

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 6, 2020
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Title, Summary, and City Attorney Impartial Analysis for Ballot Measure –
General Obligation Bonds for Affordable Housing

The San Diego City Council (City Council) has directed the City Attorney to prepare a ballot title, summary and impartial analysis of a ballot measure related to General Obligation Bonds for Affordable Housing, which the City Council voted to place on the November 2020 ballot. (See San Diego Resolution R-313156, adopted July 14, 2020).

The measure seeks voter approval to increase the amount of tax assessed on real property within the City for purposes of issuing up to \$900 million of general obligation bonds, the proceeds of which will be used to acquire or improve real property in order to provide permanent supportive and affordable housing for vulnerable populations.

The City Council adopted San Diego Ordinance O-21219 on July 14, 2020, with a date of final passage of July 29, 2020, to submit the ballot measure to the voters on the November 3, 2020 Municipal Special Election ballot.

BALLOT TITLE

Affordable Housing Bond Measure for the Acquisition or Improvement of Real Property
to Provide Permanent Supportive and Affordable Housing for Vulnerable Populations

BALLOT SUMMARY

This measure would increase property taxes on real property within the City of San Diego (City), which would be used to secure up to \$900 million in bonds to be issued by the City, all

for the purpose of providing permanent supportive and affordable housing for vulnerable populations.

Additional taxes to be levied are estimated to be approximately \$3.14 per \$100,000 of a property's assessed valuation in fiscal year 2022, increasing to a maximum of \$20.85 per \$100,000 over the life of the bonds. The taxable or tax-exempt general obligation bonds supported by the new tax revenue would be issued in multiple series over seven years. Bond proceeds would be used to acquire or improve real property to provide permanent supportive and affordable housing for vulnerable populations, but may not be used to finance services or operations.

"Vulnerable populations" includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, homeless individuals or chronically homeless individuals, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses. "Affordable housing" may include: (1) facilities for which assistance and services, such as mental health treatment, healthcare, drug and alcohol treatment, education, and job training may be provided by the City, other public entities, non-profit entities and/or private entities and (2) infrastructure and landscaping, including utilities, sidewalks, and streets that are directly related to and necessary for the acquisition, construction, or improvement of the affordable housing.

If the measure is approved, the City intends to distribute new affordable housing across the City and to leverage bond proceeds by attracting private and public matching funds, including from state and federal sources.

If approved, bond proceeds will be administered by the San Diego Housing Commission, reporting to the City Council (Council). The Council will adopt an annual allocation plan to govern how proceeds are used and spent.

The Council will receive annual reports describing the amount of bond proceeds collected and spent, and the status of every project required or authorized to be funded with the proceeds.

The Council will establish an advisory Citizens' Oversight Committee (the Committee) of individuals with relevant professional experience to advise on and monitor all proposed affordable housing projects funded with bond proceeds. The Committee will advise the Council to help ensure fiscal accountability. An auditor, selected by the Committee after a competitive process, will also review how proceeds are spent.

Certain property owners are subject to the City's Inclusionary Affordable Housing Regulations or Housing Impact Fees on Commercial Development. If this measure is approved, the Council will introduce an ordinance providing that property owners subject to these laws will be entitled to a credit or reimbursement of such fees and costs, in an amount equal to the tax they would pay under this measure.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

California law allows the City of San Diego to issue general obligation bonds with the affirmative vote of two-thirds of those qualified electors voting on the matter in the election.

This ballot measure would allow the City to borrow up to \$900 million by issuing and selling general obligation bonds. The City would use this money to acquire or improve real property in order to provide permanent supportive and affordable housing for vulnerable populations. The money could not be used to finance services or operations.

If the measure is approved, the bond proceeds could be leveraged by attracting private and public matching funds, including from state and federal sources.

“Vulnerable populations” includes extremely low income, very-low income or low-income:

- individuals or families,
- veterans,
- youth,
- seniors,
- disabled people,
- homeless individuals, chronically homeless individuals, or those at serious risk of becoming homeless, and
- individuals suffering from mental health or substance abuse illnesses.

“Affordable housing” may include:

- facilities for which assistance and services, such as mental health treatment, healthcare, drug and alcohol treatment, education, and job training may be provided by the City, other public entities, non-profit entities and/or private entities, and
- infrastructure and landscaping, including utilities, sidewalks, and streets that are directly related to and necessary for the acquisition, construction, or improvement of the affordable housing.

