PROPOSITION A. CHARTER AMENDMENTS REGARDING REDISTRICTING OF COUNCIL DISTRICTS IN THE CITY OF SAN DIEGO. Shall the City Charter be amended to update the process related to redistricting of City Council districts, including amendments to expand the citizen Redistricting Commission from seven to nine members, to clarify and expand the timeline for the appointment and qualification of members, to provide for alternate members on the Commission and appointing panel, and to explain the effective date of boundaries?	YES	
	NO	

BALLOT TITLE

Charter Amendments Regarding Redistricting of Council Districts in the City of San Diego

BALLOT SUMMARY

This proposition would amend the San Diego Charter to update the process related to the redistricting of City Council districts, including amendments to expand the citizen Redistricting Commission from seven to nine members, to clarify and expand the timeline for the appointment and qualification of members, to provide for alternate members on the Commission and the appointing panel, and to explain the effective date of boundaries.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

Redistricting is the process of drawing geographical boundaries for political districts. The San Diego City Council is divided into nine districts. Boundaries are reviewed and adjusted, as necessary, every 10 years after the U.S. Census to account for changes in the population and to meet constitutional requirements. The way lines are drawn to group voters into districts can affect a district's representation and political influence.

Council districts are drawn by an independent citizens' Redistricting Commission, a committee of volunteers appointed and operating as provided by the City Charter. The Commission draws district boundary lines by considering criteria in local, state and federal redistricting laws. For example, each district must include as equal population as is practicable. Existing communities of interest are to be preserved, and districts are to be contiguous and compact. The federal Voting Rights Act requires that redistricting plans cannot discriminate on the basis of race or language minority group. Redistricting plans must provide fair and effective representation for all citizens.

In 1992, San Diego voters approved Charter amendments establishing an independent Redistricting Commission to draw district boundaries. The proposed Charter amendments seek to update this local law based on experiences of the 2000 and 2010 Commissions.

An Appointing Authority selects the Commissioners. If approved, Charter amendments would clarify that the Appointing Authority will consist of "a panel of three retired judges who served in any of the following courts: the Superior Court of the State of California, an appellate court of the State of California or a U.S. District Court located within California." This amendment would expand the pool of retired judges eligible to serve. Amendments provide for the random selection of an alternate retired judge if necessary.

Amendments remove language that allowed the City Council to appoint the Commission as a last resort, eliminating the possibility of a Councilmember's conflict of interest. Amendments provide that the City Clerk would appoint the panel if retired judges are unable or unwilling to serve. The Clerk would conduct a ministerial review of applications to ensure compliance with legal requirements, notify the qualified candidates and randomly select applicants in a public location.

If approved, amendments would increase the number of Redistricting Commissioners from seven to nine. The Appointing Authority would appoint one member from each Council district "to the extent practicable." This is permissive, considering the extent of the applicant pool and an individual's qualifications to serve. Amendments would state that Commissioners should possess working knowledge of the City's geography and neighborhoods.

Amendments would provide for two alternate Commissioners, available to serve if a Commissioner cannot serve or resigns. Other amendments expand the application period from 30 days to 60 days, increase the number of required public hearings prior to the preparation of a preliminary plan, and explain the effective date of boundaries.

The Council's Charter Review Committee approved this ballot measure, and the Council voted to place it on the ballot. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure would make a number of procedural amendments to sections of the City Charter addressing the redistricting process that occurs once every ten years.

The estimated costs associated with these Charter amendments, if any, are negligible and will not have a material fiscal impact to the City.

PROPOSITION

ARTICLE II

NOMINATIONS AND ELECTIONS

SECTION 4: DISTRICTS ESTABLISHED

For the purpose of electing members of the Council, the City shall be divided into ~~eight Districts as nearly equal in population as practicable. A ninth Council district shall be created in the redistricting following the 2010 national decennial census, at which time the City shall be divided into~~ nine ~~(9)~~ ~~c~~Council districts as nearly equal in population as practicable. ~~Thereafter~~ ~~t~~The boundaries of such districts shall be subject to alteration and change under the provisions of this Charter.

In any redistricting plan adopted by the Redistricting Commission pursuant to Section 5.1 or ordinance adopted by the Council establishing, changing or altering the boundaries of any Council district, the redistricting plan or ordinance may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in ~~said~~ the redistricting plan or ordinance.

SECTION 5: REDISTRICTING

In the event that any voting precinct ~~which may be established at the time this Charter takes effect or which may be thereafter~~ established is located partly within two or more ~~such~~

Council districts, ~~said~~ the precinct shall be allocated to the Council d~~D~~istrict in which a majority of the voters within ~~such~~ the precinct resides, and ~~said~~ the district boundaries shall be changed accordingly.

The City shall be redistricted pursuant to Section 5.1 of this Charter at least once in every ten ~~(10)~~ years, but no later than nine months following the City's receipt of the final Federal Decennial Census information. The term "Federal Decennial Census," as used in this Charter, shall mean the national decennial census taken under the direction of the United States Congress at the beginning of each decade.

Any territory hereafter annexed to or consolidated with The City of San Diego shall at the time of such annexation or consolidation be added to an adjacent ~~D~~district or ~~D~~districts by an ordinance of the Council. However, if any territory annexed, deannexed or consolidated upsets the approximate equality of the populations of the established districts, a redistricting shall be conducted pursuant to Section 5.1 of this Charter, except that the nomination period for appointment to the Redistricting Commission shall commence on the ~~July~~ May 1 immediately succeeding the annexation, deannexation or consolidation and the Redistricting Commission shall be constituted no later than the next November 1.

In any redistricting, the districts shall be comprised of contiguous territory and made as equal in population as shown by the census reports, and as geographically compact as possible, and the districts ~~so~~ formed shall, as far as possible, be bounded by natural boundaries, by street lines and/or by City boundary lines.

SECTION 5.1: REDISTRICTING COMMISSION

The members of the City Council shall be elected by districts~~, as follows:~~.

Subject to the provisions of the City Charter relating to referendum and initiative powers of the people, the sole and exclusive authority to adopt plans which specify the boundaries of districts for the City Council is vested in the Redistricting Commission, to be established by this Section.

Commencing in the year following the year in which the ~~national~~ Federal D~~d~~ecennial C~~c~~ensus is taken ~~under the direction of the United States Congress~~ at the beginning of each decade, the Redistricting Commission shall adopt plans that redistrict the City into nine ~~(9)~~ Council districts designated by numbers 1 to 9, inclusive. Those districts shall be used for all elections of Council members, including their recall, and for filling any vacancy in the office of member of the Council~~, subsequent to the effective date of this Section~~ (and until new districts are established).

No change in the boundary or location of any district by redistricting as herein provided shall operate to abolish or terminate the term of office of any member of the Council prior to the expiration of the term of office for which such member was elected.
Districts formed by the Redistricting Commission shall each contain, as nearly as practicable, one-ninth of the total population of the City as shown by the Federal Decennial C~~c~~ensus immediately ~~proceeding~~ preceding such formation of districts.

Each redistricting plan shall provide fair and effective representation for all citizens of the City, including racial, ethnic, and language minorities, and be in conformance with the requirements of the United States Constitution and ~~F~~federal statutes.

To the extent it is practical to do so, districts shall: preserve identifiable communities of interest; be geographically compact - populous contiguous territory shall not be bypassed to reach distant populous areas; be composed of whole census units as developed by the United States Bureau of the Census; be composed of contiguous territory with reasonable access between population centers in the district~~,~~; and not be drawn for the purpose of advantaging or protecting incumbents.

The Redistricting Commission shall be composed of ~~seven (7)~~ nine members who shall be appointed ~~by the Presiding Judge of the Municipal Court, San Diego Judicial District. In the event that the Presiding Judge declines to make the appointments, they shall be made by a Municipal Court Judge selected by vote of the Judges of the Municipal Court, San Diego Judicial District. Should the Judges of the Municipal Court decline to so act, then the Redistricting Commission shall be appointed~~ by a panel of three retired judges who served in any of the following courts: the Superior Court ~~Judges~~ of the State of California, an appellate court of the State of California, or a U.S. District Court located within California. Names of the retired judges willing to serve will be submitted to the City Clerk and drawn at random by the City Clerk, using procedures for judicial nominees and appointees as set forth in the San Diego Municipal Code. The City Clerk shall also draw at random the name of one additional retired judge to be designated as an alternate, who will be appointed to serve on the panel if another member is unable or unwilling to serve. ~~Manager in the fashion described in Penal Code sections 900(a) and 902. In the event that all of the preceding individuals decline to act, then the Redistricting Commission shall be appointed by a majority vote of the City Council in the fashion set forth below.~~ The term ~~"Presiding Judge,"~~ "Appointing Authority," as used herein

below, shall ~~include any person or any body~~ refer to the panel of retired judges acting to appoint the Redistricting Commission pursuant to the provisions of this paragraph.

The City Clerk shall solicit nominations for appointment to the Redistricting Commission in accordance with this Section and shall distribute to the news media the announcement of a ~~thirty (30)~~ sixty-day nomination period (which shall commence on ~~July 1, 2000, and on July~~ May 1 of every year in which a ~~national~~ Federal D~~d~~ecennial C~~c~~ensus is taken) and the guidelines for selection of Commission members.

Individuals or organizations desiring to nominate persons for appointment to the Commission shall ~~do so in writing~~ submit application materials to the City Clerk within the nominating period, using procedures set forth in the San Diego Municipal Code.

The City Clerk shall transmit the names and information regarding all nominees with the names of nominating individuals and organizations to the ~~Presiding Judge~~ Appointing Authority immediately upon the close of nominations.

After receiving Commission member applications from the City Clerk, the three members of the Appointing Authority shall hold a public meeting to appoint the nine Commission members and two alternates. The public meeting shall be held as promptly as possible to ensure the appointments are timely made. The ~~Presiding Judge~~ Appointing Authority shall appoint the members constituting the Commission no later than ~~November 1, 2000, and on~~ November 1 of every year in which a ~~national~~ Federal D~~d~~ecennial C~~c~~ensus is taken.

In the event that a complete panel of three retired judges is unable or unwilling to serve as the Appointing Authority, the City Clerk will serve as the Appointing Authority. The City Clerk will conduct a ministerial review of Commission member applications to determine which persons are qualified to serve, using the requirements of this Charter and procedures set forth in the San Diego Municipal Code. After all qualified applicants are identified and notified, the City Clerk will randomly select the Commission members and alternates from the pool of qualified applications in a public place.

The ~~Presiding Judge~~ Appointing Authority shall appoint ~~women and men~~ members who will give the Redistricting Commission geographic, social and ethnic diversity, and who, in ~~his or her~~ the Appointment Authority's judge~~e~~ment, have a high degree of competency to carry out the responsibilities of the Commission. The appointees shall include individuals with a demonstrated capacity to serve with impartiality in a nonpartisan role.

The Appointing Authority shall attempt to appoint one Commission member from each of the nine Council districts to the extent practicable, given the other requirements of this Charter Section, and considering the extent of the applicant pool and an individual's qualifications to serve. The Appointing Authority shall also attempt to appoint Commission members who possess working knowledge of the geography and neighborhoods of The City of San Diego.

Each member of the Commission shall be registered to vote in The City of San Diego.

The Appointing Authority shall also appoint two alternate Commission members from the same applicant pool, who will be available to serve if a Commission member cannot serve or resigns.

The alternates shall have a duty to remain informed of Commission business so they are prepared to serve if called upon to do so.

Persons who accept appointment as members of ~~to~~ the Commission, at the time of their appointment, shall file a written declaration with the City Clerk stating that within five ~~(5)~~ years of the Commission's adoption of a final redistricting plan, they will not seek election to a San Diego City public office. Alternates shall sign the declaration if and when they become members of the Commission.

The members of the Redistricting Commission, and the alternates, shall serve until the redistricting plan adopted by the Commission becomes effective and ~~any and all legal and referendum challenges have been resolved~~ the referendary deadline for the Final Redistricting Plan has passed. If the Final Redistricting Plan is rejected by referendum or by a legal challenge, members of the Commission shall resume their service and shall create a new plan pursuant to the criteria set forth in Sections 5 and 5.1.

~~Any vacancy in the Redistricting Commission which occurs after the Commission is constituted shall be filled within seven (7) calendar days by the Presiding Judge of the San Diego Municipal Court, San Diego Judicial District, following the same procedure and using the same criteria established with this Section and making the selection from the same pool of individuals given consideration for appointment when the Commission was constituted.~~

Within ~~twenty (20)~~ thirty days after the ~~membership of the~~ Commission members are ~~is~~ appointed, ~~it~~ the Commission shall hold its first meeting at a time and place designated by the City Clerk.

Within sixty days after the Commission members are appointed, the Commission shall adopt a budget and submit it to the Appointing Authority. If approved, the budget shall be forwarded to the City Council for its prompt consideration. The City Council shall appropriate funds to the Commission and to the City Clerk adequate to carry out their duties under this Section.

All Commission meetings shall be open to the public and Commission records, data and plans shall be available, at no charge, for public inspection during normal business hours in the office of the City Clerk. Copies of records and plans shall be provided, for a reasonable fee, to any interested person.

The Commission shall elect a chair and a vice chair and shall employ a chief of staff, who shall serve at the Commission's pleasure, exempt from Civil Service, and shall contract for needed staff, technical consultants and services, using existing City staff to the extent possible.

Aye votes by ~~5~~ six members of the Commission shall be required for the appointment of its chief of staff, the election of its chair, and the adoption of the F~~f~~inal R~~r~~edistricting P~~p~~lan. ~~and~~ A~~a~~ majority vote of the Commission shall be required for all other actions. A majority of the entire Commission shall constitute a quorum for the transaction of business or exercise of any power of the Commission.

The Commission shall make every reasonable effort to afford maximum public access to its proceedings. It shall solicit public comment and shall hold at least ~~four (4)~~ nine public hearings in various geographic areas of the City before the preparation of a preliminary redistricting plan.

At least thirty ~~(30)~~ days prior to the adoption of a final plan, the Commission shall file a preliminary plan with the City Clerk, along with a written statement of findings and reasons for adoption, which shall include~~s~~ ~~notation of all~~ the criteria employed in the process and a full analysis and explanation of decisions made by the Commission.

During the thirty ~~(30)~~ day period after such filing, the Commission shall hold at least ~~three (3)~~ five public hearings in various geographic areas of the City before it adopts a final plan. ~~Upon approval of the final plan, the Commission shall adjust the boundaries of any or all of the Council districts of the City pursuant to the final plan. Said~~ The F~~f~~inal R~~r~~edistricting P~~p~~lan shall be effective thirty ~~(30)~~ days after adoption by the Commission and shall be subject to the right of referendum in the same manner as are ordinances of the City Council. If rejected by referendum, the same Commission shall be empaneled to create a new plan pursuant to the criteria set forth in Sections 5 and 5.1.

The Final Redistricting Plan document, including all maps, will be final as set forth herein; however, the boundaries of the Council districts in the Final Redistricting Plan shall not be adjusted and effective until after the next regularly scheduled general election for Council seats following the redistricting.

~~Within sixty (60) days after the members of the Commission are appointed, the Commission shall adopt a budget and submit it to the Presiding Judge. If he or she approves it, it shall be forwarded to the City Council for its consideration. The City Council shall appropriate funds to the Commission and to the City Clerk adequate to carry out their duties under this Section.~~

If any part of these amendments to Sections 4, ~~or~~ 5, or 5.1 of the Charter ~~or the addition of Section 5.1 to the Charter~~ or their application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.

ARTICLE III

LEGISLATIVE POWER

SECTION 12: THE COUNCIL

[(a) to (c) No change in text.]

(d) Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district they were elected to serve ~~in which they reside~~ for the remainder of their current term~~, unless as a result of such redistricting more than one incumbent Council member resides within any one district, in which case the City Council may determine by lot which Council member shall represent each district~~. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not represented and from those districts represented by incumbent Council members whose terms expire as of the general election in ~~said~~ that year. If, as a result of any redistricting, more than a simple majority of the City Council as redistricted shall be elected at either the municipal primary or general election next following any such redistricting, the City

Council prior to any such election shall designate one or more new districts for which the initial council term shall be two ~~(2)~~ years in order to retain staggered terms for Council members.

[(e) to (h) No change in text.]

ARTICLE XV

STRONG MAYOR FORM OF GOVERNANCE

SECTION 270: THE COUNCIL

(a) The Council shall be composed of nine councilmembers elected by district. ~~The ninth councilmember shall be elected at the next municipal primary and general elections following the redistricting occurring after the 2010 national decennial census. Until the ninth councilmember is elected and qualified, the Council shall be composed of eight councilmembers elected by district.~~ The Council shall be the legislative body of the City.

