developed a comprehensive City pension system reform plan that will:
  - fully fund the pension system
  - reduce the unfunded liability
  - make the retirement board more independent

**Mayor Murphy has the background, experience, and integrity to provide effective leadership in these challenging times:**

- Superior Court Judge (1989-2000)
- Military veteran
- Stanford Law School JD
- Harvard Business School MBA
- University of Illinois BA
- Married/three children

For a Mayor who will protect San Diego's environment, promote economic prosperity, and provide strong leadership,

**Re-elect Mayor Dick Murphy.**

**Endorsed by the San Diego City Fire Fighters  
and more than 1,500 individuals and organizations.**



**CITY OF SAN DIEGO  
MAYOR**



**RON ROBERTS**  
County Supervisor

**"SAN DIEGO NEEDS A NEW MAYOR. Failed leadership has brought billion dollar deficits, corruption and higher crime rates."**

*-Former San Diego Police Chief Jerry Sanders*

**Failed Leadership: Public Safety at risk.**

- Ignored outdated fire equipment warnings.
- Voted **against** funding firefighting helicopter before fires.
- Fewer police. **Increasing street crime!!!**

**Failed Leadership: San Diego near bankruptcy.**

- \$1.1 billion deficit.
- Deliberately under-funded city pensions.
- **F.B.I. and U.S. Attorney investigations for fraud and mismanagement!**
- Backroom deals to increase Mayor's power.

**THERE IS A BETTER CHOICE!**

**RON ROBERTS: *Strong Leadership to Turn San Diego Around.***

**RON ROBERTS turned San Diego County around.** When San Diego County was near bankruptcy, Roberts cut waste and sold inefficient assets -- restoring solid financial footing. *Governing Magazine* called San Diego one of *America's best-managed counties.*

**RON ROBERTS: Firefighting helicopters funded before the fires.** Created After-School Programs. Passed strict Clean Air regulations. Preserved 172,000 acres.

**RON ROBERTS: *A plan to turn San Diego around.***

- Increase neighborhood/school safety.
- **Full public audit** to uncover fraud/waste.
- **Fix city budget.**

Endorsements: Sheriff Bill Kolender \* Golden State Firefighters \* San Diego Police Officers Association \* Deputy Sheriffs' Association \* Assemblymember Juan Vargas \* Former National Teacher of the Year Sandra McBrayer

**RON ROBERTS FOR MAYOR**  
***Strong Leadership to Turn San Diego Around!***



OFFICIAL BALLOT

COUNTY OF SAN DIEGO - GENERAL ELECTION - NOVEMBER 2, 2004

CITY

MEASURES SUBMITTED TO THE VOTERS

CITY OF SAN DIEGO  
CITY ATTORNEY  
Vote for One

LESLIE DEVANEY  
Executive Assistant City Attorney

MICHAEL J. AGUIRRE  
San Diego Consumer Fraud Attorney

CITY OF SAN DIEGO  
MEMBER, CITY COUNCIL  
DISTRICT NO. 1  
Vote for One

SCOTT PETERS  
San Diego City Councilmember

PHIL THALHEIMER  
Small Business Owner

STATE

**PROP 1A PROTECTION OF LOCAL GOVERNMENT REVENUES.** Ensures local property tax and sales tax revenues remain with local government thereby safeguarding funding for public safety, health, libraries, parks, and other local services. Provisions can only be suspended if the Governor declares a fiscal necessity and two-thirds of the Legislature concur. Fiscal Impact: Higher local government revenues than otherwise would have been the case, possibly in the billions of dollars annually over time. Any such local revenue impacts would result in decreased resources to the state of similar amounts.

YES

NO

**PROP 59 PUBLIC RECORDS, OPEN MEETINGS LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Amends Constitution to include public's right of access to meetings of government bodies and writings of government officials. Preserves specified constitutional rights, retains existing exclusions for certain meetings and records. Fiscal Impact: Potential minor annual state and local government costs to make additional information available to the public.