Affordable housing acquired or improved using bond funds could be sold or rented at below-market rates.

If approved, this measure would require the City to prepare a public report each year describing the amount of the funds collected and spent, and the status of any projects paid for with bond funds. The Council would establish a Citizens' Oversight Committee to review each annual report and would require an independent auditor to review the City's expenditure of bond funds.

If approved, the measure would allow a property tax increase to pay debt service on the bonds. The City estimates that the new property taxes to be paid by property owners during the first fiscal year after the sale of the first series of bonds will be approximately \$3.14 per \$100,000 of assessed value of taxable real property. The City estimates that the tax rate over the life of the bonds would range from approximately \$3.14 per \$100,000 of assessed value to \$20.85 per \$100,000 of assessed value of taxable real property.

The measure requires approval by two-thirds of the qualified voters of the City of San Diego who vote on the measure in order for it to be approved.

A "yes" vote would authorize the issuance and sale of up to \$900,000,000 of general obligation bonds secured by new taxes on real property located within the City to provide affordable housing.

A "no" vote would not authorize the issuance and sale of the bonds or the related tax.

FISCAL IMPACT STATEMENT FOR CITY MEASURE ON NOVEMBER 3, 2020 BALLOT

MEASURE ■: GENERAL OBLIGATION BONDS FOR AFFORDABLE HOUSING

This measure would authorize the City of San Diego (City) to issue taxable or tax-exempt general obligation bonds (Bonds) in an amount not to exceed \$900 million to provide permanent supportive and affordable housing within the City for vulnerable populations (Affordable Housing). Vulnerable populations include extremely low-income, very-low income, and low-income individuals and families. These income thresholds are defined using federal standards and currently include households with zero income up to \$92,400 for a family of four.

If approved, Bond proceeds (net of issuance costs) will be used with other sources of affordable housing financing, to facilitate additional affordable and supportive homes. Bond proceeds may also be spent for facilities such as treatment, healthcare, education and job training, as well as landscaping and infrastructure directly related to Affordable Housing. Bond proceeds will not be used to finance services or operations, nor are they intended to entirely replace existing funding sources supporting Affordable Housing.

The San Diego Housing Commission (Commission) will administer the Bond proceeds. It reports to the City Council and will receive advice from a Citizens' Oversight Committee with relevant professional experience. **The Commission will need additional staff to administer the Bond proceeds, at a cost of approximately \$900,000 annually until all Bond proceeds have been utilized.**

This measure also contains a provision that could result in a credit or reimbursement for certain developers/owners of real property who have either paid a separate fee supporting Affordable Housing or who elect, or have elected, to construct Affordable Housing. If this credit/reimbursement provision were to be approved by City Council, it would reduce other funds available for Affordable Housing, in an amount that cannot yet be determined.

Principal and interest payments on the Bonds (Debt Service), currently estimated at \$2.1 billion over 46 years, would be assessed to owners of taxable real property in the City until all Bonds have matured. Debt Service assessments would be included in each property owner's annual property tax bill. The City preliminarily expects to issue Bonds annually for seven consecutive years beginning in 2022 (up to \$900 million). Annual Debt Service assessments for property owners would increase with the issuance of each new Bond.

Assuming a \$150 million 40-year taxable Bond is the first to be issued in 2022, the annual tax is estimated to be \$3.14 per \$100,000 of assessed property value, or \$21.33 for a median value home in the City with an assessed valuation of \$679,000. If additional \$125 million 40-year taxable Bonds were to be issued in each of the next 6 years, to reach the maximum Bond authorization of \$900 million, the annual tax would increase to \$20.85 per \$100,000 of assessed property value in 2028, or \$141.54 annually for a \$679,000 median value home in the City. These tax estimates are based on assumptions that are subject to change over time, including the assessed value of real property in the City, bond interest rates, bond terms, bond ratings, and the timing of bond issuances.