[(b) to (h) No change in text.]

END OF PROPOSITION

PROPOSITION B. CHARTER AMENDMENTS REGARDING THE AUTHORIZATION AND ISSUANCE OF GENERAL OBLIGATION BONDS AND REVENUE BONDS. Shall the City Charter be amended to update provisions related to the authorization and issuance of bonds, to reflect changes in state law, and simplify and conform the City's processes with the California Constitution?	YES	
	NO	

BALLOT TITLE

Charter Amendments Regarding the Authorization and Issuance of General Obligation Bonds and Revenue Bonds by the City of San Diego

BALLOT SUMMARY

This proposition would amend the San Diego Charter to revise the processes by which the City authorizes the issuance of General Obligation Bonds and Revenue Bonds to conform the processes more closely with the California Constitution.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

This ballot measure does not authorize the issuance of any bonds or the levy of any taxes. The proposition revises the processes by which the City authorizes the issuance of General Obligation Bonds and Revenue Bonds to conform the processes more closely with the California Constitution.

The City of San Diego may choose to issue bonds when the City does not have sufficient cash available in any one year to fund the cost of certain capital improvements such as libraries, fire stations and streets. Bonds are a form of borrowing in which the City sells bonds to investors and promises to pay the investors back over time.

General Obligation Bonds are paid from ad valorem property taxes. These are taxes that are levied as a percentage of the value of the real property that is being taxed. The amount of the levy is set by the City Council annually so that the tax will be sufficient to pay the debt service (principal and interest) on the bonds coming due in each fiscal year.

The authorization of General Obligation Bonds has required a two-thirds vote of the public since Proposition 13 was enacted in 1978. The City currently has additional requirements in the Charter that predate Proposition 13. If approved, the proposition would eliminate these additional provisions, some of which conflict with Proposition 13, and require the City to comply

with the California Constitution and state law in authorizing and issuing General Obligation Bonds. The City Council also could adopt local procedures for issuing and selling General Obligation Bonds as long as the procedures comply with state law.

Revenue Bonds are bonds that are payable from enterprise funds, such as those related to the City's Water and Wastewater utilities. Enterprise funds differ from other government funds because they receive revenue from customers receiving a service. Enterprise funds do not typically receive tax revenue. The Charter contains extensive provisions setting forth requirements for the City's issuance of Revenue Bonds for the Water and Wastewater utilities. These provisions require a vote of the public and have not been used by the City to issue bonds in decades.

If approved, the proposition would allow the City to authorize the issuance of Revenue Bonds with a two-thirds vote of the City Council. The General Fund could not be used to pay Revenue Bonds. The Revenue Bonds could only be used to fund water facilities, wastewater facilities or stormwater facilities. Revenue Bonds could be issued and sold in accordance with state law or local procedures adopted by City Council.

The City Council's Charter Review Committee approved sending this measure to the ballot and the City Council voted to place it on the June ballot. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure would repeal outdated sections of the City Charter related to the issuance of bonds and replace them with updated sections designed to simplify and conform the City's processes with the California Constitution.

There is no fiscal impact associated with these Charter amendments.

PROPOSITION

ARTICLE VII

FINANCE

~~**SECTION 90: CONTRACTING BONDED INDEBTEDNESS**~~

~~(a) Whenever the Council shall determine that the public interest or necessity demands the acquisition, construction or completion of any municipal improvement authorized to be acquired, constructed, completed or maintained by The City of San Diego, the cost of which will be too great to be paid out of the ordinary annual income and revenue of said City, the Council may contract bonded indebtedness for said purposes or any of them, pledging the credit of the City or the property or revenue of any public utility owned by the City and the proceedings taken for incurring such indebtedness shall be in accordance with the mode and manner prescribed by the provisions of the general laws of the State of California relative to incurring bonded indebtedness by municipalities in force at the time such proceedings are taken. Every ordinance or resolution determining that the public interest or necessity demands such improvement shall be adopted only by a vote of five members of the Council and it shall require a vote of two-thirds of the electors voting on each proposition at a regular or special election for the issuance of such bonds before said indebtedness or liability for said improvements may be incurred, except ordinances authorizing such bond issues as are specified in Section 92 of this Article. No bonds, except such bonds as have been heretofore or maybe hereafter issued for the purpose of acquiring,~~

~~constructing or completing improvements for the development, conservation and furnishing of water as hereinafter provided, shall be issued on the credit of the City which will increase the bonded indebtedness of said City beyond ten per cent of the assessed valuation of all real and personal property of said City subject to direct taxation as shown by the last preceding valuation for City taxes.~~

~~(b) Whenever the Council shall determine that the public interest or necessity demands the acquisition, construction or completion of any municipal improvement for the development, conservation and furnishing of water, whether in the County of San Diego or elsewhere, the Council may contract bonded indebtedness for such improvement for the development, conservation and furnishing of water whenever authorized to do so by a vote of two-thirds of the electors voting at an election held for that purpose in the manner and mode prescribed by the general laws of the State of California in force at the time of holding said election. Bonds issued by virtue of the authority of this paragraph (b) including all bonds now outstanding for the purpose of development, conservation and furnishing of water, shall not exceed in amount the sum of fifteen per cent of the assessed valuation of all real and personal property of said City subject to direct taxation as shown by the last preceding valuation for City taxes. The fifteen per cent limitation contained herein shall be in addition to the amount authorized to be issued for other improvements as set forth in paragraph (a) of this section, it being the intent and purpose of this language to permit the City to incur a bonded indebtedness in an amount not to exceed ten per cent for all municipal improvements other than the development, conservation and furnishing of water,~~

~~and in addition thereto to authorize bonds in an amount not to exceed fifteen per cent of the assessed valuation for the development, conservation or furnishing of water; provided, however, that indebtedness and liability for municipal improvements of every kind and character authorized to be incurred by the provisions of this Charter shall not exceed in amount the sum of twenty-five percent of the assessed valuation of all real and personal property of said City subject to direct taxation as shown by the last preceding valuation for City taxes.~~

~~(c) Every issue of bonds authorized by the provisions of this Section shall be payable within a term of years not to exceed the estimated period of usefulness of the property or improvement for which issued, and in no case to exceed the constitutional limit; provided, that at any time the Council may postpone the payment on all bonds issued for an income-producing utility for a period of five years from date of issue, but shall provide for the interest payment from the date of issue.~~

~~(d) When the municipal improvement for which the bonds were voted, as provided in the foregoing Subdivisions of this Section, has been fully completed, all or any surplus money derived from the sale of said bonds remaining in the City Treasury shall be used exclusively for the purpose of redeeming said bonds or paying the interest thereon.~~

SECTION 90: GENERAL OBLIGATION BONDS

The Council is authorized to provide for the issuance of general obligation bonds in accordance with the California Constitution. General obligation bonds may be issued and sold in accordance with state law and any other local procedure adopted by ordinance.

~~**SECTION 90.1: WATERWORKS**~~

~~Subdivision 1. Unless the context otherwise requires, the definitions set forth in this subdivision govern the construction of this section.~~

~~"City" means The City of San Diego.~~

~~"This section" means this amended Section 90.1.~~

~~"Waterworks" means all facilities, property and works of the City for the development, obtaining, conservation, production, storage, treatment, transmission, furnishing and distribution of water for public and private use (whether located within or without the City) and shall comprise the public utility system of the City for water purposes, as mentioned in Section 1 of this Charter.~~

~~"Revenues" includes all moneys received from rates, tolls, or charges for water or for service from the waterworks or any part thereof, and all other income and receipts derived from the use of or operation of the waterworks or any part thereof, or otherwise arising from the waterworks or any part thereof, or any other income of the Water Department and includes interest on all funds derived from or established for the waterworks. "Revenues" shall not be construed to include taxes or assessments.~~

~~"Water rates" means rates, tolls or charges for water or for service by the waterworks or any part thereof.~~

~~Subdivision 2. Revenue bonds to provide money for the acquisition and construction of additions to and extensions and improvements of the waterworks of the City and the reconstruction and replacement of parts of such waterworks and the acquisition of all lands, easements, rights and property necessary for such purposes, may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said~~

~~purposes. Such revenue bonds, hereinafter sometimes called “bonds” or “revenue bonds” shall not constitute an indebtedness of the City but shall constitute obligations which shall be payable, principal and interest and any premiums upon the redemption thereof prior to maturity, only from a special fund which shall consist of such revenues of the Water Department as are in excess of the amount needed to operate and maintain the Water Department (and said special fund is presently designated and is sometimes hereinafter in this section called the “Water Department Revenue Bond Fund”); provided, however, that this shall not preclude the payment or redemption of such bonds from the proceeds of refunding bonds issued to refund said revenue bonds or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable only from the fund from which the revenue bonds to be refunded are payable. No restriction or limitation upon or procedure for the issuance of bonds in other sections of this Charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and no action or proceeding not required by this section shall be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the City or any other revenues of the City except such revenues of the Water Department as are in excess of the amount needed to operate and maintain the Water Department.~~

~~Subdivision 3. The limitations upon bonded indebtedness of The City of San Diego contained in sections 76 and 90 of this Charter or in any other section or provision thereof shall not apply to revenue bonds issued under the provisions of this section and payable exclusively from the fund mentioned in Subdivision 2 hereof derived from revenues from the waterworks of the City and not payable from taxes levied by the City. Waterworks revenue bonds payable from a special fund derived from revenues of the Water Department shall not be deemed indebtedness of the City within the meaning of the debt limitation provisions contained in sections 76 and 90 of this Charter or in any other section thereof.~~

~~Subdivision 4.~~

~~(a) To provide money for the acquisition and construction of additions to and extensions and improvements of the waterworks of the City and the reconstruction and replacement of parts of such waterworks and the acquisition of all lands, easements, rights and property necessary for such purposes, the Council may issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds not to exceed $11,000,000 in total principal amount. All waterworks revenue bonds in excess of said sum of $11,000,000 shall be authorized by proceedings taken in the manner hereinafter provided in paragraph (b) of this subdivision.~~

~~(b) Except as provided in paragraph (a) of this subdivision, revenue bonds payable from revenues of the Water Department may be authorized only in the manner provided in this paragraph (b).~~

~~The first step in the proceedings shall be a recommendation by the City Manager, which recommendation shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and his recommendation that revenue bonds be issued hereunder. Such recommendation need not be in any particular form.~~

~~After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section in the amount and for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the City, at an election held for that purpose, the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.~~

~~The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager and in that case such resolution shall constitute the first step in the proceeding. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof, and in the event such resolution is adopted no recommendation of the City Manager shall be required and the ordinance calling the election shall find the need for the issuance of revenue bonds under this section in the amount and for the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds~~

~~of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.~~

~~The ordinance calling the election shall:~~

~~(a) state the purposes for which the bonds are to be issued;~~

~~(b) state the principal amount of the bonds;~~

~~(c) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;~~

~~(d) call the election and fix the election date;~~

~~(e) fix the manner of holding the election;~~

~~(f) fix the manner of voting for or against the issuance of the bonds.~~

~~In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the City.~~

~~Any special election called for the purpose of voting upon a proposition of issuing bonds under this section may be consolidated with any municipal primary election or any general City election or any other election at which all of the qualified voters residing within the City are entitled to vote. Such consolidation may be made in any manner authorized under the Elections Code of the State of California or under the Elections Code of the City.~~

~~The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the City, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance~~

~~thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.~~

~~No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the electors of the City or the voters voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.~~

~~Subdivision 5.~~

~~(a) The Council may issue all bonds authorized at an election or all bonds authorized under paragraph (a) of subdivision 4 of this section in one issue or may divide the principal amount thereof into two or more series and fix different dates of issuance and maturities for the bonds of each series. The Council shall provide for any issue or series of bonds (if issued in series) by ordinance. The Council shall in said ordinance fix the date of issuance and the dates of maturity of each issue or series of bonds; provided, however, that no bond shall run more than 40 years from its date. Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, the principal amount of the bonds to be issued pursuant to such ordinance, and the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually.~~

~~(b) Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the~~

~~provisions of this Charter and of the validity of such bond and no bona fide purchaser of such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceedings required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.~~

~~Subdivision 6. In any ordinance providing for the issuance of revenue bonds under this section the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:~~

~~(a) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recitals of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates (which temporary bonds or interim certificates may be issued without interest coupons), and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;~~

~~(b) Provisions for the call and redemption prior to maturity of any part of or all of said bonds and the premiums to be paid upon such call and redemption;~~

~~(c) Said bonds shall be designated "Waterworks Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of The City of San Diego but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof, only from a special fund which shall consist of such revenues of the Water Department as are in excess of the amount needed to operate and maintain the Water Department; provided, however, that the foregoing statement shall not preclude the payment or the redemption of said bonds from the proceeds of refunding bonds or the payment thereof from premium and accrued interest obtained upon the sale of the bonds. Such special fund is presently designated and is sometimes hereinafter in this section called the Water Department Revenue Bond Fund;~~

~~(d) Covenants relating to rates for the use of water or for services from the waterworks system. Such rates and charges for the use of water or service from the waterworks system shall provide revenues at least sufficient to pay, as the same shall become due, principal of and interest on all outstanding revenue bonds payable out of the revenues of the Water Department, including premiums, if any, due upon the redemption of any thereof (and including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds or any thereof), and all other~~

~~obligations and indebtedness payable out of said revenues, in addition to paying, as the same shall become due, the necessary expenses of operating and maintaining the Water Department;~~

~~(e) Covenants relating to the extent to which such services may be furnished or rendered to the City or to any government, department of government, public corporation or body free or at lower rates than otherwise charged;~~

~~(f) The collection, deposit and safekeeping of the revenues, and the permissible uses thereof;~~

~~(g) The construction fund into which the principal sums from the sale of the bonds shall be placed, the special fund or funds to be established and maintained for the payment of principal and interest of the bonds, including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Water Department Revenue Bond Fund may be paid from any such special fund established therefor; the permissible investments of moneys in said funds, or any thereof, the accounts and records to be kept, audits thereof and examination of such audits by bondholders and others;~~

~~(h) Carrying of insurance upon the waterworks or any part of the waterworks system or property against any or all risks, and in case of loss the application of the insurance proceeds;~~

~~(i) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the waterworks of the City or any substantial part thereof,~~

~~and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of such ordinance;~~

~~(j) Limitations upon the issuance of any additional bonds payable out of the revenues of the Water Department, but no bonds shall be issued pursuant to this section or under any other provision of the Charter or any other law having any priority in payment of principal or interest out of the revenues of the Water Department over any revenue bonds theretofore or thereafter issued and payable out of such revenues;~~

~~(k) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of such provisions of the ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof as may be stated in such ordinance or to a refunding of said bonds and to calls or exchanges in connection with such refunding;~~

~~(l) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;~~

~~(m) Any other provision (including covenant) valid under the Constitutions of the State of California and the United States of America.~~

~~Subdivision 7. Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be~~

~~enforced by any holder by mandamus, injunction or any other applicable legal action, suit, proceeding or other remedy.~~

~~Subdivision 8. Bonds issued under this section shall be sold only at public sale following such notice as the Council, by order or resolution, may prescribe; provided, however, that if no bid is received or if the bid or bids received are not satisfactory the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subdivision shall not apply to the exchange of any refunding bonds for outstanding bonds. Any revenue bonds issued hereunder may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed six per cent per annum, payable semiannually. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on bonds sold. Said bonds shall be sold for not less than par and accrued interest to date of delivery.~~

~~Subdivision 9. The proceeds from the sale of bonds issued hereunder (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for the issuance of said bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Water Department Revenue Bond Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes~~

~~for which the bonds were issued made from such fund after the issuance of the bonds has been authorized at the election thereon, (2) that said proceeds may be used for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of the bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.~~

~~Subdivision 10. Refunding revenue bonds may be issued for the payment or redemption of any revenue bonds issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of accrued interest and of any premiums thereon and all expenses of such refunding. Refunding revenue bonds shall be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder.~~

~~Subdivision 11. To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be~~

~~deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.~~

~~The Council is authorized to take any and all steps and proceedings necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.~~

SECTION 90.1: REVENUE BONDS

The Council may authorize the issuance of revenue bonds by a two-thirds vote of the Council provided the bonds are not secured by or payable from the general fund or any fund other than an enterprise fund and that the purpose of the bond issue is to provide for the construction, reconstruction or replacement of water facilities, wastewater facilities, or stormwater facilities. All revenue bonds may be issued and sold in accordance with state law or any procedure established by ordinance.

