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ORDINANCE NUMBER O- 21213 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 07 2020

AN ORDINANCE CALLING A MUNICIPAL GENERAL ELECTION IN THE CITY OF SAN DIEGO ON TUESDAY, NOVEMBER 3, 2020, AND CONSOLIDATING THE MUNICIPAL GENERAL ELECTION WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON THE SAME DATE.

WHEREAS, San Diego Charter section 10 provides that, commencing with the year 1984, elections for the offices of Mayor and City Attorney shall be held every four years, with the Municipal General Election for those offices to be held on the same date as the California State General Election for that year; and

WHEREAS, San Diego Charter section 10 also provides that, commencing with the year 1996, the Municipal General Election for the offices of Councilmember for Districts 1, 3, 5, and 7 shall be held on same date in each election year as the California State General Election; and

WHEREAS, San Diego Charter section 10 also provides that, commencing with the municipal elections following the redistricting occurring after the 2010 national decennial census, and every four years thereafter, the municipal primary and general elections for the office of Councilmember for District 9 shall be held; and

WHEREAS, in this election year, the California State General Election will be held on Tuesday, November 3, 2020; and

WHEREAS, calling the Municipal General Election for the same date as the California State General Election is mandated by San Diego Charter section 10 and, therefore, is not subject to veto by the Mayor; and

WHEREAS, at a meeting held on July 7, 2020, the City Council of the City of San Diego passed Resolution Number R- 313143, requesting that the Board of Supervisors of the County of San Diego approve the consolidation of the Municipal General Election to be held on November 3, 2020 with the California State General Election to be held on the same date; and

WHEREAS, San Diego Charter section 10 provides that candidates for Mayor, City Attorney and Councilmember shall be nominated at the Municipal Primary Election, which was held this election year on March 3, 2020, and the top two vote-getters receiving the highest number of votes in that election for a particular elective office shall advance to the Municipal General Election; and

WHEREAS, the top two vote-getters for the following elective offices will advance to the Municipal General Election: Mayor, City Attorney, Councilmember for District 1, Councilmember for District 3, Councilmember for District 5, Councilmember for District 7, and Councilmember for District 9; NOW, THEREFORE,

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

Section 1. It is hereby ordered that a Municipal General Election will be held in the City of San Diego on Tuesday, November 3, 2020, for the purpose of electing candidates for the following offices:

MAYOR	four-year term
CITY ATTORNEY	four-year term
COUNCILMEMBER for District No. 1	four-year term
COUNCILMEMBER for District No. 3	four-year term
COUNCILMEMBER for District No. 5	four-year term

COUNCILMEMBER for District No. 7      four-year term

COUNCILMEMBER for District No. 9      four-year term

Section 2.      The Board of Supervisors of the County of San Diego is hereby requested to consent and agree to the consolidation of the Municipal General Election in the City of San Diego with the California State General Election to be held on Tuesday, November 3, 2020, pursuant to local procedures authorized under California Elections Code section 10402 and the City's Elections Code. Within the City of San Diego precincts, polling places and officers of the election for the Municipal General Election shall be the same as those provided for the California State General Election.

Section 3.      This election is to be conducted in compliance with governing state law, including related state orders that may be in effect for this election, and those procedures enacted as part of the California Elections Code by California Assembly Bill No. 860, approved by the Governor on June 18, 2020, and filed with the Secretary of State on June 18, 2020. The California Elections Code amendments provide in part that county elections officials will mail a ballot to every registered voter for the November 3, 2020 statewide general election and extend the deadline for the county's receipt of mail ballots. The distribution of vote by mail ballots to all registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.

Section 4.      For the purpose of this election, the election precincts shall be the precincts established by the Board of Supervisors for the County of San Diego; provided, however, that certain precincts shall be consolidated in the manner indicated on the list of consolidated precincts on file in the Office of the City Clerk.

Section 5. The Board of Supervisors for the County of San Diego, through the Registrar of Voters of the County of San Diego, is hereby authorized to canvass returns of this Municipal General Election, in compliance with San Diego County Code of Administrative Ordinances section 439.1 and San Diego Municipal Code section 27.0111. The Registrar of Voters shall communicate the results of the canvass to the San Diego City Clerk, who shall in turn certify the results to the Council of the City of San Diego. The City Council shall then declare the results of the Municipal General Election by resolution.