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 6, 2020

TO: Elizabeth Maland, City Clerk

FROM: City Attorney

SUBJECT: Title, Summary, and City Attorney Impartial Analysis for Charter Amendment Measure to Dissolve the Community Review Board on Police Practices and Establish the Commission on Police Practices (**Measure ___**)

By San Diego Resolution R-212141 (July 7, 2020), the City Council directed the City Attorney to prepare a ballot title, summary, and impartial analysis of a measure to amend the San Diego Charter (Charter) to dissolve the Community Review Board on Police Practices and establish a Commission on Police Practices, with the proposed amendments set forth in San Diego Ordinance O-21211 (July 7, 2020). The ordinance submits the measure to voters on the November 3, 2020 ballot.

The measure seeks voter approval to amend the Charter by amending Article V, by repealing Section 43(d) (“Community Review Board on Police Practices”), by amending Sections 40 (“City Attorney”) and 41 (“Commissions”), and by adding a new Section 41.2 (“Commission on Police Practices”), and by amending Article VIII, by amending Section 115 (“Civil Service Commission”).

BALLOT TITLE

Amendments to the San Diego City Charter Relating to Dissolving the Community Review Board on Police Practices and Establishing a Commission on Police Practices.

BALLOT SUMMARY

This measure would amend the San Diego City Charter (Charter) to dissolve the Community Review Board on Police Practices and establish a Commission on Police Practices (Commission), including key elements of the Commission’s structure and responsibilities.

The Charter presently authorizes the Mayor and the City Council (Council) to establish a Community Review Board on Police Practices (CRB) to review and evaluate citizens' complaints against members of the City's Police Department and the Police Department's administration of discipline arising from complaints. The CRB presently must review all deaths occurring while a person is in the Police Department's custody and all police officer-related shootings. CRB members are appointed by the Mayor with Council confirmation.

This measure would amend the Charter to dissolve the CRB and replace it with a Commission, established as an investigatory body of the City, with members appointed by the Council. The Commission would be staffed by an executive director, who is appointed by the Council; investigators and other City employees or contractors, who are independent of the Police Department and the Mayor; and legal counsel, independent of the City Attorney.

If approved by the voters, the new Commission would be required to independently investigate all deaths occurring while a person is in the Police Department's custody, all deaths resulting from interaction with a City police officer, and all City police officer-related shootings. The Commission may also investigate allegations against officers of inappropriate sexual conduct, physical assault, and domestic violence. The Charter amendments grant the Commission subpoena power to obtain witness testimony and documents, enforceable through contempt proceedings under state law.

The Commission would also be required to receive, register, review, and evaluate all complaints against City police officers. The Commission may investigate complaints, unless the complainant has requested that a complaint be handled without investigation or where no specific allegation or police officer can be identified. The Commission would be required to review the Police Department's compliance with reporting laws.

The Commission would have authority to review and advise on Police Department investigations, policies, and imposition of discipline, but the City's Police Chief retains authority to impose discipline of subordinate officers, as the Charter presently provides.

The Commission would be required to make public reports of its activities.

The Commission must act in accordance with applicable federal and state laws. Police officers may appeal a sustained finding of police misconduct by the Commission to the City's Civil Service Commission.

The Council authorized placement of this measure on the ballot after receiving the proposal from a community-based organization called "Women Occupy San Diego" and holding multiple public hearings.

This measure requires approval by a majority of the qualified voters of the City of San Diego voting on the measure. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

This measure amends the San Diego City Charter (Charter) to change civilian oversight of the City Police Department (Department) and its officers.

Under existing law, the Mayor and City Council (Council) have established the Community Review Board on Police Practices (CRB), which reviews and evaluates citizens' complaints against City police officers and the Department's administration of discipline arising from complaints. The CRB may independently refer an investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency. The CRB is also required to review all deaths occurring while a person

is in City police custody and all police officer-related shootings, but the CRB does not independently investigate these incidents.

If approved by voters, this measure would dissolve the CRB and replace it with a Commission on Police Practices (Commission). The Commission would serve as an investigatory body of the City, operating independent of the Police Department and Mayor. Commission staff would include an executive director, appointed by the Council, to serve at the direction and will of the Commission. The Commission must retain its own legal counsel, independent of the City Attorney. Commission staff must be employed in accordance with the City's civil service rules and annual salary ordinance, and must follow City rules related to contracts and records retention, confidentiality, and disclosure.

The Commission would have the power to subpoena witnesses and documents, enforceable through contempt proceedings under state law, and would retain the authority to refer cases to outside law enforcement agencies.