~~**SECTION 90.2: SEWER**~~

~~Unless the context otherwise requires, the definitions contained in this section shall govern the construction thereof.~~

~~"This section" as used in this section means this Section 90.2.~~

~~"City" means The City of San Diego.~~

~~"Council" means the Council of The City of San Diego.~~

~~"Bond" or "bonds"means sewer revenue bonds issued hereunder payable from the Sewer Revenue Fund.~~

~~"Sewer" or "sewers" as used in this section means sanitary sewers of the City.~~

~~"Sewer system" as used in this section means all sanitary sewers, sewer works, sewage treatment and disposal works and facilities of the city for the collection, transmission, treatment or disposal of sewage and comprises the entire system of sewers and sewer works and facilities of the city and includes all parts thereof, whether physically connected to other parts of the system or otherwise, and shall include all additions thereto, whether physically connected to other parts of the system or otherwise, and all extensions and improvements of the sewer system or any part thereof. Nothing herein shall preclude the construction of facilities for the reclamation of water from sewage in the sewer system and the city may at any time determine whether such facilities or any portion thereof shall be constructed and operated as a part of the sewer system or as a part of the water system, or otherwise.~~

~~"Sewer service charges" as used in this section means charges, fees, tolls, rates and rentals established or imposed by the city for service by or for the use of the sewer system or any part thereof.~~

~~"Revenues" as used in this section means all sewer service charges received, and any sums received by the city from other cities, districts or public corporations (including the United States of America and the state of California) under contracts providing for the transmission, treatment or disposal of sewage from such other cities, districts or public corporations through or by means of the sewer system or any part thereof, and all other income and revenue derived by the city from the operation of the "sewer system" or any part thereof. "Revenues" shall not be construed to include taxes or assessments levied by the city.~~

~~"Sewer Revenue Fund" as used in this section means the Sewer Revenue Fund heretofore established into which revenues from the sewer system have been paid, and said fund has been, is and shall be derived from "revenues."~~

~~Subsection 1. Revenue bonds to provide money for the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewers, sewer works, sewage treatment plants, works and facilities, and sewage disposal works or facilities which will be additions to, extensions and improvements of the sewer system, and for the reconstruction or replacement of parts of the sewer system, including all necessary equipment, appurtenances and appurtenant work and the acquisition of all lands, easements and property necessary therefor and for facilities for the reclamation of water from sewage in the sewer system (if such reclamation facilities are to be constructed and operated as a part of the sewer system) may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said purposes. To any extent necessary or convenient, any of the sewers, plants, works or facilities or any part thereof may be located outside the city.~~

~~Subdivision A. Revenue bonds issued under this section shall not constitute an indebtedness of the city but shall constitute obligations which shall be payable, principal and interest, and any premiums upon the redemption thereof prior to maturity, only from the Sewer Revenue Fund; provided, however, that this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds issued to refund said revenue bonds, or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon, or the payment out of the proceeds of any~~

~~bonds of the whole or a part of the interest accruing on said bonds during the period of acquisition and construction of the work to be paid for out of such proceeds and for the first six months thereafter.~~

~~Subdivision B. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable from the Sewer Revenue Fund. No restriction or limitations upon or procedure for the issuance of bonds in other sections of this charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and any action or proceeding not required by this section shall not be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city or any other revenues of said city except such revenues as are required under the provisions of this section to be paid into the Sewer Revenue Fund.~~

~~Subdivision C. The limitations upon bonded indebtedness of The City of San Diego contained in Sections 76 and 90 of this charter or in any other section or provision thereof shall not apply to revenue bonds issued under this section or under any provisions of this charter or under any general law of the State of California where such revenue bonds are payable exclusively from a special fund derived from revenues obtained from any public utility or improvement of the city and are not payable from taxes levied by the city and such revenue bonds shall not~~

~~be deemed indebtedness of the city within the meaning of the debt limitation provisions contained in Sections 76 and 90 of this charter or in any other section thereof.~~

~~Subsection 2. To provide money for the purpose of the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewer, sewer works, sewage treatment plant, works and facilities, sewage disposal works and facilities and submarine ocean outfall sewer, which will be additions to, extensions and improvements of the sewer system, including for the foregoing all necessary equipment, appurtenances and appurtenant work and including the acquisition of all lands, easements and property necessary therefor, and including reconstruction or replacement of parts of sewers and reconstruction of sewer facilities necessary for any of the foregoing, the Council is hereby authorized to issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds in total principal amount not to exceed $42,500,000. The maximum rate of interest on said bonds shall not exceed six per cent per annum, payable semiannually. Revenue bonds, if any, issued under this section in excess of said sum of $42,500,000 shall be authorized by proceedings taken in the manner hereinafter provided under Subsection 3.~~

~~Subsection 3. Except as provided in Subsection 2 above and except refunding sewer revenue bonds, revenue bonds payable from the Sewer Revenue Fund shall be authorized in the manner provided in this Subsection 3.~~

~~The first step in the proceedings shall be a recommendation by the City Manager that bonds be issued hereunder, which recommendation shall state generally the purposes of the revenue bond issue and the principal amount thereof. Such recommendation need not~~

~~be in any particular form. After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the city at an election held for that purpose the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.~~

~~The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and in the event such resolution is adopted the recommendation of the City Manager shall not be required and the ordinance shall find the need for the issuance of revenue bonds under this section for the purposes stated in the resolution and the purposes stated in the proposition submitted to the qualified voters of the city shall be the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.~~

~~Subdivision A. The ordinance calling the election also shall:~~

~~(1) state the purposes for which the bonds are proposed to be issued;~~

~~(2) state the principal amount of the bonds;~~

~~(3) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;~~

~~(4) call the election and fix the election date;~~

~~(5) fix the manner of holding the election;~~

~~(6) fix the manner of voting for or against the issuance of the bonds.~~

~~In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the city.~~

~~Subdivision B. The proposition shall be submitted at a special election called for that purpose and any special election called for the purpose of voting upon a proposition to issue bonds under this section may be consolidated with any city or other election at which all of the qualified voters residing within the city are entitled to vote. Such consolidation may be made in the manner authorized under the Elections Code of the State of California or under the Elections Code of the city.~~

~~Subdivision C. The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the city, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.~~

~~No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the people of the city or the~~

~~electors voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.~~

~~Subsection 4. The Council may issue all bonds authorized at an election in one issue or in two or more series and may fix different dates and maturities for the bonds of each series. It may issue all bonds authorized by Subsection 2 hereof in one issue or in two or more issues or series and may fix different dates and maturities for the bonds of each issue or series. The bonds of any issue or series issued under this section may be serial bonds or term bonds or any combination thereof with such maturities as may be determined by the Council, but no bond shall run more than forty (40) years from its date.~~

~~Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, fix the principal amount of the bonds to be issued pursuant to such ordinance, the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually, the date of said bonds, and the maturities thereof.~~

~~Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this section and of the validity of such bonds, and no bona fide purchaser of any such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.~~

~~Subdivision A. REVENUE BONDS - TERMS AND CONDITION: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:~~

~~(1) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recital of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates, and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;~~

~~(2) The terms and conditions under which said bonds or any part thereof may be paid and redeemed before maturity (including the premiums, if any, payable upon bonds redeemed prior to maturity), exchanged, registered, transferred, or negotiated;~~

~~(3) Covenants or provisions relating to rates (called in this section Sewer Service Charges). Such sewer service charges shall be fixed by the Council of said city and, with reasonable allowances for contingencies, must be at least sufficient, together with other revenues, if any, payable~~

~~into the Sewer Revenue Fund, to provide revenues sufficient to pay, as the same becomes due, principal and interest of all revenue bonds payable out of said Sewer Revenue Fund (including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds) and all other obligations payable from the Sewer Revenue Fund, and the necessary expenses of maintaining and operating the "sewer system." The ordinance may also state the extent, if any, to which such sewer service may be furnished or rendered to the city free or to the United States of America, the State of California, or to any city or other public corporation or body at lower rates than otherwise charged;~~

~~(4) The collection, deposit and safekeeping of the revenues and the permissible uses thereof; provided, however, that the cost of maintenance and operation of the sewer system (and only such cost) shall be payable from the Sewer Revenue Fund prior to the payment of principal and interest of the revenue bonds or the setting aside in the bond service, sinking, redemption, reserve, or other fund, monthly or otherwise, of funds therefor;~~

~~(5) The special fund or funds to be established and maintained for the payment of principal and interest of the bonds; including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Sewer Revenue Fund may be paid from any such special fund set up therefor; the permissible investments of moneys in said funds, or any~~

~~thereof; the accounts and records to be kept, audits thereof and examination thereof by bondholders and others;~~

~~(6) Carrying of insurance upon any sewers, sewage treatment plant or plants or sewage disposal works against any or all risks, and in case of loss the application of the insurance proceeds;~~

~~(7) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the sewer system or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of said ordinance;~~

~~(8) Limitations upon the issuance of any additional bonds payable from the Sewer Revenue Fund, but no bond shall be issued pursuant to this section or under any other provision of this charter or any other law having any priority in payment of principal or interest out of such fund or out of any revenues payable into such fund over any revenue bonds theretofore issued and payable out of said fund;~~

~~(9) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of provisions of any ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof, or to a refunding of said bonds and to calls or exchanges in connection with such refunding;~~

~~(10) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond,~~

~~temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;~~

~~(11) Any other provision (including covenant) valid under the Constitution of the State of California and the United States of America.~~

~~Such ordinance shall be subject to referendum in the manner that other ordinances of the City are subject to referendum.~~

~~Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any applicable legal action, suit, proceeding or other remedy.~~

~~Subsection 5. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:~~

~~(a) No bond shall run more than forty years from its date;~~

~~(b) Said bonds shall be designated "Sewer Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of the City but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof only from the Sewer Revenue Fund. Such statement shall not preclude the payment or redemption thereof from the funds or moneys specified in Subdivision A of Subsection 1;~~

~~(c) Said bonds shall be sold only at public sale following such notice as the Council by resolution or order may prescribe; provided, however, that if no bid or no satisfactory bid is received pursuant to such notice the~~

~~Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subsection shall not apply to the exchange of any refunding bonds for outstanding bonds. Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed the maximum rate stated in the ordinance calling the election to vote upon the issuance of said bonds or as to bonds authorized by Subsection 2 hereof the maximum rate stated in said Subsection 2. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on the bonds sold;~~

~~(d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. The proceeds from the sale (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for issuance of such bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Sewer Revenue Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which~~

~~the bonds were issued made from such Sewer Revenue Fund after the issuance of the bonds has been authorized by the voters or as to bonds authorized by Subsection 2 hereof, after the date this amendment becomes effective; (2) that said proceeds may be used for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of said bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.~~

~~Subsection 6. Refunding revenue bonds payable from the Sewer Revenue Fund may be issued for the payment or redemption of any revenue bonds, issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of interest to maturity on any noncallable bonds to be refunded and of accrued interest to date of redemption and of any premiums payable upon redemption of bonds which by their terms are subject to call and redemption prior to maturity, and all expenses of such refunding. Refunding revenue bonds may be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder and the first step in the proceeding shall be the ordinance of issuance. The ordinance providing for the~~

~~issuance of refunding bonds shall be subject to referendum in the same manner as other ordinances of the city.~~

~~Subsection 7. To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.~~

~~The Council is authorized to take any and all steps necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.~~

~~Subsection 8.~~

> ~~Subdivision A. The Council may at any time establish and provide for the collection of sewer service charges and must establish and provide for the collection of such sewer service charges as are required by any ordinance providing for the issuance of revenue bonds under this section. Sewer service charges shall not be deemed taxes or assessments within the meaning of any section of this charter and shall not be enforceable by any lien upon real property. "Sewer service charges" may be collected with water rates, fees or~~

~~charges (herein called "water rates") of The City of San Diego. The Council may provide and covenant that where the city furnishes water to the property receiving sewer service the sewer service charges shall be collected with and not separately from the water rates of said city and that all charges shall be billed upon the same bill and collected as one item and may also provide and covenant that in the event of nonpayment of any part of the bill for the sewer service charge and water rate, the water service shall be shut off within such time as may be or shall have been prescribed by the Council. Delinquent sewer service charges may be collected by suit in any court of competent jurisdiction. The Council may provide additional methods of collecting sewer service charges. The Council also may prescribe and establish penalties for the nonpayment of sewer service charges. The Council may take any and all steps to establish and provide for the collection of sewer service charges.~~

~~Subdivision B. All revenues shall be paid into the Sewer Revenue Fund and shall be used only for the following purposes: (l) paying the cost of maintenance and operation of the sewer system; (2) paying principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon redemption, of sewer revenue bonds issued under this section and payable from said Sewer Revenue Fund; (3) paying all or any part of the cost and expense of extending, reconstructing or improving the sewer system or any part thereof or making additions to such system; (4) transferring from any surplus in the Sewer Revenue Fund to the Capital Outlays Fund, at one time or from time to time, all or any part of the sums expended from said Capital Outlays Fund after July 1, 1960,~~

~~for any purpose for which revenue bonds may be issued under this section; (5) paying from any surplus in the Sewer Revenue Fund principal or interest, or both, or any part thereof, of general obligation bonds heretofore or hereafter issued for any purpose for which revenue bonds may be issued under this section.~~

~~Any ordinance providing for the issuance of revenue bonds hereunder may contain covenants defining, limiting or restricting the use of moneys in said Sewer Revenue Fund and said covenants shall control so long as any bonds issued under said ordinance are outstanding and unpaid within the meaning of this section.~~

~~Subdivision C. Interest (including interest on investments) on the Sewer Revenue Fund or on any fund created by or under the authority of this section shall be credited to the particular fund.~~

~~Subsection 9.~~

~~Subdivision A. The City may issue general obligation bonds for sewer purposes. General obligation bonds of the city may also be issued to refund any revenue bonds, principal, interest and premium, if any, issued under this section, if authorized by a two-thirds vote of the qualified electors of the city voting upon the question of the issuance thereof at an election called and held for that purpose. Such election may be called by ordinance in the same manner as any other special election is called under the charter of the city.~~

~~The city may expend funds derived from taxes for the acquisition and construction of sewers, and to the extent that may legally be done under this section may expend funds derived from taxes for the maintenance and operation of sewers, but no funds derived from taxes shall be considered revenues as in this~~

~~section defined and no such funds derived from taxes shall be paid into the Sewer Revenue Fund and no revenue bond issued under this section or any interest thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city.~~

~~Subdivision B. The city may levy special assessments for the acquisition and construction of sewers or sewer works and such assessments shall not be construed as "revenues" as defined in this section and shall not be paid into the Sewer Revenue Fund.~~

~~Nothing in this section shall be construed to restrict the power of the city to consent to the formation or organization of special districts for the purpose of collection, transmission, treatment or disposal of sewage within portions of the city which are not at that time served by the city sewer system and which in the opinion of the Council cannot conveniently be served by or through the city sewer system. Before any such district is formed or organized which includes territory of the city therein the consent of the city to the inclusion therein of such territory shall be manifested by ordinance of the Council. The Council shall have authority to provide reasonable terms and conditions under which the portion of the city may be included in said district and upon which the district may operate its facilities within The City of San Diego.~~

~~Nothing in this section shall be construed as implying any doubt of the power of the city to establish and collect service charges for service by or for the use of sewers under its general charter powers.~~

~~Subsection 10. This section and every part thereof shall be liberally construed to promote the objects thereof and to carry out its intents and purposes.~~

~~If the application of any subsection, subdivision, paragraph, sentence, clause or word of this section to any person or circumstance is held invalid the application of such subsection, subdivision, paragraph, sentence, clause or word to any other person or in any other circumstance shall not be affected thereby. If any part of this section is held invalid the remainder of the section shall remain in full force and effect.~~

END OF PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

PROPOSITION C. CHARTER AMENDMENTS REGARDING THE LEVY, ASSESSMENT AND COLLECTION OF PROPERTY TAXES AND THE REPEAL OF PROVISIONS FOR COLLECTING PROPERTY TAXES THE CITY CANNOT COLLECT UNDER STATE LAW. Shall the City Charter be amended to clarify the manner in which the City levies, assesses and collects property taxes in the City, and to repeal provisions regarding property taxes the City is not able to levy as a result of Proposition 13 and related state law?	YES	
	NO	

BALLOT TITLE

Charter Amendments Regarding the Levy, Assessment and Collection of Taxes by the City of San Diego and the Repeal of Taxes the City May No Longer Levy Under the California Constitution

BALLOT SUMMARY

This proposition would amend the San Diego Charter to revise the processes by which the City levies, assesses and collects property taxes and to repeal taxes that the City can no longer levy under the California Constitution.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

Prior to the adoption of Proposition 13 by California voters in 1978, the City Council was entitled and obligated to set a property tax rate sufficient to raise the funds necessary to pay for the spending approved in the City's annual budget. Proposition 13 amended the California Constitution to limit the rate at which all real property in California could be assessed. Proposition 13 and subsequent state legislation also limited the ability of cities to impose taxes authorized prior to Proposition 13 but not levied and collected in specific years after Proposition 13.