YES

NO

**CITY OF SAN DIEGO  
City Attorney**



**LESLIE DEVANEY  
Executive Assistant City Attorney**

**TOO MUCH AT RISK**

Taxpayers depend on the City Attorney to provide unbiased legal advice, defend the City and taxpayers against lawsuits, prosecute criminals - not to set city policy.

Using the office for political grandstanding could cost taxpayers millions and jeopardize public safety and essential city services. My only agenda is to uphold the City Charter and protect your interests.

**PROFESSIONALISM, NOT POLITICS**

I know the City Attorney's responsibilities and recognize areas where change and improvement are needed.

- Two decades of municipal law, private practice experience
- Managed this office of over 340 attorneys/staff
- Prosecuted over 100 criminal cases
- Secured \$312 million in tobacco settlement funds for taxpayers

**RESTORE TRUST**

Decisions made behind closed doors contribute to public distrust. I will ensure closed sessions are used only as the law intends, not to protect decision-makers from public scrutiny.

I will keep neighborhoods safe, support victims of domestic violence, ensure police have the support they need.

**ENDORSED BY:**

California Association of Deputy Attorneys General  
Retired Police Chief Jerry Sanders  
Assembly Members Juan Vargas, Mark Wyland, George Plescia  
Retired Appellate Court Judges Howard Wiener, Charles Froehlich  
County Supervisor Greg Cox  
Retired Councilmember Judy McCarty



**CITY OF SAN DIEGO  
City Attorney**



**MIKE AGUIRRE**  
**Taxpayer Protection Attorney and  
Certified Fraud Examiner**

Mike will be an independent City Attorney who protects the interests of all San Diegans.

**THE RIGHT JOB EXPERIENCE**

- \* Municipal, Pension, and Securities Law Expert
- \* 30 Years Civil/Criminal Trial Experience
- \* Federal Prosecutor of Financial Crimes
- \* Recovered \$250 Million for Senior Citizen Fraud Victims
- \* U.S. Senate Investigator of Government Waste, Fraud and Abuse
- \* Master's from Harvard, Law Degree from UC Berkeley
- \* Third Generation San Diegan, Father of Two, Emilie and Arthur

**CLEAN UP THE LEGAL MESS AT CITY HALL**

- \* End City Pension Fund Abuse
- \* Write Contracts to Safeguard Taxpayers
- \* No More Ticket Guarantees
- \* Make Full Disclosure in City Bonds
- \* End Unlawful Backroom Deals
- \* Stop Losing So Many Court Cases

**STRONG COMMUNITY COALITION SUPPORT**

- \* San Diegans Against Crime, the Political Action Committee of the Deputy District Attorneys Association
- \* San Diego Police Officers and Fire Fighters Associations
- \* San Diego Deputy Sheriffs Association
- \* Councilmembers Donna Frye and Toni Atkins
- \* Peter DiRenza, Past Grand Jury Foreman
- \* Senator Dede Alpert
- \* Senator Lucy Killea (Ret.)
- \* Deputy City Attorney Deborah Berger
- \* League of Conservation Voters
- \* Sierra Club
- \* Supervisor Leon Williams (Ret.)
- \* San Diego Labor Council
- \* Pan-Asian and Latino Attorney Associations
- \* District Attorney Ed Miller (Ret.)
- \* Murray Galinson, Chairman, California State University System

OFFICIAL BALLOT

COUNTY OF SAN DIEGO - GENERAL ELECTION - NOVEMBER 2, 2004

CITY

MEASURES SUBMITTED TO THE VOTERS

CITY OF SAN DIEGO  
CITY ATTORNEY  
Vote for One

LESLIE DEVANEY  
Executive Assistant City Attorney

MICHAEL J. AGUIRRE  
San Diego Consumer Fraud Attorney

CITY OF SAN DIEGO  
MEMBER, CITY COUNCIL  
DISTRICT NO. 1  
Vote for One

SCOTT PETERS  
San Diego City Councilmember

PHIL THALHEIMER  
Small Business Owner

STATE

**PROP 1A PROTECTION OF LOCAL GOVERNMENT REVENUES.** Ensures local property tax and sales tax revenues remain with local government thereby safeguarding funding for public safety, health, libraries, parks, and other local services. Provisions can only be suspended if the Governor declares a fiscal necessity and two-thirds of the Legislature concur. Fiscal Impact: Higher local government revenues than otherwise would have been the case, possibly in the billions of dollars annually over time. Any such local revenue impacts would result in decreased resources to the state of similar amounts.