The Commission would initially be composed of members of the CRB. The Council would formally appoint Commission members after establishing, by ordinance, the number, term length, qualifications, and method for appointments, and defining the circumstances and process under which Commission members may be removed for cause.

The Commission would be required to investigate all deaths occurring while a person is in Department custody, all deaths resulting from interaction with a City police officer, and all City officer-related shootings. Investigations must be conducted in accordance with rights afforded to police officers under federal and state law.

The Commission must also receive and review all complaints against City police officers except in specified circumstances.

The Commission would have authority to investigate complaints against officers but must first consider specified factors. Also, the Commission may, but would not be required to, review, evaluate, and investigate allegations of inappropriate sexual conduct, physical assault, or domestic violence by officers.

The Commission may make recommendations to the Police Chief on policies and discipline, but the Police Chief would retain existing authority under the Charter, including the authority to determine discipline of subordinate officers.

The Commission also must review and evaluate the Police Department's compliance with reporting laws and make public semi-annual reports regarding the Commission's exercise of its duties and powers.

The measure also authorizes the City's Civil Service Commission to determine appeals by City police officers, following any sustained findings of police officer misconduct by the Commission.

FISCAL IMPACT STATEMENT FOR CITY MEASURE ON NOVEMBER 3, 2020 BALLOT

MEASURE __ : CHARTER AMENDMENTS ESTABLISHING COMMISSION ON POLICE PRACTICES

This measure would dissolve the Community Review Board on Police Practices (CRB) and, in its place, would establish an independent Commission on Police Practices (Commission). The Commission, constituting an investigatory body of the City, would be comprised of community members appointed by the City Council, with subpoena powers, independent legal counsel, and City staff outside of San Diego Police Department (SDPD) and Mayoral supervision.

If approved, the Commission will have certain duties that are required and others that are discretionary. The Commission will be required to independently investigate: (1) all deaths occurring while a person is in the custody of SDPD; (2) all deaths resulting from interaction with an SDPD officer; and (3) all police officer-involved shootings. Based on data provided by SDPD for the historical number of SDPD officer-related deaths and shooting events over the last ten years, this requirement could comprise of up to fifteen investigations per year.

Additionally, the Commission must receive, register, review and evaluate all citizen complaints, except those where the complainant does not request an investigation or where no specific allegation or SDPD officer is identified. At the Commission's discretion, it will have the authority to independently investigate any or all of the complaints that it is required to receive, register, review, and evaluate. According to data provided by SDPD, over the last ten years, on average 126 complaints have been received per year that would have been eligible for the Commission to investigate; it is unknown how many complaints the Commission may choose to investigate.

Other duties include the requirement to evaluate of SDPD compliance with federal, state, and local reporting laws and requirements and the submission of semi-annual reports to the Mayor and City Council regarding the exercise of the Commission's duties and powers. The Commission may also review, evaluate and make recommendations on any policies, procedures, practices, and actions of SDPD.

In addition to what is described above, the Commission has other duties and powers included in the ballot proposal, which may be further specified by City Council Ordinance, should this measure be approved by voters.

If approved, a sufficient and appropriate budget for the Commission is expected to be funded from the City's General Fund in an amount to be approved annually by the City Council. **It is estimated that the necessary staffing and budget for the Commission could reasonably range between at least seven (7) Full Time Equivalent (FTE) positions and \$1.2 million annually and up to sixteen (16) FTEs and \$2.6 million annually in order to allow it to effectively carry out its duties and powers proposed under the ballot measure.** The range is primarily due to the Commission's discretionary authority to determine the level of citizen complaints it chooses to investigate. **Current annual funding from the General Fund for the CRB, budgeted at approximately \$247,000 for Fiscal Year 2021, would no longer be required. Potential fiscal impacts to the SDPD budget, if any, are unknown.**

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 10, 2020
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Title, Summary, and City Attorney Impartial Analysis for Ballot Measure – Amendments to City Charter Section 66 – District-Only Elections for School Board Members

The City Council has directed the City Attorney to prepare a ballot title, summary and impartial analysis of a San Diego City Charter (Charter) amendment measure that would establish district-only elections for members of the Board of Education for the San Diego Unified School District in both the primary and general elections. (*See San Diego Resolution R-313142, adopted July 7, 2020.*)

The measure seeks voter approval to amend the Charter by amending Article VI, section 66, Board of Education.