This proposition does not authorize any new taxes. If approved, this proposition would amend the San Diego Charter by consolidating several Charter sections dealing with the assessment, levy and collection of taxes into two sections of the Charter.

The City continues to be able to levy lawfully imposed ad valorem (based upon value) property taxes, but is not able to set the general rate of taxation because this authority has been superseded by state law. The City is permitted to use San Diego County's system for the assessment and collection of property taxes, but is not required to do so. The City's Chief Financial Officer is authorized to set the legally allowed tax levy in the event that the City

Council fails to act in a timely manner to set the tax levy. If approved, the proposition would amend the Charter to remove the limit on the tax levy, as this has been superseded by state law.

The City previously was authorized to levy specific property taxes to fund City pensions, but the City did not do so after Proposition 13 was implemented and is no longer permitted to do so. If approved, the proposition would repeal the language authorizing this tax.

The proposition also would repeal language that allowed a tax to fund public transportation, as the City is no longer legally permitted to levy the tax. The City continues to be able to impose special taxes with a two-thirds vote of the public, in accordance with the California Constitution.

The City Council's Charter Review Committee approved sending this measure to the ballot, and the City Council voted to place the measure on the ballot. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure would repeal or replace outdated sections of the City Charter pertaining to property taxes. The updates are intended to simplify the manner in which the City levies, assesses, and collects property taxes in the City. The measure would also repeal sections related to property taxes that the City is not able to levy as a result of Proposition 13 and related State law.

There is no fiscal impact associated with these Charter amendments.

PROPOSITION

ARTICLE VII

FINANCE

~~**SECTION 75: ANNUAL TAX LEVY**~~

~~The Council shall adopt, not later than the last day in August of each year, an ordinance levying upon the assessed valuation of all property in the City, a rate of taxation sufficient to raise the amount estimated to be required in the annual budget and as herein provided, less the amounts estimated to be received from fines, licenses, and other sources of revenue, using as a basis the value of the property as assessed by the County Assessor, as the same may be equalized and returned to the Council by County Auditor as provided by general law. The Council shall immediately thereafter transmit to the County Auditor of the County of San Diego, a statement of such rate or rates so fixed by it.~~

SECTION 75: ANNUAL TAX LEVY

No later than the last day of August of each year, the Council shall adopt an ordinance levying upon the assessed valuation of property in the City any lawfully imposed ad valorem property taxes. Unless otherwise provided by ordinance, the City shall use, for purposes of municipal taxation, the County of San Diego system of assessment and tax collection. If the Council fails to levy a rate of taxation at the time and in the manner provided by the Charter, the Chief Financial Officer shall calculate a rate of taxation, not exceeding the limit provided by law, in an amount required to meet maturing portions of principal and interest on the bonded indebtedness of the City and any special taxes lawfully imposed. The Chief Financial Officer shall give public notice of the rate of

taxation as provided by ordinance. The Chief Financial Officer is hereby vested with all necessary legislative power to carry out the provisions of this section.

~~SECTION 76: LIMIT OF TAX LEVY~~

~~The tax levy authorized by the Council to meet the Municipal expenses for each fiscal year shall not exceed the rate of $1.34 on each $100.00 of assessed valuation of the real and personal property within the city. In addition to the foregoing tax levy, the Council, if necessary, shall levy annually a sum sufficient to meet the requirements of the pension funds herein provided for the Police and Fire Departments and the City Employees' Retirement Fund. No special tax shall be permitted except as expressly authorized by this Charter. The foregoing limitations shall not apply in the event of any great necessity or emergency, in which case they may be temporarily suspended, provided that no increase over said limits, except as in this Charter prescribed shall be made in any fiscal year unless authorized by ordinance adopted by the vote of two-thirds of the electors of this City voting on the proposition, and provided further that no indebtedness shall ever be incurred by The City of San Diego for public improvements which shall in the aggregate exceed twenty- five per cent (25%) of the assessed value of all real and personal property of such City, anything in this Charter contained to the contrary notwithstanding. This limitation on the part of the City to incur indebtedness shall be construed to include any indebtedness which may be incurred by special taxes or by the voting of bonds by the electors.~~

~~SECTION 76.1: SPECIAL TAXES~~

~~Notwithstanding any provision of this Charter to the contrary, a special tax, as authorized by Article XIIIA of the California Constitution may be levied by the Council~~

~~only if the proposed levy has been approved by a two-thirds vote of the qualified electors of the City voting on the proposition; or if the special tax is to be levied upon less than the entire City, then the tax may be levied by the Council only if the proposed levy has been approved by a two-thirds vote of the qualified electors voting on the proposition in the area of the City in which the tax is to be levied.~~

SECTION 76: SPECIAL TAXES

Notwithstanding any provision of this Charter to the contrary, a special tax, as authorized by Article XIIIA of the California Constitution, may be levied by the Council only if the proposed levy has been approved by a two-thirds vote of the qualified electors of the City voting on the proposition; or if the special tax is to be levied upon less than the entire City, then the tax may be levied by the Council only if the proposed levy has been approved by a two-thirds vote of the qualified electors voting on the proposition in the area of the City in which the tax is to be levied.

~~**SECTION 77B: PUBLIC TRANSPORTATION**~~

~~The Council may levy, in addition to all other taxes provided for in this Charter, a special tax in an amount not to exceed ten cents ($0.10) on each one hundred dollars ($100.00) of the assessed valuation of all real and personal property within the City, to be used for discharging any obligations undertaken by the City to acquire, develop, operate or maintain a public transportation system or to assist a nonprofit corporation to acquire, develop, operate or maintain a public transportation system.~~

~~The Council may establish special funds, execute contracts, acquire property by purchase, devise, lease, gift or condemnation, and may sell, lease, convey, exchange, dispose of, or lend property or funds in order to provide, promote or preserve a public transportation~~

~~system. The enumerated powers in this section are in aid of public transportation and shall not be limited by any other provisions of this Charter.~~

~~SECTION 78: ASSESSMENT AND COLLECTION OF TAXES~~

~~The Council shall by ordinance provide that the assessment and collection of taxes for The City of San Diego shall be performed by the County Assessor and County Tax Collector of the County of San Diego and make such arrangements to carry out the provisions of this ordinance. Provided, however, that if at any time the majority of the electors of The City of San Diego voting at an election for that purpose, decide to have the City assume the duty of assessing and collecting the taxes for municipal purposes, then the Council may by ordinance provide for such assessment and collection of taxes by City officers and make the necessary arrangements to carry out the will of the people as expressed at such election.~~

END OF PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

PROPOSITION D. CHARTER AMENDMENT REGARDING POWER TO FIX SALARIES. Shall City Charter section 70 be amended to conform to existing provisions related to the Strong Mayor form of government, by updating titles of specified officers and clarifying who has authority to fix their salaries and the City's compensation schedules; to specify the City's legal duty to comply with California's collective bargaining laws in establishing annual compensation schedules; and to update language?	YES	
	NO	

BALLOT TITLE

Charter Amendment Regarding Power to Fix Salaries

BALLOT SUMMARY

This measure amends San Diego Charter section 70 to conform to existing provisions related to the City's Strong Mayor form of government, by updating titles of specified officers and clarifying who has authority to fix their salaries and the City's compensation schedules; to specify the City's legal duty to comply with California's collective bargaining laws in establishing annual compensation schedules; and to update language.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

San Diego Charter section 70 addresses who has authority to fix the salaries of officers and employees of the City of San Diego, and how and when salaries are determined.

Each year, the City Council (Council) adopts a salary ordinance, which includes compensation schedules for the City's classified, civil service and unclassified employees.

As a general rule, the power to appoint an officer or employee includes the power to set salary or wages. Thus, the pay rate for most City employees is established by the City department director or designee, where the employee works, in accordance with compensation schedules established by the Council and applicable civil service rules. In several instances, however, the Charter specifies who fixes the salary of Charter-created officers.

If approved, the amendments in this measure would update the list of those officers and employees whose salaries are fixed by the Council, in accordance with the City's Strong Mayor form of government.

The amendments specify that the Mayor's salary is fixed by the Council, in accordance with Charter section 24.1.

The amendments would add the City Auditor and the Independent Budget Analyst to the list of officers whose salaries are established by the Council. This language is in accordance with Charter section 39.1, which states that the Council sets the City Auditor's annual compensation, following a recommendation by the City's Audit Committee. The language also follows Charter section 39.3, which states that the Council appoints the Independent Budget Analyst.

The measure removes from the list of positions the City Manager (i.e., the City's Chief Operating Officer), City Treasurer, and City Comptroller because their salaries are set by the Mayor in accordance with other Charter provisions. The amendments revise language to account for the fact the position previously titled "City Auditor and Comptroller" no longer exists. The authority and responsibilities of that position were transferred to and assumed by the City's Chief Financial Officer in a 2008 ballot measure.

Section 70 must be read in conjunction with the Meyers-Milias-Brown Act, California Government Code sections 3500 through 3511, which governs collective bargaining between the City, as public agency employer, and City employees who are represented by a recognized employee organization. The City must comply with California's collective bargaining laws, regardless of whether the Charter specifies it must. This measure adds language to acknowledge this governing state law.

Under state law, the City must complete a meet and confer process before the Council makes final decisions on compensation schedules for the next fiscal year. Amendments would remove language stating that increases and decreases in salaries or wages must be determined at the time the City budget is prepared and adopted. In its place, amendments would confirm that the compensation schedules are established in accordance with California's collective bargaining laws.

The Council's Charter Review Committee approved sending this measure to the ballot and the Council voted to place it on the June ballot. If approved, the Charter amendments will become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure would update an outdated City Charter section dealing with the power to fix and recommend salaries for certain City officers and employees. The update is intended to conform this section of the Charter to the City's current form of government and California Government Code.

There is no fiscal impact associated with the amendments to this Charter section.

PROPOSITION

ARTICLE VII

FINANCE

SECTION 70: POWER TO FIX SALARIES

The Council shall have the power to fix salaries of the ~~City Manager~~Mayor, the City Clerk, ~~the City Treasurer,~~ the City Auditor ~~and Comptroller~~, the Independent Budget Analyst, and all other officers under ~~its~~ the Council's jurisdiction. All members of Commissions ~~shall~~ serve without compensation except where otherwise provided by State law or this Charter. Except as otherwise provided by law, the ~~City Manager~~ Mayor and other departmental heads outside of the departments under control of the ~~City Manager shall~~ Mayor have power to ~~recommend~~ fix salaries and wages subject to the personnel classification determined by the Civil Service Commission, of all other officers and employees within the total amount contained in the Annual Appropriation Ordinance for personal service in each of the several departments of the City ~~Government~~. All increases and decreases of salary or wages of officers and employees ~~shall~~ must be ~~determined at the time of the preparation and adoption of the budget, and no such~~ consistent with the compensation schedules established by the annual salary ordinance, and in accordance with the Meyers-Milias-Brown Act or other legal requirements governing labor relations that are binding upon the City. No increases or decreases ~~shall be~~ to the compensation schedules are effective prior to the fiscal year for which the budget is adopted~~; provided, however, that i~~. If, during any fiscal year, the Council ~~should~~ finds and determines that because of a significant change in living costs, the salaries and wages fixed for ~~such~~ that fiscal year are not comparable to the ~~level of other~~ salaries and wages of other public or private employments for comparable services, and

as a result, the best interests of the City are not being protected or are in jeopardy, ~~said Legislative Body~~the Council, upon recommendation of the ~~Manager~~ Mayor or ~~other~~ non-mayoral department heads, and if funds are available, may revise ~~such salary and wage~~ the compensation schedules to the extent necessary to protect the City's interests.

END OF PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

PROPOSITION E. CHARTER AMENDMENTS REGARDING THE BUDGET AND APPROPRIATIONS PROCESS FOR THE CITY OF SAN DIEGO. Shall the City Charter be amended to update the process related to budgeting and appropriating funds, to consolidate provisions that appeared throughout the Charter and to clarify the approval process for the City budget?	YES	
	NO	

BALLOT TITLE

Charter Amendments Regarding the Budget Approval and Appropriation Process of the City of San Diego

BALLOT SUMMARY

This proposition would amend the San Diego Charter to update the process related to the approval of the City's annual budget and appropriation ordinance, add requirements for capital planning mid-year amendments to the adopted budget, and remove outdated titles from related Charter provisions.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City's annual budget sets out the City's spending priorities. The appropriation ordinance enacts the budget and provides authority to spend money in accordance with the annual budget.

The Charter provides the process by which the annual budget is proposed by the Mayor and adopted by the City Council. Portions of this process date to 1931, when the Charter was adopted and the City was governed under a City Manager form of government. Other provisions were added in 2004, when voters approved changing the City's form of governance to a Strong Mayor form of government. The Mayor is now the City's chief executive and responsible for the City's day-to-day administration. The Charter now includes portions of the budget approval process in two articles, Article VII and Article XV.

If approved, this proposition would consolidate all Charter provisions dealing with approval of the budget and adoption of the appropriation ordinance in one section in Article VII. Additionally, the proposition provides detail regarding the budget approval process to reflect practices that evolved after the Strong Mayor form of government was adopted. The proposition also would remove outdated procedures and titles and update position titles in the Charter. No new positions are created.

The proposition would require the Mayor to propose a balanced budget for the Council's consideration and sets forth milestones prior to the budget's presentation. The Mayor would begin by preparing a multi-year financial outlook projecting anticipated revenues and

expenditures in future years. Councilmembers would then be required to prepare budget priority memoranda. The Independent Budget Analyst would analyze the memos and send them to the Mayor for consideration. The Mayor would be required to present the proposed budget to the Council no later than April 15.

After at least one public hearing, the Council could approve the budget as proposed or modify it. If unmodified, the proposed budget would become the adopted budget. If modified, the Mayor would have a line-item veto over modifications. The Mayor's veto could be overridden by a two-thirds Council vote. The Council would be required to adopt the appropriation ordinance enacting the adopted budget by June 30 of a given year.

The adopted budget and salary ordinance are the controlling documents in the preparation of the appropriation ordinance. If the appropriation ordinance is delayed, the Chief Financial Officer would be authorized to make expenditures based on the prior year's appropriation ordinance, as modified by the adopted budget. The appropriation ordinance is not subject to the Mayor's general veto power.

The proposition would add a requirement that the Mayor maintain a multi-year capital plan that identifies and prioritizes the City's deferred capital and infrastructure needs and projects funding sources available. The proposition requires the Council to adopt an ordinance setting terms and conditions under which the Mayor must propose mid-year budget amendments.

The Council's Charter Review Committee approved this proposition, and the Council placed it on the ballot. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure would update, repeal, and consolidate outdated sections of the City Charter in an effort to better describe the City's current budgeting and appropriation processes.

There is no fiscal impact associated with these Charter amendments.

PROPOSITION

ARTICLE VII

FINANCE

~~**SECTION 69: FISCAL YEAR AND MANAGER'S ESTIMATE**~~

~~The fiscal year of the City shall begin with the first day of July and shall end with the next succeeding 30th day of June. On or before the first meeting in May of each year the Manager shall prepare and submit to the Council a budget of the expense of conducting the affairs of the City for the ensuing fiscal year. Departments not under the Manager shall submit their annual budget estimates to the Manager, or to such official as he may designate, and in such form as he shall require on or before April 1 for transmittal in proper form by the Manager to the Council. The budget shall include a summary outline of the fiscal policy of the City for the budget year, describing in connection therewith the important features of the budget plan; a general budget summary setting forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income and other means of financing the budget for the ensuing year, contrasted with corresponding figures for the current year. The classification of the estimate shall be as nearly uniform as possible for the main divisions of all Departments and shall furnish necessary detailed fiscal information.~~

~~The Council shall provide for printing a reasonable number of copies of the estimate thus prepared, for examination or distribution to citizens at least fifteen days before final passage. Copies shall also be furnished to the newspapers of the City and to each library thereof which is open to the public.~~

SECTION 69: ANNUAL BUDGET AND APPROPRIATION

The fiscal year of the City shall begin on July 1 of each year and shall end on June 30 of the following calendar year. The Mayor is responsible for the preparation of an annual budget, in each fiscal year, for the City and all of its departments. The annual budget shall set forth, in both summary and detail, the projected revenues and expenditures of the City. The budget as proposed by the Mayor and as adopted by the Council shall be balanced such that proposed expenditures shall not exceed projected revenues and any other sources to balance the budget. The process for the preparation and adoption of the budget is as follows:

(a) The Mayor shall annually prepare a multi-year financial outlook for the general fund projecting anticipated revenues and expenditures in future years as a fiscal planning document and basis for the proposed budget.