Section 6. The polls for this Municipal General Election shall be open from 7:00 a.m. on November 3, 2020, and remain open continuously until 8:00 p.m. on the same day. The polls shall close at 8:00 p.m., except as provided in California Elections Code section 14401. The poll hours provision shall follow state laws in effect as of the date of the election, which may include orders or laws enacted after the date of this resolution.

Section 7. The City Clerk is hereby directed to cause this ordinance to be published once in the official newspaper of the City of San Diego.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to San Diego Charter sections 275(c), 295(b) and 295(d), this ordinance relating to elections may be passed by the City Council on the date of introduction, which date shall be deemed the date of final passage, and is not subject to veto by the Mayor.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Sharon B. Spivak  
Sharon B. Spivak  
Senior Deputy City Attorney

SBS:jdf  
06/23/2020  
Or.Dept:City Clerk  
Doc.No.: 2343380

Passed by the Council of The City of San Diego on JUL 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 07 2020

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Hy Beady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 07 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Hy Beady, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21213

Passed by the Council of The City of San Diego on July 7, 2020, by the following vote:

YEAS: BRY, CAMPBELL, WARD, MONTGOMERY, KERSEY, CATE, SHERMAN,  
MORENO, & GÓMEZ.

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: Connie Patterson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of  
ORDINANCE NO. O-21213 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was passed on the day of its introduction, to wit, on  
July 7, 2020, said ordinance being of the kind and character authorized for passage on its  
introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such  
reading was dispensed with by a vote of five members of the Council, and that a written  
copy of the ordinance was made available to each member of the Council and the public  
prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Connie Patterson, Deputy

ORDINANCE NUMBER O- 21214 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 07 2020

AN ORDINANCE CALLING A MUNICIPAL SPECIAL ELECTION IN THE CITY OF SAN DIEGO ON TUESDAY, NOVEMBER 3, 2020, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY ONE OR MORE BALLOT MEASURES; AND CONSOLIDATING THE MUNICIPAL SPECIAL ELECTION WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON THE SAME DATE.

WHEREAS, the Council of the City of San Diego (Council), by separate ordinances, may submit to the qualified voters of the City of San Diego (City) one or more ballot measures at a Municipal Special Election; and

WHEREAS, the Council is authorized to place ballot measures that include Charter amendments on a Municipal Special Election ballot pursuant to San Diego Charter section 223, Article XI, section 3(b) of the Constitution of the State of California, and section 9255(a)(2) of the California Elections Code; and

WHEREAS, the Council is authorized to place other ballot measures on a Municipal Special Election ballot pursuant to San Diego Municipal Code section 27.0502; and

WHEREAS, at a meeting held on July 7, 2020, the Council passed Resolution No. R- 313144, requesting that the Board of Supervisors of the County of San Diego approve the consolidation of the Municipal Special Election to be held on November 3, 2020 with the California State General Election to be held on the same date; NOW, THEREFORE,

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

Section 1. It is hereby ordered that a Municipal Special Election will be held in the City of San Diego on Tuesday, November 3, 2020, for the purpose of submitting to the qualified



voters of the City one or more ballot measures, if any are submitted by separate ordinances for placement on that ballot.

Section 2. The measures shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in the separate ordinances placing the measures on the November 3, 2020 ballot.

Section 3. The measures submitted by separate ordinances for placement on the November 3, 2020 ballot, if any, shall be designated on the ballot by a letter printed on the left margin of the square containing the description of the proposition as provided in California Elections Code section 13116.

Section 4. City measures to be submitted to the voters at the November 3, 2020 Municipal Special Election, if any, shall appear, pursuant to San Diego Municipal Code section 27.0507, on the ballot in the following order:

- (a) Initiative measures, including both measures placed on the ballot by petition and measures placed on the ballot by action of the City Council pursuant to San Diego Municipal Code section 27.1001, in the order in which the ordinances placing the initiatives on the ballot are adopted by the Council;
- (b) Bond measures, in the order in which the ordinances placing them on the ballot are adopted by the Council;
- (c) Charter amendments, in the order in which the ordinances placing them on the ballot are adopted by the Council;
- (d) Other legislative measures, in the order in which the ordinances placing them on the ballot are adopted by the Council;

- (e) Referendum measures, in the order in which the ordinances placing them on the ballot are adopted by the Council; and
- (f) Advisory matters, in the order in which the ordinances placing them on the ballot are adopted by the Council.