The City Council adopted San Diego Ordinance O-21212 on July 7, 2020 to submit the Charter amendment measure to the voters on the November 3, 2020 Municipal Special Election ballot.

BALLOT TITLE

Amendments to San Diego City Charter Section 66 to Establish District-Only Elections for Members of the Board of Education of the San Diego Unified School District

BALLOT SUMMARY

This measure would amend the San Diego City Charter (Charter) to establish district-only elections in both the primary and general elections for members of the Board of Education of the San Diego Unified School District (School Board). Charter section 66 provides the procedures

for School Board elections in the San Diego Unified School District (School District), as allowed by the California Constitution.

The School District is divided into five sub-districts, each with its own representative on the School Board. Charter section 66 currently provides that School Board members are nominated in primary elections held in the individual sub-districts they seek to represent. The top two vote-getters nominated by the voters in an individual sub-district then advance to a general election held in the entire School District.

If adopted, this ballot measure will amend the Charter to provide that only the voters in an individual sub-district of the School Board may vote in both the primary and general elections to nominate and elect the School Board member who will represent their district.

In compliance with the California Constitution and California Elections Code, this ballot measure related to the procedures for School District elections has been submitted only to those voters who are registered to vote within School District boundaries.

The ballot measure was proposed during a process in which members of the public submitted ballot measure proposals for consideration by a Council standing committee and then the full Council. The Council voted to place the measure on the ballot. If approved, the Charter would be amended as of the date the California Secretary of State officially chapters the amendments.

Voters may note that Charter section 66 is the subject of a separate Charter amendment measure on the November 3, 2020 ballot that would establish procedures for filling vacancies on the School Board (along with amendments to other Charter sections). The amendments to Charter section 66 that are proposed in the two measures are not in conflict; each involves separate subjects requiring separate approval. The amendments in both measures are identical in

part. If both measures are approved by the voters, the City of San Diego intends for both sets of amendments to Charter section 66 to take effect and to be submitted for chaptering by the California Secretary of State.

CITY ATTORNEY’S IMPARTIAL ANALYSIS

The California Constitution authorizes charter cities that include school districts to provide for “the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.” Cal. Const. art. IX, § 16(a). This is the limit of a charter city’s authority over a school board.

San Diego City Charter (Charter) section 66 governs the composition and elections of the Board of Education of the San Diego Unified School District (School Board).

The Charter directs that the five members of the School Board are nominated in elections held in their individual sub-districts, with the top two vote-getters in the primary election in a given sub-district advancing to a general election by voters in the entire School District. This is known as a district-only primary and an at-large general election.

If approved, this ballot measure would amend the Charter to change the process in the general election. The amendments would provide that all School Board elections would be held in the individual sub-districts that a candidate seeks to represent, whether it is the primary or the general election. After the Charter is amended, candidates nominated in a primary election in their individual sub-district would advance to a run-off general election that is also held in the individual sub-district they seek to represent.

If approved, the Charter amendments will provide a district-only process for electing School Board members that is the same as the process used to elect City Councilmembers.

Councilmembers are elected by voters in the districts they seek to represent, and not in citywide elections. Voters amended the Charter at the November 8, 1988 election to enact the “district-only” election system for the City Council.

The Charter amendments proposed in this measure also include minor changes for consistency with other Charter provisions, such as amendments to the titles of specific City elections.

To comply with the California Constitution and the California Education Code, this ballot measure related to the School District has been submitted only to those voters who are registered to vote within School District boundaries. To be adopted, the measure requires a majority vote of those voting on the measure.

A citizens’ organization called Parents for Quality Education proposed Charter amendments to establish district-only elections for School Board members in both the primary and general elections, as part of a process in which the City Council asks the public to submit ballot proposals. A City Council subcommittee heard the proposal at two hearings, and forwarded the proposal to the full City Council, which voted to place the measure on the ballot.

If approved, the Charter would be amended as of the date amendments are chaptered by the California Secretary of State. Based on the Secretary of State’s usual timelines to chapter Charter amendments, the amendments would be in effect for the next regularly scheduled School Board elections in 2022.