(b) Each Councilmember shall provide a memorandum to the Independent Budget Analyst setting forth the Councilmember's budget priorities early in each calendar year. The Independent Budget Analyst shall analyze the budget priorities of the Councilmembers and prepare a budget priorities resolution for Council consideration. Upon Council adoption of the budget priorities resolution, the resolution shall be sent to the Mayor for consideration in the proposed budget.

(c) The Mayor shall present the proposed budget to the Council and the public no later than April 15.

(d) The Council shall hold at least one public hearing on the Mayor's proposed budget. Such hearing may be before the City Council or any of its committees.

(e) The Mayor shall provide to the Council any necessary revisions to the proposed budget in a timely manner to allow for Council consideration.

(f) On or before June 15, the Council shall approve the budget as submitted by the Mayor or modify the proposed budget in whole or in part. The Council may increase or decrease any item or add or remove any item provided that the budget must remain balanced.

1) If approved by the Council as proposed by the Mayor, the budget shall become the adopted budget upon the Mayor signing the budget resolution.

2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable and, in no event more than 24 hours after Council approval.

(g) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.

(h) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor. 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 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 of this section. In no event may spending proposals not previously included in either of the Mayor's proposed budget or the Council's initial budget resolution be

considered as part of a veto override action. The vote of two-thirds of the Council shall be required to override any veto by the Mayor under this section.

(i) Upon the expiration of the Council's five business day override period, or sooner if the Council so votes, the budget as returned by the Mayor, and to the extent modified thereafter by the Council shall become the adopted budget.

(j) Both the proposed and adopted budgets shall be made available to the public in any format required by ordinance.

(k) No later than June 30, the Council shall adopt an Annual Appropriation Ordinance setting forth the legal levels at which the Chief Financial Officer, as the designee of the Mayor, shall control operational and capital project spending. The preparation of the appropriation ordinance, including the form, arrangement and itemization thereof, shall be determined and prescribed by the Chief Financial Officer and the City Attorney. The adopted budget and Salary Ordinance shall be controlling documents in the preparation of the Appropriation Ordinance. In the event that the Council fails to adopt the Appropriation Ordinance prior to the beginning of the new fiscal year the spending controls in the prior year's Appropriation Ordinance shall continue, as modified by the adopted budget.

(1) The Appropriation Ordinance shall not be subject to veto by the Mayor.

(m) The City's annual appropriation shall be limited in accordance with the California Constitution.

~~SECTION 71: PREPARATION AND PASSAGE OF ANNUAL APPROPRIATION ORDINANCE~~

~~Upon receipt of the Manager's estimate the Council shall prepare an appropriation ordinance using such estimate as a basis. The form, arrangement and itemization of the~~

~~appropriation ordinance shall be determined and prescribed by the Auditor and Comptroller, and City Attorney. Provision shall be made by the Council for a minimum of two (2) public hearings upon the appropriation ordinance either before a Committee of the Council or before the Council sitting as a committee of the whole. Following the public hearings the appropriation ordinances shall take the same course in the Council as other ordinances and shall be adopted during the month of July. The Council may reduce or eliminate any new item, may increase any amount or add any item for personal services, contractual services, materials, supplies, and equipment for any Department. However, the appropriation for the general operations of the City excluding water utilities funds, capital improvements, bond interest and redemption, retirement system contributions, grant funded programs, all other special funds in existence prior to the effective date of this section and expenditures to pay judgments or extraordinary claims or to defray the cost of emergency measures as defined in Section 17 of this Charter shall not exceed the prior year's appropriation for general operations of the City, with the stated exclusions, adjusted by no more than three quarters (3/4) of the percentage change in the price index added to any percentage increase in population growth. For purposes of this limitation, the term "percentage change in price index" shall be the percentage change from the first full quarter of the prior calendar year to the first full quarter of the current calendar year in the costs of goods and services purchased by local governments, as determined by the City Auditor and Comptroller from information published by United States Department of Commerce or other official government sources. The term "percentage increase in population growth" shall be any percentage increase from the first full quarter of the prior calendar year to the first full quarter of the current calendar~~

~~year in the total population of the City as estimated by the Planning Director. This limitation shall not apply to any expenditure approved by a majority of the qualified electors of the City voting at a general or special election subsequent to the effective date of this section. In the event that the revenues for the general operations of the City, with the stated exclusions, exceed the appropriation for such operations by more than 5%, such excess shall be used solely for tax reductions or tax refunds in a manner determined by the City Council. Upon final passage, the appropriation ordinance shall be published in the manner provided for the publication of other ordinances.~~

SECTION 71: MULTI-YEAR CAPITAL PLAN

The Mayor shall maintain a current, multi-year capital plan that identifies and prioritizes deferred capital and infrastructure needs of the City and projects the amount of available funding sources over the term of the plan.

~~SECTION 71A: REAPPROPRIATIONS AT BEGINNING OF FISCAL YEAR FOR SALARIES AND MAINTENANCE AND SUPPORT EXPENSES~~

~~If at the beginning of any fiscal year the appropriations necessary for the support of the various City offices, departments, services or institutions for such fiscal year shall not have been made, the several amounts appropriated in the Annual Appropriation Ordinance for the preceding year for the objects and purposes therein specified, so far as the same shall relate to salaries and wages and maintenance and support expenses, shall be deemed to be reappropriated for the several objects and purposes specified in said previous year's Annual Appropriation Ordinance until the Council shall adopt the Annual~~

~~Appropriation Ordinance for the new fiscal year; and during such interim the Auditor and Comptroller shall approve the payments necessary for the support of the various City offices, departments, services and institutions on the basis of the appropriations of the preceding fiscal year.~~

~~SECTION 72: APPROPRIATION ACCOUNTS~~

~~Accounts shall be kept by the Auditor and Comptroller for each item of appropriation made by the Council. Each such account shall show in detail the appropriations made thereto, the amount drawn thereon, the transfers made thereto, the unpaid obligations charged against it, and the unencumbered balance to the credit thereof. Upon completion of a project for which specific ordinance appropriation is made, it shall be the duty of the Director of the Department concerned at once to so notify the Auditor and Comptroller by letter of completion and clearance. The Auditor and Comptroller shall thereupon transfer any unexpended balance to the general fund. If after one year from date of approval of such ordinance, the Auditor and Comptroller has not received notice of completion or that the work is not progressing, he shall without further consideration restore the unexpended balance in the item so set up to the general fund.~~

SECTION 72: MID-YEAR AMENDMENT TO ANNUAL BUDGET

The Council shall by ordinance set forth the terms and conditions under which the Mayor must propose mid-year amendments to the annual budget.

SECTION 73: TRANSFER OF APPROPRIATIONS

Upon the written recommendation of the ~~Manager~~ Mayor, the Council may at any time transfer all or part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same Department or office; provided, however, the Council shall have no authority to transfer all or any part of the salary account during the fiscal year to any other purpose, save and except in the event of a public emergency, and then only for the purpose of insuring the safety and lives and property of the inhabitants of The City of San Diego.

SECTION 74: APPROPRIATION REQUIRED FOR CITY DEBT

An appropriation on account of the debt of the municipality, at least equal to the amount or amounts, estimated by the ~~Manager~~ Mayor to be required for the purpose, shall be included in each Annual Appropriation Ordinance passed by the Council. If for any reason the Council fail to include such an appropriation in the Annual Appropriation Ordinance or shall appropriate for the debt of the municipality less than estimated by the ~~Manager~~ Mayor to be required for that purpose, or less than that actually required for that purpose, the ~~Auditor and Comptroller~~ Chief Financial Officer shall nevertheless cause to be set up, an appropriation account for the full amount so estimated or actually required and shall, notwithstanding any other appropriation made by the Council, transfer to such account out of any moneys of the municipality derived from taxes and paid into the Treasury, such amount or amounts as may be necessary to bring the appropriation for the

City debt up to the full amount of the ~~Manager's~~ Mayor's estimate or the sum actually required.

Any taxpayer of the City or owner of any bond thereof may bring suit against the ~~Auditor and Comptroller~~ Chief Financial Officer in the Superior Court to enforce the provisions of this section and if, upon such suit, it be found that the Council has failed to make an appropriation for the full amount estimated by the ~~Manager~~ Mayor and actually required for the City debt and that the ~~Auditor and Comptroller~~ Chief Financial Officer has failed to set up the appropriation account and provide for transfers thereto as required by this section, the court shall order the establishment of such appropriation account and the necessary transfers thereto as hereinbefore provided. And such action by the court shall have the same force and effect in regard to appropriations for the City debt as though taken by the Council in the Annual Appropriation Ordinance.

ARTICLE XV

STRONG MAYOR FORM OF GOVERNANCE

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)~~ (a) 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)~~ (b) 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)~~ (c) 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 inwhole 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 as provided in section 285. 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.~~

END OF PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

PROPOSITION F. CHARTER AMENDMENTS REGARDING FINANCIAL OPERATIONS OF THE CITY OF SAN DIEGO. Shall the City Charter be amended to update the City's financial operations, including amendments regarding the certification of funds, the authorization and payment of claims, the management of funds, the disposition of proceeds of the sale of City-owned real property and the establishment of reserves?	YES	
	NO	

BALLOT TITLE

Charter Amendments Regarding the Financial Operations of the City

BALLOT SUMMARY

This proposition would amend the San Diego Charter to update and clarify certain financial operations and practices of the City and to require the City to establish General Fund reserves.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

The San Diego Charter sets forth, in several sections, requirements for how the City manages City funds. These sections include requirements for the certification of the availability of funds prior to the approval and execution of contracts, the use of proceeds from the sale of City-owned real property, the approval process for payment of claims against the City, the requirement that the City maintain certain cash reserves, and the way the City accounts for city-owned real property.

If approved, this proposition would amend the Charter to update and clarify these processes and requirements, as follows:

The proposition would revise and clarify the language setting forth the requirement that the availability of funds be certified prior to the approval and execution of City contracts. The amendments would not change substantive legal requirements.

The proposition would eliminate the City's Capital Outlay Fund, which was previously used to fund City capital projects but no longer receiving sufficient tax revenues. The requirement that the sale proceeds of City-owned real property be used for capital projects would remain. The use of these proceeds would be expanded to allow the proceeds to be used for financing costs related to capital projects.

The proposition would clarify the process for approval of the payment of claims against the City and would allow for payments to be accepted by the City in any form authorized under state law. These amendments would not change substantive legal requirements.

The proposition would clarify provisions requiring the City to have sufficient General Fund cash on hand to pay obligations coming due in any fiscal year before major property tax revenues are received. This amendment removes contradictory language in the Charter but does not change substantive legal requirements.

The proposition would require the City to establish General Fund Stability and Emergency Reserves. It would provide that the Emergency Reserve may only be accessed by a two-thirds vote of the City Council. The Council is also required to establish policies for the use of the Stability Reserve.

The proposition would eliminate the Charter requirement that the City appraise and depreciate City-owned real property. Similar requirements already apply to the City through government accounting and auditing standards.

The City Council's Charter Review Committee approved sending this measure to the ballot, and the City Council voted to place the measure on the ballot. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure would update, repeal and consolidate outdated sections of the City Charter dealing with various financial operations of the City to more accurately describe current operations and authorizations.

There is no fiscal impact associated with these Charter amendments.

PROPOSITION

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

SECTION 39: CHIEF FINANCIAL OFFICER

The Chief Financial Officer shall be appointed by the ~~City Manager~~ Mayor and confirmed by the City Council for an indefinite term and shall serve until his or her successor is appointed and qualified. The Chief Financial Officer shall be the chief fiscal officer of the City. He or she shall exercise supervision over all accounts, and accounts shall be kept showing the financial transactions of all Departments of the City upon forms prescribed by the Chief Financial Officer and approved by the ~~City Manager~~ Mayor and the Council. Subject to the direction and supervision of the ~~City Manager~~ Mayor, the Chief Financial Officer shall be responsible for the preparation of the City's annual budget. He or she shall also be responsible for oversight of the City's financial management, treasury, risk management and debt management functions. He or she shall submit to the ~~City Manager~~ Mayor and to the Council at least monthly a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department, Division and office thereof. No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Chief Financial Officer shall certify in writing that ~~there has been made an appropriation to cover the expenditure and~~

~~that there remains a sufficient balance to meet the demand thereof~~ the money required for such contract, agreement, or obligation for such year is or will be in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. He or she shall perform the duties imposed upon chief municipal fiscal officers by the laws of the State of California, and such other duties as may be imposed upon him or her by ordinances of the Council, but nothing shall prevent the ~~City Manager~~ Mayor from transferring to other officers matters in charge of the Chief Financial Officer which do not relate directly to the finances of the City. The Chief Financial Officer shall prepare and submit to the ~~City Manager~~ Mayor such information as shall be required by the ~~City Manager~~ Mayor for the preparation of an annual budget. The Chief Financial Officer shall appoint his or her subordinates subject to the Civil Service provisions of this Charter. The authority, power and responsibilities conferred upon the Auditor and Comptroller by this Charter shall be transferred to, assumed, and carried out by the Chief Financial Officer.

ARTICLE VII

FINANCE

~~SECTION 77: CAPITAL OUTLAY FUND~~

~~There is hereby created a fund in the City Treasury, to be known as the Capital Outlay Fund. Into this fund each year there shall be placed all moneys derived from taxation~~

~~required or needed for capital outlay expenditures and all proceeds received from the sale of city-owned real property.~~

~~The moneys in the Capital Outlay Fund shall be used exclusively for the acquisition, construction and completion of permanent public improvements, including public buildings and such initial furnishings, equipment, supplies, inventory and stock as will establish the public improvement as a going concern. This fund may also be used for the acquisition, construction and completion of real property, water and sewer mains and extensions, and other improvements of a permanent character and also the replacement or reconstruction of the same, but not the repair or maintenance thereof, and shall not be used for any other purpose or transferred from said fund, except with the consent of two-thirds of the qualified electors of said City, voting at a general or special election.~~

~~No moneys in said fund shall be transferred at the end of a fiscal year, but shall remain therein as trust moneys for the purposes above outlined, and the said fund shall be used and maintained, if possible, as a cash reserve to enable the City to meet public emergencies or acquire needed permanent public improvements without the issuance of bonds.~~

~~Each year the Council may appropriate from said fund in the Annual Appropriation Ordinances, except for use of the Harbor Department, sufficient moneys to care for the needs of the various departments of the City for capital outlay expenditures of a permanent character.~~

SECTION 77: PROCEEDS OF SALE OF CITY-OWNED REAL PROPERTY

All proceeds received from the sale of City-owned real property shall be used exclusively for the acquisition and construction of permanent public improvements, including public buildings and such initial furnishings, equipment, supplies, inventory and stock as will establish the public improvement as a going concern. Proceeds may also be used to reimburse the General Fund for prior capital expenditures and for the financing costs, if any, associated with the acquisition and construction of such permanent public improvements. The funds may also be used for the replacement of permanent public improvements but not the repair or maintenance thereof. The qualified electors of the City may, by a two-thirds vote, consent to the transfer and expenditure of such moneys for other purposes.

~~SECTION 80: MONEY REQUIRED TO BE IN TREASURY~~

~~No contract, agreement, or other obligation, involving the expenditure of money out of appropriations made by the Council in any one fiscal year shall be entered into, nor shall any order for such expenditure be valid unless the Auditor and Comptroller shall first certify to the Council that the money required for such contract, agreement or obligation for such year is in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. The certificate of the Auditor and Comptroller shall be filed and made a matter of record in his office and the sum so certified as being in the treasury shall not thereafter be considered unencumbered until the City is discharged from the contract, agreement or obligation. All unencumbered moneys actually in the treasury to the credit of the appropriation from which a contract,~~

~~agreement or obligation is to be paid and all moneys applicable to its payment which before the maturity thereof are anticipated to come into the treasury to the credit of such appropriation shall, for the purpose of such certificate, be deemed in the treasury to the credit of the appropriation from which the contract, agreement or obligation is to be paid.~~

SECTION 80: MONEY REQUIRED TO BE IN TREASURY

The Council may not approve any contract, agreement or other obligation involving the expenditure of City funds unless the Chief Financial Officer first certifies that, in the judgment of the Chief Financial Officer, sufficient funds are or will be available in the City treasury to make such expenditures from revenues received during or before the fiscal year in which the obligations will become due.