YES

NO

**PROP 59 PUBLIC RECORDS, OPEN MEETINGS LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Amends Constitution to include public's right of access to meetings of government bodies and writings of government officials. Preserves specified constitutional rights, retains existing exclusions for certain meetings and records. Fiscal Impact: Potential minor annual state and local government costs to make additional information available to the public.

YES

NO



**CITY OF SAN DIEGO  
City Council – District No. 1**



**SCOTT PETERS  
San Diego City Councilmember**

---

**I work hard every day to protect your quality of life. I ask for your vote based on a record of solving problems and getting results for our communities, not on empty promises or personal attacks.**

---

**TRAFFIC SOLUTIONS**

- Opened SR 56 as promised
- Opened Camino Del Sur and Vista Sorrento Parkway years early
- Fixed longstanding La Jolla Parkway/Torrey Pines bottleneck

**TAXPAYER PROTECTION**

- Refused increases in my salary and office budget so money could go to neighborhood road improvements
- Won Taxpayers Watchdog award for saving taxpayers \$2.2 million
- Authored Charter reform to prohibit under-funding City pension
- Helped create first-ever Ethics Commission to enforce campaign and conflict of interest rules

**ENVIRONMENTAL PROTECTION**

- Reduced sewer spills and beach closures by over 60%
- Earned A+ on San Diego Baykeeper's 2003 Water Quality Report Card
- Protecting coastal resources as California Coastal Commissioner
- **Endorsed by Sierra Club**

**PARKS AND OPEN SPACE**

- Opened three playgrounds; turfed playing fields; opened five new community parks, including two dog parks
- Secured 538 acres for Black Mountain Open Space Park
- **Endorsed by League of Conservation Voters**

**PUBLIC SAFETY**

- Increased budget for more police, better safety equipment
- **Endorsed by San Diego Police Officers and Fire Fighters**

**GETTING RESULTS FOR US!**



**CITY OF SAN DIEGO  
City Council – District No. 1**



**PHIL THALHEIMER**  
**Businessman**  
**YMCA Boardmember**  
**Married, two children**

*“Thalheimer...can tout himself as...fiscally conservative...who has refused to accept one dime of developer money...the bald man who reminds some of Mr. Clean can show spotless hands.”*

Logan Jenkins, Union Tribune

Endorsed by District Attorney Bonnie Dumanis & Environmental Leader Kathryn Burton

**CITY HALL**

- **KNOWINGLY UNDERFUNDED** pension system, harming city credit rating
- **RAISED** own salaries, while **CUTTING** library/park services
- **REDUCED** beach pollution monitoring
- **IGNORED TRAFFIC** impacts of 56 freeway on neighboring streets
- **APPROVED DEVELOPMENTS** out of scale with neighborhoods, creating MORE traffic
- **SIGNED** Charger deal WORSE for taxpayers
- **APPROVED FALSIFIED** financial statement, resulting in FBI Investigation
- **RAISED** Park/Recreation/swimming fees

**Phil Thalheimer** will use business skills to clean up the financial mess at City

Thalheimer's plan to save \$100 Million by cutting City Hall waste will fund Police, firefighters, parks, libraries, street repair.

**Phil Thalheimer: For Neighborhoods, Not Special Interests**

*Dear Neighbors:*

*I will focus resources on neighborhood services first.*

*I will oppose development projects that violate community plans, increasing traffic.*

**I have not and will not take one penny of developer/lobbyist campaign contributions.**

*Please join my campaign to put neighborhoods first.*

**Phil Thalheimer**