FISCAL IMPACT STATEMENT FOR CITY MEASURE ON NOVEMBER 3, 2020 BALLOT

MEASURE ■. CHARTER AMENDMENT: DISTRICT-ONLY ELECTIONS FOR SCHOOL BOARD MEMBERS

This measure would amend the San Diego City Charter (Charter) to establish a district-only elections process to elect members of the Board of Education (School Board) of the San Diego Unified School District (School District). The Charter currently provides that School Board members are nominated in primary elections in their individual sub-districts but advance to a general election held in the entire School District. This ballot measure would amend Charter section 66 to provide district-only elections in both the primary and general elections for School Board members.

If approved, this measure would result in a relatively small reduction in election costs for the School District.

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 10, 2020

TO: Elizabeth Maland, City Clerk

FROM: City Attorney

SUBJECT: Title, Summary, and City Attorney Impartial Analysis for Ballot Measure – Amendments to Charter Sections 66, 300, 301, and 302, Regarding Procedures for Filling Vacancies, Removal for Cause, and Succession to Office for Members of the San Diego Unified School District Board of Education

The City Council has directed the City Attorney to prepare a ballot title, summary and impartial analysis of a San Diego City Charter (Charter) amendment measure that would bring Board of Education members from the San Diego Unified School District under City laws that address filling vacancies in elected office, removal of elected officials for cause, and succession to office. (See San Diego Resolution R-313153, adopted July 14, 2020.)

The measure seeks voter approval to amend the Charter by amending Article VI, section 66, Board of Education; and amending Article XVI, section 300, Vacancy in Elected Office; section 301, Removal for Cause; and section 302, Succession to Elective Office.

The City Council adopted San Diego Ordinance O-21217 on July 14, 2020 to submit the Charter amendment measure to voters on the November 3, 2020 Municipal Special Election ballot.

BALLOT TITLE

Charter Amendments to Provide Procedures for Filling Vacancies, Removal for Cause,
and Succession to Office for Members of the San Diego Unified School District Board of
Education

BALLOT SUMMARY

This measure would amend the San Diego City Charter (Charter) to bring members of the Board of Education of the San Diego Unified School District (School Board) under City laws that provide procedures to remove elected officials for cause, to fill vacancies, and to govern succession to the office.

The Charter currently includes similar vacancy, removal, and succession laws for the City's elective offices of Mayor, City Attorney, and member of the City Council (Council). The California Constitution allows Charter cities like San Diego to include such provisions affecting School Board members in a city's charter.

Amendments to Charter section 66 (Board of Education) would provide references to how School Board seats will be filled after a vacancy, refer to other laws to be added by this measure, and make minor clarifying edits to the section.

Amendments to Charter section 300 (Vacancy in Elective Office), section 301 (Removal for Cause), and section 302 (Succession to Elective Office) add the office of School Board member to existing laws, with certain modifications to conform to procedures of the San Diego Unified School District (School District).

To be approved, the measure requires the affirmative vote of a majority of those qualified electors voting on the measure and registered to vote within the geographic boundaries of the School District.

The measure was proposed by Councilmember Chris Cate and Councilmember Vivian Moreno during a process in which Councilmembers submitted ballot measure proposals for consideration by a Council standing committee and then the full Council. The measure was considered in multiple hearings before the Council voted to place the measure on the ballot. If

approved, the Charter would be amended after the amendments are chaptered by the California Secretary of State.

Voters may note that Charter section 66 is the subject of a separate Charter amendment measure on the November 3, 2020, ballot that would establish district-only elections for the School Board. The amendments to Charter section 66 that are proposed in the two measures are not in conflict; each involves separate subjects requiring separate approval. The amendments in both measures are identical in part. If both measures are approved by the voters, the City of San Diego intends for both sets of amendments to Charter section 66 to take effect and to be submitted for chaptering by the California Secretary of State.

CITY ATTORNEY’S IMPARTIAL ANALYSIS

The California Constitution authorizes charter cities that include school districts to provide for “the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.” Cal. Const. art. IX, § 16(a). This is the limit of a charter city’s authority over a school board.

This ballot measure would amend the San Diego City Charter (Charter) to add procedures related to the elected members of the Board of Education (School Board) of the San Diego Unified School District (School District). If approved, amendments would bring School Board members under existing City laws providing procedures to remove elected officials for cause, fill vacancies in their seats, and govern succession to the office.