~~**SECTION 81: ALLOTMENTS**~~

~~The Manager shall be responsible for establishing internal budgetary allotments based on the allocations contained in the annual appropriation ordinance for each department of the City.~~

~~**SECTION 82: EXAMINATION AND INVESTIGATION OF CLAIMS BY THE AUDITOR AND COMPTROLLER**~~

~~The Auditor and Comptroller shall examine all payrolls, bills, and other claims and demands, except claims for damages against the City, and shall issue no warrant or check-warrant for payment unless he finds that the claim is in proper form, correctly computed, and duly approved; that it is legally due and payable; that an appropriation has~~

~~been made therefor which has not been exhausted; and that there is money in the treasury to make payment. He may investigate a claim and for that purpose may summon before him any officer, agent or employee of the City, any claimant or other person, and examine him upon oath or affirmation relative thereto, and if he finds a claim to be fraudulent, erroneous or otherwise invalid, he shall not issue a warrant or check-warrant therefor. If the Auditor and Comptroller issue a warrant or check-warrant on the treasury authorizing payment of any claim in contravention of the provisions of this Section, he and his sureties shall be jointly and severally liable to the City for the amount of such warrant or check-warrant if paid. All payrolls, bills and other claims and demands under the provisions of this section may be paid by warrants or check-warrants as authorized by the provisions of Section 53911 of the Government Code of the State of California.~~

~~SECTION 83: PAYMENT OF CLAIMS AGAINST THE CITY~~

~~No claim against the City shall be paid except by means of a check-warrant authorized under the provisions of Section 53911 of the Government Code or a warrant on the treasury issued by the Auditor and Comptroller. The Auditor and Comptroller shall issue no warrant or check-warrant for the payment of a claim unless the claim be evidenced by voucher approved by the head of the Department or office for which the indebtedness was incurred, and each such officer and his surety shall be liable to the City for all loss or damage sustained by reason of his negligence or corrupt approval of any claim. No demand shall be allowed, approved, audited, or paid unless it shall specify each item of the claim and the date thereof; provided, however, that warrants or check-warrants for salaries of officers and employees shall be allowed by the Auditor and Comptroller and~~

~~paid regularly from the treasury without the necessity of any demand therefor or approval thereof as in this section prescribed for other claims.~~

SECTION 82: PAYMENT OF CLAIMS AGAINST THE CITY

All invoices, bills and claims for payment shall be properly approved by the employee or officer designated by the Mayor or by an independent department head or designees and submitted to the Chief Financial Officer for review and payment. The Chief Financial Officer shall ensure that proper controls exist in all City departments to support accurate and timely disbursements of city funds.

The Chief Financial Officer shall make no payment unless he or she has determined that it has been properly approved, is in the proper form, correctly computed, legally due and payable, that an appropriation for such payment is available and that there is money in the treasury to make such payment. Payments for salaries of officers and employees shall be made regularly from the treasury without the necessity of review and approval prescribed for other payments. Claims against the City shall be paid in any acceptable form of payment authorized under the provisions of the California Government Code.

SECTION 84: MONEY TO BE DRAWN FROM TREASURY IN ACCORDANCE WITH APPROPRIATION

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the Annual Appropriation Ordinance~~, and preliminary appropriation ordinance,~~ or of the annual appropriation

changed as authorized by Section 73 ~~and subsection (h) of Section 69~~ of this Article. At the close of each fiscal year any unencumbered balance of an appropriation except retirement funds, and such trust funds as may be established by this Charter shall revert to the fund from which appropriated and shall be subject to reappropriation. ~~but a~~ Appropriations may be made by the Council, to be paid out of the revenues of the current year, in furtherance of improvements or other objects or works which will not be completed within the year~~,~~. ~~and a~~Any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

SECTION 86: DISPOSITION OF PUBLIC MONEYS

All City officials and employees empowered to collect money for fees, permits, licenses, inspections, services, taxes or other municipal charges, shall collect the same promptly at the time they become due, turn them into the City Treasury daily, obtain a receipt therefor, and report the same to the City ~~Auditor and Comptroller~~ Chief Financial Officer ~~weekly~~ daily; provided, however, that in the case of employees located in distant parts of the city or county who in the course of their duties collect money belonging to the City, which collections can be deposited in the City Treasury daily only with difficulty and undue cost to the City, such collections may be deposited in the City Treasury within one week after their receipt by the employee collecting the same. All such moneys and all fines or pecuniary penalties or forfeitures which may accrue to the City, and all funds which may remain in the possession of the City unclaimed after a period of one year from the date when due and payable, shall be credited to the ~~general~~ appropriate fund of the City, and shall be applicable to any purpose to which the Council may appropriate them

and the Council shall appropriate from this fund whatever sum may be necessary to pay valid claims of more than one year's standing.

SECTION 87: UNIFORM ACCOUNTS

The ~~Auditor and Comptroller~~ Chief Financial Officer shall prescribe uniform forms of accounts which shall be observed by all officers and Departments of the City which receive or disburse City moneys. Whenever an act shall be passed by the legislature of the State providing for uniform municipal accounts or reports, the City Council may elect to conform thereto.

SECTION 88: MONTHLY REPORTS OF OFFICERS

At least monthly every officer authorized by law to charge any fee, commission, percentage, allowance or compensation, must make a written report to the ~~Auditor and Comptroller~~ Chief Financial Officer of all moneys received by him during the preceding accounting period.

SECTION 89: MONTHLY STATEMENTS BY THE ~~AUDITOR AND COMPTROLLER~~ CHIEF FINANCIAL OFFICER

The ~~Auditor and Comptroller~~ Chief Financial Officer shall prepare for submission to the Council at least monthly, or when requested, a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in

such manner as to show the exact financial condition of the City and of each Department and Division thereof as of the last day of the previous accounting period.

~~**SECTION 91: GENERAL RESERVE FUND**~~

~~The Council shall create and maintain a permanent revolving fund, to be known as the General Reserve Fund, for the purpose of keeping the payment of the running expenses of the City on a cash basis. Said fund shall be maintained in an amount sufficient to meet all legal demands against the treasury for the first four months or other necessary period of each fiscal year prior to the collection of taxes. This fund may be expended only in the event of a public emergency when it shall be determined by the affirmative vote of at least two-thirds of the members elected to the Council that such expenditures are necessary in order to insure the safety and lives and property of the City or its inhabitants.~~

SECTION 91: GENERAL FUND TO OPERATE ON CASH BASIS

The City shall maintain sufficient cash on hand, including all funds available in the General Fund or from which the General Fund may temporarily borrow, to allow for keeping the payment of the running expenses of the General Fund on a cash basis. In the event that the Chief Financial Officer determines that the General Fund will not have sufficient cash available to meet all legal demands against the General Fund prior to the receipt of necessary revenues in any fiscal year, the City may issue short term notes in accordance with Charter section 92.

SECTION 91.1: GENERAL FUND RESERVES

The City shall maintain General Fund Stability and Emergency Reserves that may be accessed in the event of a significant emergency or economic downturn, unanticipated liability, or adverse litigation that affects revenues and expenditures in the General Fund. Recommendations to appropriate from the Emergency Reserve will require a two-thirds affirmative vote of the City Council. The Council shall establish policies for use of the Stability Reserve account.

~~**SECTION 112: APPRAISAL OF CITY ASSETS**~~

~~The Auditor and Comptroller shall show in his records the cost or value of all real estate, buildings, structures, furniture and fixtures, equipment and property of any kind owned by the City, and may require every officer or Commission to assist him in procuring the data required therefor. Proper depreciation shall be made of all property of any kind which is used by the City for utility purposes. A proper balance sheet under classified heads shall be presented to the Manager for inclusion in the annual budget and shall be published in the annual report of the Auditor and Comptroller. This balance sheet shall show all convertible and other assets and all liabilities of the City.~~

END OF PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

PROPOSITION G. CHARTER AMENDMENT REGARDING AUDITS OF ACCOUNTS OF CITY OFFICIALS AND OFFICERS UPON THEIR DEATH, RESIGNATION, OR REMOVAL FROM CITY OFFICE. Shall the City Charter be amended to update language and to repeal the requirement that the City Auditor conduct audits and investigations of City officials and officers upon their death, resignation, or removal from City office?	YES	
	NO	

BALLOT TITLE

Charter Amendments Related to the Requirement that the City Auditor Perform Close-Out Audits and Investigations of City Officials and Officers Upon their Death, Resignation or Removal from City Office

BALLOT SUMMARY

This proposition would amend the San Diego Charter by repealing language requiring the City Auditor to conduct close-out audits and investigations of City officials and officers upon their death, resignation, or removal from City office. If the amendments are approved, the City Auditor would be allowed, but not required, to perform future close-out audits under existing authority in a different Charter section.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

This proposition would amend San Diego Charter section 111 to repeal the requirement that the City Auditor conduct close-out audits and investigations of City officials and officers upon their death, resignation, or removal from City office.

The Charter requires the City Auditor to perform such close-out audits and investigations. The objectives of such audits are to ensure that separated City officials and officers do not have any outstanding debt owed to the City and that any rights conferred to them as a result of City employment have been revoked.

Charter section 111 was originally approved by San Diego voters on April 7, 1931. The language of the original proposition assigned the performance of this close-out audit and investigation function to the then-Office of the Auditor and Comptroller.

Due to the investigation of the City's retirement system and sewer rate structure by the federal Securities and Exchange Commission (SEC), as well as the issuance of various investigative reports by different agencies on these matters in 2005, the City Council was instructed by the SEC to complete a thorough investigation into its own finances and develop a plan for remediation. In response to this direction, the City Council retained Kroll, Inc. (Kroll) to evaluate those reports and make appropriate recommendations to the City Council, which resulted in the Kroll Report, issued on August 8, 2006.

Among other things, the Kroll Report recommended that this close-out audit and investigation function of City officials and officers set forth in Charter section 111 be assigned to an independent City Auditor, a position which was to be newly created.

On June 3, 2008, San Diego voters approved both the creation of the independent City Auditor under Charter section 39.2 and an amendment to Charter section 111, which assigned this close-out and investigation function to the newly-created City Auditor position.

If this proposition is approved, the City Auditor would no longer be required to perform the close-out audit and investigation function regarding City officials and officers who leave the City. The City Auditor would be allowed, but not required, to perform future close-out audits under existing authority conveyed to the City Auditor under Charter section 39.2. At present, other than the language in Charter section 111, there is no other written regulation that requires this close-out function to be performed regarding elected City officials leaving City office.

The City Auditor proposed this ballot measure after he had conducted 49 close-out audits and not made any significant findings, according to a January 25, 2016 memorandum from the City Auditor to the City Council (Auditor Memorandum). The Auditor Memorandum stated that Generally Accepted Government Accounting Standards (GAGAS) and industry standards do not require a City Auditor to perform close-out audits.

The City Council's Charter Review Committee approved sending this measure to the ballot and the City Council voted to place it on the June ballot. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure would repeal one sentence in the City Charter to eliminate a requirement that the City Auditor must audit and investigate the accounts of all City officers whose employment is terminated with the City for any reason. This measure may enable the City Auditor to alternatively deploy resources to perform other audit related duties; however, related budgetary savings are not expected.

There is no material fiscal impact associated with this Charter amendment.

PROPOSITION

ARTICLE VII

FINANCE

SECTION 111: AUDITS OF ACCOUNTS OF THE CITY AND CITY OFFICERS

Each year the Council shall provide that an audit shall be made of all accounts and books of all the Departments of the City. Such audit shall be made by independent auditors who are in no way connected with the City. ~~Upon the death, resignation or removal of any officer of the City, the City Auditor shall cause an audit and investigation of the accounts of such officer to be made and shall report to the Audit Committee.~~ Either the Audit Committee or the Council may at any time provide for an independent examination or audit of the accounts of any or all officers or Departments of the City government. In case of death, resignation or removal of the City Auditor, the Audit Committee shall cause an audit to be made of his or her accounts. If, as a result of any such audit, an officer be found indebted to the City, the City Auditor, or other person making such audit, shall immediately give notice thereof to the Audit Committee, the Council, the ~~Manager~~ Mayor and the City Attorney, and the latter shall forthwith proceed to collect such indebtedness.

END OF PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

PROPOSITION H. CHARTER AMENDMENT: INFRASTRUCTURE FUND. Shall the Charter be amended to require certain unrestricted General Fund revenues to be deposited in an Infrastructure Fund used exclusively to pay for capital improvements including streets, sidewalks, bridges, bike paths, storm water and drainage systems; public buildings including libraries, recreational and community centers; public safety facilities including police, fire and lifeguard stations; and park facilities, but expressly not used for new convention center facilities and new professional sports venues?	YES	
	NO	

BALLOT TITLE

Charter Amendment Regarding Creation of an Infrastructure Fund

BALLOT SUMMARY

This proposition would amend the San Diego Charter by adding a new section 77.1, entitled "Infrastructure Fund." The amendment will require that the City place certain unrestricted General Fund revenues into a newly-created Infrastructure Fund. If approved by voters, the revenues available in the Infrastructure Fund would be restricted and could only be used to fund costs, including financing costs, related to General Fund capital improvements such as streets, sidewalks and buildings, and the maintenance and repair of such improvements.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City of San Diego is responsible for the cost of constructing and maintaining certain public infrastructure such as City streets, police stations, libraries and public buildings. The General Fund is the City's primary operating fund and receives most City tax revenues. Other infrastructure improvements, such as water and wastewater facilities, are funded by ratepayers and are not funded by the General Fund.

This proposition would place unrestricted General Fund revenues in a restricted Infrastructure Fund. Funds legally restricted for other purposes are excluded from the Infrastructure Fund. Funds placed in the Infrastructure Fund would only be used for costs, including financing and personnel costs, associated with the acquisition of real property, construction, repair and maintenance of infrastructure. "Infrastructure" means streets, sidewalks, bridges, bike paths, storm water and drainage systems, public buildings and park facilities. New convention center facilities and new professional sports facilities are excluded from infrastructure. Software and technology with a useful life exceeding five years could be added to the definition of infrastructure by the City Council.

The City's audited revenues and expenditures in fiscal year 2016 is set as the base year for calculating various revenue requirements. The proposition becomes active with the City's

fiscal year 2018 budget.

The revenue sources dedicated to the Infrastructure Fund include 50% the growth over the base year of major revenues. “Major revenues” means property tax, transient occupancy tax, and unrestricted franchise fees. “Franchise fees” are fees the City collects from utilities, such as SDG&E, that use public streets to distribute products. Major revenues would be diverted to the Infrastructure Fund until fiscal year 2022.

The proposition would divert a portion of unrestricted sales tax revenue to the Infrastructure Fund. Beginning in fiscal year 2018, sales tax revenue would be adjusted by the annual change in the statewide Consumer Price Index for California and any sales tax revenue exceeding this adjusted amount would be placed in the Infrastructure Fund each year until fiscal year 2043.

The proposition also will require the City to calculate its pension cost each year. The pension cost includes the actuarial determined contribution to the Retirement System (SDCERS), other payments made under the City’s defined benefit plan, and employer-defined contributions made on behalf of employees initially hired after July 19, 2012 and who are not members of SDCERS. If the pension cost in any year is less than the pension cost in fiscal year 2016, the difference would be deposited in the Infrastructure Fund each year until fiscal year 2043.

The proposition would allow the Mayor to request its suspension for a fiscal year, which may be approved by the City Council with a two-thirds vote. The City would be required to maintain General Fund infrastructure spending at base year levels so that the Infrastructure Fund will not supplant General Fund spending.

The Council’s Infrastructure Committee approved this ballot measure and the Council placed it on the ballot. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT

This measure does not increase or decrease revenue for the City of San Diego (City). Instead it requires the City to restrict a portion of future General Fund revenue that would otherwise be unrestricted and available for any other City programs or services. Specifically, the measure requires the City to allocate a proportion of future revenue growth and future cost reductions in pension plans to a City Infrastructure Fund. This Fund will be used to fund capital costs, maintenance and repair costs, and related personnel costs that are associated with City infrastructure. Money in the Infrastructure Fund cannot be used for any other City purpose or expense.

The amount of future revenues that would be allocated to the Infrastructure Fund is difficult to forecast over the 25-year duration of the measure. Over the initial five years, assuming continued growth in City revenues, it is estimated that between $140 million and $200 million in future revenues could be allocated to the Infrastructure Fund. Allocations to the Infrastructure Fund will continue beyond the initial five years and are anticipated to continue to increase; however, actual allocations to the Infrastructure Fund depend on the actual growth of General Fund revenues and changes in the Consumer Price Index.

The measure also requires the City to, at a minimum, maintain its current General Fund spending on infrastructure maintenance in future years without using monies allocated to the Infrastructure Fund.

In times of fiscal need, this measure can be suspended for a year at a time only upon a request by the Mayor and an approval of that request by a two-thirds vote of the City Council.

PROPOSITION

ARTICLE VII

FINANCE

SECTION 77.1: INFRASTRUCTURE FUND

There is hereby created a fund in the General Fund that shall be called the Infrastructure Fund. The intent of the Infrastructure Fund is to require the City to dedicate specific sources of revenue to fund General Fund infrastructure.

(a) For the purpose of this section, the following definitions shall apply and the words shall appear in italics:

(1) *Base Year* means the City's fiscal year 2016 audited actual revenues and expenditures.

(2) *Exempt Revenues* means revenues that would be included in *Infrastructure Revenues* but are otherwise legally committed to other uses, such as sales tax rebate agreements.

(3) *General Fund Share* means the amount budgeted annually in the General Fund for maintenance and repair functions related to *Infrastructure*,

including but not limited to streets, storm water systems, and facilities. The City Council may, by ordinance, more specifically define included functions.

(4) *Infrastructure* means General Fund capital improvements including streets, sidewalks, bridges, bike paths and related right-of-way features, storm water and drainage systems, public buildings such as libraries, recreational and community centers, public safety facilities such as police, fire and lifeguard stations, and park facilities. New convention center facilities and new professional sports venues are expressly excluded from the definition of *Infrastructure*. Software and other technology that is capital in nature (having a useful life in excess of five (5) years) may be included in the definition of *Infrastructure* by the City Council by ordinance.

(5) *Infrastructure Revenues* means *Major Revenues Increment*, *Sales Tax Increment*, and *Pension Cost Reduction* dedicated to the Infrastructure Fund pursuant to this section, as specified, and excluding *Exempt Revenues*.

(6) *Major Revenues* means property tax revenues, unrestricted General Fund transient occupancy tax revenues and unrestricted General Fund franchise fees. Sales tax revenues are excluded from the definition of *Major Revenues* as are any components of revenues otherwise identified as *Major Revenues* that are already dedicated to other purposes by this Charter or other law.

(7) *Major Revenues Increment* means fifty percent (50%) of the year to year growth in *Major Revenues* beginning with the *Base Year*.

(8) *Pension Cost* means, for each enumerated item herein, the General Fund portion of:

(A) the City's Actuarial Determined Contribution (ADC) as provided to the City by the San Diego City Employees' Retirement System (SDCERS) plus (B) any payments required under the City's Preservation of Benefits Plan, plus (C) any payments made pursuant to the Supplemental COLA benefit, plus (D) any employer contributions made to an interim or final defined contribution plan on behalf of City employees initially hired on or after July 20, 2012 and who are not members of SDCERS. *Pension Cost*, as defined herein, is not intended to define, limit, or otherwise modify the City's obligation to fund any vested retirement benefit for any City employee.

(9) *Pension Cost Reduction* means the amount by which the *Pension Cost* in the proposed budget for each fiscal year beginning in Fiscal Year 2018, is lower than the *Pension Cost* in the *Base Year*. If the *Pension Cost* in any fiscal year is higher than the *Pension Cost* in the *Base Year* there is no *Pension Cost Reduction* in that fiscal year.

(10) *Sales Tax Baseline* means *Sales Tax Revenue* in the *Base Year* adjusted for the annual change in the statewide Consumer Price Index (CPI) for California.

(11) *Sales Tax Increment* means the annual change in *Sales Tax Revenue* compared to the *Sales Tax Baseline*.

(12) *Sales Tax Revenue* means any unrestricted sales tax revenue received by the City. In the *Base Year*, *Sales Tax Revenue* is the Bradley-Burns Sales Tax received by the City including the Triple Flip Property Tax reimbursement.

(b) Beginning with the Mayor's Fiscal Year 2018 proposed budget, and for each fiscal year through Fiscal Year 2022, *Infrastructure Revenues* shall include *Sales Tax Increment* plus *Major Revenues Increment*, plus *Pension Cost Reduction*, minus *Exempt Revenues*.

(c) Beginning with the Mayor's Fiscal Year 2023 proposed budget, *Infrastructure Revenues* shall include *Sales Tax Increment* plus *Pension Cost Reduction*, minus *Exempt Revenues.*

(d) Beginning with the Mayor's Fiscal Year 2043 proposed budget, all funds previously budgeted in the Infrastructure Fund shall be budgeted in the General Fund as unrestricted revenues and the requirements of this section shall cease.

(e) Each fiscal year, as part of the presentation of the proposed budget, the Chief Financial Officer shall certify as to the accuracy of the calculations used in determining the amount of *Infrastructure Revenues.*

(f) *Infrastructure Revenues* shall be used exclusively for the acquisition of real property, construction, reconstruction, rehabilitation, repair and maintenance of *Infrastructure*, including all costs associated with financing such acquisition of

real property, construction, reconstruction, rehabilitation, repair and maintenance. Personnel costs associated with such use are also permitted. *Infrastructure Revenues* may not be used to fund debt service on General Fund lease revenue bonds issued before the effective date of this section. *Infrastructure Revenues* may not be used to fund operations, such as utility costs, janitorial services, waste management and upkeep of grounds. Operations may be more specifically defined by the City Council by ordinance.

(g) The Mayor may request the suspension of the requirements of this section for one fiscal year or for the remainder of a fiscal year. After at least one public hearing on the request for suspension, the City Council may approve a one-year suspension by a vote of two-thirds of the City Council.

(h) Except in the event of the suspension of the requirements of this section, in no fiscal year may the *General Fund Share* be less than the amounts included in the *Base Year*.

(i) The adopted budget in any fiscal year must comply with the requirements of this section.

(j) The City Council shall, by ordinance, establish policies and definitions, not inconsistent with this section, related to the use of the Infrastructure Fund.

(k) Nothing in this section prohibits the City Council from transferring additional revenues to the Infrastructure Fund or otherwise funding infrastructure projects within the General Fund.

(l) *Infrastructure* otherwise approved by voters in a general obligation bond election shall not be included in permitted uses of *Infrastructure Revenues* except with respect to maintenance and repair.

END OF PROPOSITION

Passage of this proposition requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

PROPOSITION I. REFERENDUM OF ORDINANCE REGARDING EARNED SICK LEAVE AND MINIMUM WAGE. Shall Ordinance O-20390 be approved, establishing that employers are to compensate employees working in the City of San Diego with earned sick leave of up to forty hours a year and a minimum wage of $10.50 an hour upon the Ordinance's effective date, $11.50 an hour on January 1, 2017, and increasing with the cost of living on January 1, 2019 and annually thereafter?	YES	
	NO	

BALLOT TITLE

Referendum of Ordinance Relating to Earned Sick Leave and Minimum Wage
to be Provided to Employees Working in the City of San Diego

BALLOT SUMMARY

This measure asks voters to approve the City of San Diego Earned Sick Leave and Minimum Wage Ordinance, No. O-20390, which was approved by the San Diego City Council on August 18, 2014. The Ordinance is on the ballot as a result of a referendum petition that qualified the measure for the ballot, and a City Council vote to place the Ordinance on the ballot.

The Ordinance establishes that specified employers are to compensate employees working in the City of San Diego with earned sick leave of up to forty hours a year and a minimum wage of $10.50 an hour upon the Ordinance's effective date, $11.50 an hour on January 1, 2017, and increasing with the cost of living on January 1, 2019 and annually thereafter.

A "Yes" vote is a vote in favor of adopting the Ordinance, which would amend the San Diego Municipal Code. If a majority of voters vote "Yes," then the Ordinance will take effect.

A "No" vote is a vote against adopting the Ordinance. If a majority of voters vote "No," then the Ordinance will not take effect.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

The City of San Diego Earned Sick Leave and Minimum Wage Ordinance (the Ordinance) applies to specified employers and employees in the geographic boundaries of the City. If approved, the Ordinance would require employers to compensate employees with paid leave for certain purposes and a local minimum wage.

The City Council approved the Ordinance on August 18, 2014. A referendum petition qualified the measure for the ballot, and the Council voted to place it on the ballot.

The Ordinance defines "employers" as any person or persons, including associations, organizations, partnerships, business trusts, limited liability companies, or corporations, who

exercise control over the wages, hours, or working conditions of any employee, engage an employee, or permit an employee to work. Employers do not include aged, blind, or disabled people who receive in-home supportive services care, under state law.

The Ordinance defines "employee" as any person who, in one or more calendar weeks of the year, performs at least two hours of work within the geographic boundaries of the City for an employer, and who qualifies for the payment of minimum wage under the State of California minimum wage law. Employees do not include independent contractors as defined by the California Labor Code, or people who have been issued a special license by the state to be employed at less than minimum wage, certain youth employees in publicly subsidized summer or short-term employment programs, and certain counselors at organized, outdoor camps.

If approved, employees would be paid a minimum wage of $10.50 an hour upon the Ordinance's effective date, following voter approval. Starting January 1, 2017, the minimum wage would be $11.50 an hour. Starting January 1, 2019, the minimum wage would increase by an amount corresponding to the prior year's increase, if any, in the cost of living, as defined by the Consumer Price Index.

Employees would receive one hour of paid, earned sick leave for every thirty hours worked, at the same hourly rate or other measure of compensation that the employee earns. Earned sick leave would begin to accrue when employment starts. There would be a 90-day waiting period before an employee could use the leave. Employers may limit use of the leave to forty hours in a twelve-month period, but accrual cannot be capped and unused leave must be carried over. Upon an employee's separation, employers would not have to pay unused leave, but must maintain it for six months if the employee returns.

Leave could be used if an employee is physically or mentally unable to work due to illness, injury, or a medical condition; for "Safe Time" (time away from work necessary to handle certain matters related to domestic violence, sexual assault, or stalking, when the employee or a specified family member is a victim); for medical appointments; and to care for or assist certain family members with an illness, injury, or medical condition.

Employers would post notices, maintain records, and be subject to civil penalties for violations. The City would establish an enforcement office.

FISCAL IMPACT STATEMENT

The following analysis is limited to an estimate of the amount of any increase or decrease in costs or revenues to the City of San Diego's government finances (City).

If this measure is adopted, there will be additional administrative & enforcement, wage, and sick leave costs for the City. These additional costs are shown in the table below. The higher cost estimate for fiscal year 2018 reflects the minimum wage increase to $11.50 on January 1, 2017.

Estimated Costs to the City	FY 2017	FY 2018
Administration & Enforcement	$400,000	$400,000
City Employee Wages & Sick Leave	$150,000	$200,000
Estimated Total Costs	**$550,000**	**$600,000**

As the City's minimum wage program is developed and implemented, there may be increases in the above estimated annual costs for program administration and enforcement. Additionally, there may be other unknown wage expenses related to the use of earned sick leave or to maintain a fair pay-scale hierarchy for certain City employees.

Beginning January 1, 2019, the minimum wage will annually increase by the percentage growth in the prior year's Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI). While the effect of this annual increase on the City's wage costs is difficult to accurately forecast, based on current CPI and wage projections, the City's wage costs in fiscal year 2019 and beyond are likely to remain similar to the costs estimated for fiscal year 2018.

Tax revenue implications for the City are difficult to accurately forecast. There may be positive and negative tax revenue impacts to the City that will be at least partially offsetting. For example, this measure will increase wage costs for some employers. While increased wage costs for employers can, in some instances, be offset by other operational factors (reduction of other business costs or profits, reduced employee turnover, increased employee productivity, higher prices, etc.), it is also possible that higher employer wage costs could cause some businesses to reduce employees or employee hours, which in turn could reduce sales and sales tax revenue to the City. Alternatively, employees who benefit from minimum wage increases will spend some of these new wages on taxable goods purchased in the City, thereby increasing sales tax revenue to the City.

PROPOSITION

ORDINANCE NUMBER O-20390 (NEW SERIES)

DATE OF FINAL PASSAGE August 18, 2014

AN ORDINANCE AMENDING CHAPTER 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING ARTICLE 9, DIVISION 1, SECTIONS 39.0101 THROUGH 39.0115 RELATING TO THE EARNED SICK LEAVE AND MINIMUM WAGE TO BE PROVIDED TO EMPLOYEES WORKING IN THE CITY OF SAN DIEGO.

WHEREAS, to safeguard the public welfare, health, safety, and prosperity of the people in the City of San Diego, it is essential that working persons earn wages that ensure a decent and healthy life; and

WHEREAS, a number of San Diego families live below the poverty level, and many who are employed do not earn sufficient wages to be self-sufficient and do not accrue sick leave; and

WHEREAS, when businesses do not pay a livable wage or allow workers to earn and use sick leave, the community and taxpayers bear associated costs in the form of increased demand for taxpayer-funded services, including emergency medical services, homeless shelters, and other social services and community-based services; and

WHEREAS, most workers at some time during each year need limited time off from work to take care of their own health needs or the health needs of members of their families; and

WHEREAS, guaranteeing San Diego workers the right to earned sick leave will reduce recovery time from illnesses, promote the use of regular medical providers rather than hospital emergency departments, and reduce the likelihood of people spreading illness to other members of the workforce and to the public; and

WHEREAS, an increase in the minimum wage paid to employees and five annual days of sick leave could potentially increase workplace productivity, save costs through reduced employee turnover, boost income for families, restore work/family balance, boost the local tax base through increased purchasing power by workers, and reduce certain health care costs; and

WHEREAS, the San Diego City Council (Council) considered this issue at meetings of a Council standing committee and of the full Council, and considered public comment on the issue; and

WHEREAS, the Council now desires to adopt an ordinance to amend Chapter 3, of the San Diego Municipal Code, by adding Article 9, Division 1, sections 39.0101 through 39.0115, relating to the Earned Sick Leave and Minimum Wage to be provided to employees working in the City of San Diego; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 3 of the San Diego Municipal Code is amended by adding Article 9, Division 1, sections 39.0101 through 39.0115, to read as follows:

Article 9: City of San Diego Earned Sick Leave and Minimum Wage

Division 1: City of San Diego Earned Sick Leave and Minimum Wage Ordinance

§39.0101 Purpose and Intent

This Division ensures that employees who work in the *City* receive a livable minimum wage and the right to take earned, paid sick leave to ensure a decent and healthy life for themselves and their families. By enabling more employees to support and care for their families through their own efforts and with less need for financial assistance from the government, and by protecting the rights of employees to care for their health and the health of their family members, the *City*

can safeguard the general welfare, health, safety and prosperity of all San Diegans.

It is the purpose and intent in enacting this Division that San Diego workers be guaranteed the right to take earned sick leave. Most employees will at some time during each year need limited time off from work to take care of their own health needs or the health needs of members of their families. Guaranteeing employees earned sick leave will reduce recovery time from illnesses, promote the use of regular medical providers rather than hospital emergency departments, and reduce the likelihood of workers spreading illness to other members of the workforce and to the public.

It is also the purpose in enacting this Division to ensure that employees working in the *City* earn wages that ensure a decent and healthy life for themselves and their families. When employers do not pay a livable wage, the surrounding community and taxpayers bear costs in the form of increased demand for taxpayer-funded services, including homeless shelters. Jobs paying a decent wage will ensure a more stable workforce for the *City*, increase consumer income, decrease poverty, and invigorate neighborhood business.

§39.0102 Citation

This Division shall be cited as the City of San Diego Earned Sick Leave and Minimum Wage Ordinance.

§39.0103 Authority

This Division is adopted pursuant to the powers vested in the *City* under the Constitution and the laws of the State of California, including, but not limited to,

the police powers vested in the *City* pursuant to Article XI, section 7 of the California Constitution and California Labor Code section 1205(b).

§39.0104 Definitions

Each word or phrase defined in this Division appears in the text of this Division in italicized letters. To the extent that a federal, state, or other law is referenced within this Division, the citation includes and incorporates the law as it may be amended or renumbered in the future. For purposes of this Division, the following definitions apply:

Benefit Year means a regular and consecutive twelve-month period, as determined by an *Employer*.