Four Charter sections would be amended:

- Section 66 (Board of Education) governs the composition and elections of the School Board. Amendments refer to the proposed new laws in the measure, stating that they address when a vacancy in the office of School Board member is deemed to occur, and when a School Board member shall be removed for cause. Amendments state that vacancies shall be filled as provided in the section, which includes election procedures. Amendments also include minor edits for consistency with other Charter sections.
- Section 300 (Vacancy in Elective Office) provides procedures when a vacancy occurs in the office for reasons including death, residency issues, incapacity, removal, certain convictions, or resignation. A School Board member is no longer eligible to serve if the member ceases to be a resident and elector of the sub-district the member was elected to represent. A member's resignation would be effective on the date specified in a resignation letter, or, if there is no date, upon the date the letter is received by the School District's Board Action Officer.
- Section 301 (Removal for Cause) provides procedures to remove a School Board member for cause for dereliction of duty or malfeasance in office. Dereliction of duty means an adjudication that the School Board member failed, refused, or neglected to perform the duties of the office, except when prevented by illness, injury, or other reasonable cause. Malfeasance in office means the School Board member was convicted for crimes of moral turpitude or crimes involving a violation of official duties. If at least three-fourths of the School Board members vote that cause exists to remove the member, the School Board would cause a

special election to be held. Voters would be asked to decide whether to remove and replace the School Board member.

- Section 302 (Succession to Elective Office) refers to Charter procedures that would apply for a new School Board member to succeed to the office.

This measure related to the School District has been submitted to voters registered to vote within School District boundaries, as required by the California Constitution. If approved, amendments would take effect after they are chaptered by the California Secretary of State.

FISCAL IMPACT STATEMENT FOR CITY MEASURE ON NOVEMBER 3, 2020 BALLOT

MEASURE ■. CHARTER AMENDMENT: PROCEDURES TO REMOVE SCHOOL BOARD MEMBERS FOR CAUSE AND TO FILL VACANCIES

This measure would amend San Diego City Charter (Charter) sections 300, 301, and 302 to add the elective office of member of the Board of Education (School Board) of the San Diego Unified School District (School District) to City laws that provide procedures for the elective officer's removal for cause, filling a vacancy in the seat, and addressing succession in office. The measure would also amend Charter section 66, Board of Education, to address filling a vacancy on the School Board.

There is no fiscal impact associated with these Charter amendments.

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: August 10, 2020
TO: Elizabeth Maland, City Clerk
FROM: City Attorney
SUBJECT: Title, Summary, and City Attorney Impartial Analysis for Ballot Measure –
Excluding the Midway-Pacific Highway Community Plan Area from the 30-Foot
Height Limit on Buildings in the Coastal Zone

The City Council has directed the City Attorney to prepare a ballot title, summary and impartial analysis of a measure that would amend the San Diego Municipal Code (People’s Ordinance No. O-10960) related to Coastal Zone height limits in the Midway-Pacific Highway Community Plan area, which the City Council voted to place on the November 2020 ballot. (See Resolution R-313161, adopted July 21, 2020).

The measure seeks approval to amend the San Diego Municipal Code (People’s Ordinance No. O-10960) by amending Article 2, Division 5, Section 132.0505.

The City Council adopted ordinance O-21220 on July 21, 2020, to submit the measure to the voters on the November 3, 2020, Municipal Special Election ballot.

BALLOT TITLE

Amending the San Diego Municipal Code to Exclude the Midway-Pacific Highway
Community Plan Area from the 30-Foot Height Limit on Buildings in the Coastal Zone.

BALLOT SUMMARY

This measure would amend the San Diego Municipal Code (Municipal Code) to exclude the Midway-Pacific Highway Community Plan area (Community Plan area) from the existing 30-foot height limit on buildings.

This measure does not approve any specific development. Any proposed future development must comply with all governing laws at the time a development project application is submitted to the City. Building height would still be regulated by zoning laws in the Municipal Code.

Voters in the City of San Diego (City) approved a citizens' initiative measure in 1972 that limited the height of buildings in the City to 30 feet in the Coastal Zone. Voters adopted the original language and are thus asked in this measure to consider an amendment to the law.

As defined in the 1972 ballot measure, and now as part of the Municipal Code, the geographic boundaries of the Coastal Zone include the City's land and water area from the northern City limits, south to the border of Mexico, extending seaward to the outer limit of the City's jurisdiction and inland to Interstate 5.

The Midway-Pacific Highway Community Plan area contains approximately 1,324 acres of land. The approximate boundaries of the Community Plan area are Interstate 8 on the north, the San Diego International Airport on the south, Interstate 5 on the east, and Lytton Drive on the west. The Community Plan area includes the land surrounding Midway Drive and Sports Arena Boulevard, including the Pechanga Sports Arena. A map is included in the voter pamphlet and as part of this ballot measure.

If approved by a majority vote of those qualified voters who vote on the measure, the measure would amend the law in the Municipal Code to change the height limit in the area defined as the Midway-Pacific Highway Community Plan area. The amendments would take effect after the results of the election are certified in a resolution of the City Council.

CITY ATTORNEY'S IMPARTIAL ANALYSIS

In 1972, City of San Diego (City) voters passed Proposition D. Proposition D was a citizens' initiative that amended the San Diego Municipal Code (Municipal Code) to impose a 30-foot limit on the height of buildings constructed in the City's Coastal Zone.

The Coastal Zone, as defined by Proposition D and included in the Municipal Code, includes the City's land and water area from the northern City limits, south to the border of Mexico, extending seaward to the outer limit of the City's jurisdiction and inland to Interstate 5. The Coastal Zone excludes the land bounded by National City on the south, San Diego Bay on the west, and Laurel Street or the southwesterly projection of Laurel Street on the north.

This measure would amend the language placed in the Municipal Code by Proposition D in one community plan area only. Since voters approved the original language, voters are now asked to consider an amendment to the language through this measure.

The amendment would allow buildings, or additions to buildings, that exceed the 30-foot height limit to be built in the Midway-Pacific Highway Community Plan area (Community Plan area). The Community Plan area contains approximately 1,324 acres of land surrounding Midway Drive and Sports Arena Boulevard, including the Pechanga Sports Arena. The Community Plan area is shown on a map in the voter pamphlet that is incorporated into this ballot measure.

This measure does not approve any specific development. Any new development must comply with all governing laws at the time a development project application is submitted to the City.

Zoning laws in the Municipal Code will continue to apply to regulate building heights. Any proposed development within the portions of the Community Plan area subject to Coastal Commission jurisdiction under the California Coastal Act would continue to require Coastal Commission approval.

This measure was proposed by members of the San Diego City Council, which voted to place it on the ballot. If approved by a majority of the qualified voters voting on the measure, the Municipal Code would be amended after the election results are certified by the City Council.

FISCAL IMPACT STATEMENT FOR CITY MEASURE ON NOVEMBER 3, 2020 BALLOT

MEASURE **■**. REMOVING 30-FOOT HEIGHT LIMIT IN MIDWAY-PACIFIC HIGHWAY COMMUNITY PLAN AREA.

This measure would amend the Height Limit Ordinance codified in San Diego Municipal Code section 132.0505 to exclude the Midway-Pacific Highway Community Plan area from the 30-foot height limit for development in the Coastal Zone. The Midway-Pacific Highway Community Plan area encompasses approximately 1,324 acres, of which 88 acres is owned by the City of San Diego, including the current Pechanga Sports Arena site.

Removing the 30-foot coastal height limit from the Midway-Pacific Highway Community Plan area does not increase the maximum allowed residential and non-residential density in the Community Plan area, but may hasten the achievement of maximum allowed development density by making it more feasible. Thus, removing the 30-foot coastal height limit from the area may result in increased economic growth in the area over time including, but not limited to, residential, hotel, office, retail, defense industries, and businesses that cater to the U.S. Navy's Space and Naval Warfare Systems Command facility and the Marine Corps Recruit Depot.

This type of economic growth typically results in a greater demand for public services in the area which requires increased expenditures from the City's General Fund. The Midway-Pacific Highway Community Plan details many of these expected service needs based on the underlying zoning in the community. Partially or fully offsetting these increased public expenditures will be an increase in City tax revenues (most significantly increased sales tax and property tax tied to private development).

Although an increase in allowable building height may spur additional development and economic activity, the potential impact to the City's General Fund cannot be determined at this time. The net fiscal impact to the General Fund will be dependent on the type and mix of land uses as well as long-term market demand for these uses. Typically, residential uses require higher municipal service expenditures than revenue-generating non-residential uses such as retail and hotel.