Child means a biological, adopted, or foster child; a stepchild; a legal ward; a child of a *Domestic Partner*; or a child of an *Employee* standing in loco parentis.

City means the City of San Diego.

City Council means the Council of the City of San Diego.

Domestic Partners mean two adults in a relationship recognized by the State of California by filing as domestic partners under California Family Code section 297, and who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing such registration or with an internal registry maintained by the employer of at least one of the domestic partners.

Domestic Violence means "domestic violence" as defined in California Penal Code section 13700.

Earned Sick Leave means accrued increments of compensated leave provided by an *Employer* to an *Employee* as a benefit of the employment for use by the

Employee during an absence from the employment because of a qualifying medical condition or event, as specified in section 39.0106 of this Division.

Employee means any person who:

(a) In one or more calendar weeks of the year performs at least two hours of work within the geographic boundaries of the *City* for an *Employer*; and

(b) Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as set forth in the California Labor Code and wage orders published by the California Industrial Welfare Commission or the State of California Division of Labor Standards Enforcement, or is a participant in a State of California Welfare-to-Work Program.

(c) *Employee* does not include any person who is authorized to be employed at less than the minimum wage under a special license issued under California Labor Code sections 1191 or 1191.5; any person employed under a publicly subsidized summer or short-term youth employment program, such as the San Diego County Urban Corps Program; or any student employee, camp counselor, or program counselor of an organized camp as defined in California Labor Code section 1182.4. *Employee* also does not include any person who is employed as an independent contractor as defined by the California Labor Code.

Employer means any person or persons, as defined in California Labor Code section 18, who exercises control over the wages, hours, or working conditions of any *Employee*, or suffers or permits the *Employee* to work, or engages the *Employee*. *Employer* does not include a person receiving services under the

California In-Home Supportive Services program pursuant to Welfare and Institutions Code section 12300.

Enforcement Office means the *City Department* or *Office* that the *City Council* designates to enforce this Division.

Family Member means a *Child*, *Spouse*, *Parent*, grandparent, grandchild, *Sibling*, or the *Child* or *Parent* of a *Spouse*.

Health Care Provider means any person licensed under federal or California law to provide medical or emergency services, including, but not limited to, doctors, nurses and emergency room personnel.

Minimum Wage means an hourly minimum rate to be paid to *Employees*, as defined in section 39.0107 of this Division.

Parent means a biological, foster, or adoptive parent; a step-parent; a legal guardian; or a person who stood in loco parentis when the *Employee* was a minor child.

Public Health Emergency means a state of emergency declared by any public official with the authority to do so, including officials with the *City*, the County of San Diego, the State of California, or the United States government.

Retaliation means any threat, discipline, discharge, demotion, suspension, reduction in *Employee* hours, or any other adverse employment action against any *Employee* for exercising or attempting to exercise any right guaranteed under this Division.

Safe Time means time away from work that is necessary due to *Domestic Violence*, *Sexual Assault*, or *Stalking*, provided the time is used to allow the

Employee to obtain for the *Employee* or the *Employee's Family Member* one or more of the following:

(a) Medical attention needed to recover from physical or psychological injury or disability caused by *Domestic Violence*, *Sexual Assault*, or *Stalking*;

(b) Services from a victim services organization;

(c) Psychological or other counseling;

(d) Relocation due to the *Domestic Violence*, *Sexual Assault*, or *Stalking*; or

(e) Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the *Domestic Violence*, *Sexual Assault*, or *Stalking*.

Sexual Assault means "rape" as defined in California Penal Code section 261 or "sexual battery" as defined by California Penal Code section 243.4.

Sibling means a brother or sister, whether related through half blood, whole blood, or adoption, or one who is a step-sibling.

Spouse means a person to whom an *Employee* is legally married under the laws of the State of California, or the *Employee's Domestic Partner*.

Stalking means the unlawful conduct described in California Penal Code section 646.9.

§39.0105 Accrual of Earned Sick Leave

(a) *Employers* must provide *Earned Sick Leave* to their *Employees* in accordance with this Division.

(b) *Employers* must provide an *Employee* with one hour of *Earned Sick Leave* for every thirty hours worked by the *Employee* within the geographic boundaries of the *City*, but *Employers* are not required to provide an

Employee with *Earned Sick Leave* in less than one-hour increments for a fraction of an hour worked. *Earned Sick Leave* must be compensated at the same hourly rate or other measure of compensation as the *Employee* earns from his or her employment at the time the *Employee* uses the *Earned Sick Leave*.

(c) An *Employer* required to provide *Earned Sick Leave* pursuant to this Division, who provides an *Employee* with an amount of paid leave, including paid time off, paid vacation, or paid personal days sufficient to meet the requirements of this section, and who allows such paid leave to be used for the same purposes and under the same conditions as *Earned Sick Leave* required pursuant to this Division, is not required to provide additional *Earned Sick Leave* to such *Employee.*

(d) *Earned Sick Leave* begins to accrue at the commencement of employment or on April 1, 2015, whichever is later, and an *Employee* is entitled to begin using *Earned Sick Leave* on the ninetieth calendar day following commencement of his or her employment or on July 1, 2015, whichever is later. After the ninetieth calendar day of employment or after July 1, 2015, whichever is later, such *Employee* may use *Earned Sick Leave* as it is accrued.

(e) *Employees* who are not covered by the overtime requirements of California law or regulations are assumed to work forty hours in each work week for purposes of *Earned Sick Leave* accrual unless their regular work week is less than forty hours, in which case *Earned Sick Leave* accrues based upon that regular work week.

(f) *Employees* may determine how much *Earned Sick Leave* they need to use, provided that *Employers* may set a reasonable minimum increment for the use of *Earned Sick Leave* not to exceed two hours.

(g) *Employers* may limit an *Employee's* use of *Earned Sick Leave* to forty hours in a *Benefit Year*, but *Employers* must allow *Employees* to continue to accrue *Earned Sick Leave* based on the formula set forth in this section. Unused *Earned Sick Leave* must be carried over to the following *Benefit Year*.

(h) If an *Employee* is transferred to a separate division, entity, or location in the *City*, but remains employed by the same *Employer*, the *Employee* is entitled to all *Earned Sick Leave* accrued at the prior division, entity, or location, and is entitled to retain and use all *Earned Sick Leave*, as provided by this Division. When there is a separation from employment and the *Employee* is rehired within six months of separation by the same *Employer*, previously accrued *Earned Sick Leave* that was not used or paid out must be reinstated and such *Employee* must be entitled to use such accrued *Earned Sick Leave*.

(i) *Employers* are not required by this Division to compensate an *Employee* for unused, accrued *Earned Sick Leave*, upon the *Employee's* termination, resignation, retirement, or other separation from employment.

§39.0106 Use of Earned Sick Leave

(a) An *Employee* may use *Earned Sick Leave* for any of the following reasons:

(1) The *Employee* is physically or mentally unable to perform his or her duties due to illness, injury, or a medical condition of the *Employee*.

(2) The *Employee's* absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the *Employee*.

(3) The *Employee's* absence is for other medical reasons of the *Employee*, such as pregnancy or obtaining a physical examination.

(4) The *Employee* is providing care or assistance to a *Family Member*, with an illness, injury, or medical condition, including assistance in obtaining professional diagnosis or treatment of a medical condition.

(5) The *Employee's* absence is for the *Employee*'s use of *Safe Time*.

(6) The *Employee's* place of business is closed by order of a public official due to a *Public Health Emergency*, or the *Employee* is providing care or assistance to a *Child*, whose school or child care provider is closed by order of a public official due to a *Public Health Emergency*.

(b) An *Employer* may require reasonable notice of the need to use *Earned Sick Leave*. Where the need is foreseeable, an *Employer* may require reasonable advance notice of the intention to use such *Earned Sick Leave*, not to exceed seven days notice prior to the date such *Earned Sick Leave* is to begin. Where the need is not foreseeable, an *Employer* may require an

Employee to provide notice of the need for the use of *Earned Sick Leave* as soon as practicable.

(c) For an absence of more than three consecutive work days, an *Employer* may require reasonable documentation that the use of *Earned Sick Leave* was authorized under subsection (a) of this section. An *Employer* must accept as reasonable, documentation signed by a licensed *Health Care Provider* indicating the need for the amount of *Earned Sick Leave* taken, and an *Employer* may not require that the documentation specify the nature of the *Employee's* or the *Employee's Family Member's* injury, illness, or medical condition.

(d) An *Employer* must not require an *Employee*, as a condition of using *Earned Sick Leave*, to search for or find a replacement worker to cover the hours during which such *Employee* is using *Earned Sick Leave*.

§39.0107 Minimum Wage

(a) *Employers* must pay *Employees* no less than the *Minimum Wage* set forth in this section for each hour worked within the geographic boundaries of the *City*.

(b) The *Minimum Wage* is an hourly rate defined as follows:

(1) Starting January 1, 2015, the *Minimum Wage* is $9.75.

(2) Starting January 1, 2016, the *Minimum Wage* is $10.50.

(3) Starting January 1, 2017, the *Minimum Wage* is $11.50.

(4) Starting January 1, 2019, and each year thereafter, the *Minimum Wage* increases by an amount corresponding to the prior year's increase, if any, in the cost of living. The prior year's increase in the cost of living is measured by the percentage increase, if any, as of August of the immediately preceding year over the level as of August of the previous year of the Consumer Price Index (Urban Wage Earners and Clerical Workers, U.S. City Average for All Items) or its successor index as published by the U.S. Department of Labor or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of five cents. The adjusted *Minimum Wage* will be announced by the *City* by October 1 of each year, and will become effective as the new *Minimum Wage* on January 1 of the succeeding year. The adjusted *Minimum Wage* will be noticed and posted as set forth in this Division.

(5) In the event that the federal or California minimum wage is increased above the level of the *Minimum Wage* in force under this section, the *Minimum Wage* under this section will be increased to match the higher federal or California wage, effective on the same date as the increase in the federal or California minimum wage takes effect.

(c) An *Employer* that meets the requirements to claim a credit against the California minimum wage under the California Labor Code or wage orders published by the California Industrial Welfare Commission or the

State of California Division of Labor Standards Enforcement for meals or lodging provided to *Employees* may claim a credit in the same amount against the *Minimum Wage* required under this section.

§39.0108 Notice and Posting

(a) The bulletin and notices specified in this section will be published by the *City* and made available to *Employers* in English, Spanish, and any other language for which the San Diego County Registrar of Voters provides translated ballot materials pursuant to section 203 of the federal Voting Rights Act. The materials specified in this section will be made available to *Employers* by April 1 in 2015, 2016, and 2017; by October 1 in 2018; and by October 1 of each year thereafter:

(1) A bulletin announcing the adjusted *Minimum Wage* for the upcoming year and its effective date.

(2) A notice for *Employers* to post in the workplace informing *Employees* of the current *Minimum Wage* and of their rights to the *Minimum Wage* and *Earned Sick Leave*, including information about the accrual and use of *Earned Sick Leave*, the right to be free from *Retaliation*, and the right to file a complaint with the *Enforcement Office* or a court of competent jurisdiction.

(3) A template notice suitable for use by *Employers* in compliance with this section.

(b) Every *Employer* must post in a conspicuous place at any workplace or job site where any *Employee* works the notice published each year by the *City* informing *Employees* of the current *Minimum Wage* and of their rights to

the *Minimum Wage* and *Earned Sick Leave* under this Division. Every *Employer* must post this notice in the workplace or on the job site in English and any other language that is referenced in subsection (a) and spoken by at least five percent of the *Employees* at the *Employee*'s job site.

(c) Every *Employer* must also provide each *Employee* at the time of hire, or by April 1, 2015, whichever is later, written notice of the *Employer's* name, address, and telephone number and the *Employer's* requirements under this Division. The notice must be provided to the *Employee* in English and in the *Employee's* primary language, if it is a language referenced in subsection (a) and spoken by at least five percent of the *Employees* at the *Employee*'s job site. *Employers* may provide this notice through an accessible electronic communication in lieu of a paper notice.

§39.0109 Employer Records

Employers must create contemporaneous written or electronic records documenting their *Employees'* wages earned and accrual and use of *Earned Sick Leave* and retain these records for a period of at least three years. *Employers* must allow the *Enforcement Office* reasonable access to these records in furtherance of an investigation conducted pursuant to this Division. An *Employer's* failure to create and retain contemporaneous written or electronic records documenting its *Employees'* wages earned and accrual and use of *Earned Sick Leave*, or an *Employer's* failure to allow the *Enforcement Office* reasonable access to records

creates a rebuttable presumption that the *Employer* has violated this section and the *Employee's* reasonable estimate regarding hours worked, wages paid, *Earned Sick Leave* accrued, and *Earned Sick Leave* taken may be relied upon.

§39.0110 Confidentiality and Nondisclosure

Employers are prohibited from requiring an *Employee* to disclose details related to the medical condition of the *Employee's* or the *Employee's Family Member* as a condition for using *Earned Sick Leave* under this Division, except where disclosure is required or authorized by federal or state law. Employers who obtain medical or other personal information about an *Employee* or an *Employee's Family Member* for the purposes of complying with *Earned Sick Leave* requirements of this Division must maintain the confidentiality of the information and must not disclose it, except with the permission of the *Employee* or as required by law.

§39.0111 Retaliation Prohibited

Employers are prohibited from engaging in *Retaliation* against an *Employee* for exercising any right provided pursuant to this Division. The protections of this Division apply to any *Employee* who reasonably and in good faith reports a violation of this Division to his or her *Employer* or a governmental agency tasked with overseeing the enforcement of any wage and hour law applicable to the *Employer*. Rights under this Division include, but are not limited to, the right to request payment of the *Minimum Wage*, request and use *Earned Sick Leave*, file a complaint for alleged violations of this Division with the *Enforcement Office* or in

court, communicate with any person about any violation or alleged violation of this Division, participate in any administrative or judicial action regarding an alleged violation of this Division, or inform any person of his or her potential rights under this Division.

§39.0112 Implementation, Enforcement, and Remedies

(a) The *City Council* will designate the *Enforcement Office*.

(b) The *Enforcement Office* will have full authority to implement and enforce this Division, as set forth in an implementing ordinance to be approved by the *City Council*. The ordinance will establish a system to receive and adjudicate complaints and to order relief in cases of violations.

(c) The *City* or any person claiming harm from a violation of this Division may bring an action against the *Employer* in court to enforce the provisions of this Division. Any person claiming harm from a violation of this Division and the *City* are entitled to all legal and equitable relief to remedy any violation of this Division, including, but not limited to, the payment of back wages withheld in violation of this Division; an additional amount equal to double back wages withheld as liquidated damages; damages for an *Employer's* denial of the use of accrued *Earned Sick Leave* in violation of this Division; reinstatement of employment or other injunctive relief; and reasonable attorney's fees and costs to any plaintiff, who prevails in an action to enforce this Division. Violations of this Division are declared to irreparably harm the public and covered *Employees* generally.

(d) Any *Employer* who violates any requirement of this Division is subject to a civil penalty for each violation of up to, but not to exceed, $1,000 per violation; except that any *Employer* who fails to comply with the notice and posting requirements of this Division is subject to a civil penalty of one hundred dollars for each *Employee* who was not given appropriate notice pursuant to that section, up to a maximum of $2,000.

(e) Violations of this Division may not be prosecuted as a misdemeanor or infraction.

(f) This Division does not create any right of action or cause of action for damages against the *City* in its enforcement of this Division.

(g) Submitting a complaint to the *Enforcement Office* is neither a prerequisite to nor a bar to bringing a private cause of action.

(h) This section is not intended to supersede any applicable, current or future state or local law, rule, regulation, or approved memoranda of understanding binding on the *City*, as a public agency employer, and its *Employees*.

§39.0113 Compliance with Legal Agreements

This Division must not be interpreted to modify any obligation of an *Employer* to comply with any contract, collective bargaining agreement, employment benefit plan, or other agreement providing higher wages or more *Earned Sick Leave* to an *Employee*.

§39.0114 No Effect on Higher Wages or More Earned Sick Leave

This Division must not be construed to discourage or prohibit an *Employer* from providing higher wages or more *Earned Sick Leave* to its *Employees*.

§39.0115 Effect of Invalidity; Severability

If any section, subdivision, paragraph, sentence, clause, phrase, or other portion of this Division is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Division, which shall continue in full force and effect.

END OF PROPOSITION