Section 5. The Board of Supervisors of the County of San Diego is hereby requested to consent and agree to the consolidation of the Municipal Special Election in the City of San Diego with the California State General Election to be held on Tuesday, November 3, 2020, pursuant to local procedures authorized under California Elections Code section 10402 and the City's Elections Code. Within the City of San Diego, precincts, polling places, and officers of the election for the Municipal Special Election shall be the same as those provided for the California State General Election.

Section 6. This election is to be conducted in compliance with governing state law, including related state orders that may be in effect for this election, and those procedures enacted as part of the California Elections Code by California Assembly Bill No. 860, approved by the Governor on June 18, 2020, and filed with the Secretary of State on June 18, 2020. The California Elections Code amendments provide in part that county elections officials will mail a ballot to every registered voter for the November 3, 2020 statewide general election and extend the deadline for the county's receipt of mail ballots. The distribution of vote by mail ballots to all registered voters does not prevent a voter from voting in person at a polling place, vote center, or other authorized location.

Section 7. For the purpose of this election, the election precincts shall be the precincts established by the Board of Supervisors for the County of San Diego; provided,

however, that certain precincts shall be consolidated in the manner indicated on the list of consolidated precincts on file in the Office of the City Clerk.

Section 8. The Board of Supervisors of the County of San Diego, through the Registrar of Voters of the County of San Diego, is hereby authorized to canvass returns of this Municipal Special Election, in compliance with the San Diego County Code of Administrative Ordinances, section 439.1 and San Diego Municipal Code section 27.0111. The Registrar of Voters shall communicate the results of the canvass to the San Diego City Clerk, who shall in turn certify the results to the Council. The Council shall then declare the results of the Municipal Special Election by resolution.

Section 9. Since this election is to be consolidated with the California State General Election, and since the Board of Supervisors is authorized to canvass the returns of this Municipal Special Election, and as only one form of ballot is authorized, the method of voting upon the measures shall be as provided in the California Elections Code.

Section 10. The polls for this Municipal Special Election shall be open from 7:00 a.m. on November 3, 2020, and remain open continuously until 8:00 p.m. on the same day. The polls shall close at 8:00 p.m., except as provided in California Elections Code section 14401. The poll hours provision shall follow state laws in effect as of the date of the election, which may include orders or laws enacted after the date of this resolution.

Section 9. The City Clerk is hereby directed to cause this ordinance to be published once in the official newspaper of the City of San Diego.

Section 10. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the Council and the public prior to the day of its passage.

Section 11. Pursuant to San Diego Charter sections 275(c), 295(b) and 295(d), this ordinance relating to elections may be passed by the Council on the date of introduction, which date shall be deemed the date of final passage, and is not subject to veto by the Mayor.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Sharon B. Spivak  
Sharon B. Spivak  
Senior Deputy City Attorney

SBS:jdf  
06/23/2020  
Or.Dept:City Clerk  
Doc. No.: 2343379

Passed by the Council of The City of San Diego on JUL 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 07 2020.

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 07 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O-

21214

Passed by the Council of The City of San Diego on July 7, 2020, by the following vote:

YEAS: BRY, CAMPBELL, WARD, MONTGOMERY, KERSEY, CATE, SHERMAN,  
MORENO, & GÓMEZ.

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: Connie Patterson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of  
ORDINANCE NO. O-21214 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was passed on the day of its introduction, to wit, on  
July 7, 2020, said ordinance being of the kind and character authorized for passage on its  
introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such  
reading was dispensed with by a vote of five members of the Council, and that a written  
copy of the ordinance was made available to each member of the Council and the public  
prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Connie Patterson, Deputy

ORDINANCE NUMBER O- 21219 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 29 2020

AN ORDINANCE OF THE CITY OF SAN DIEGO  
SUBMITTING FOR APPROVAL BY A TWO-THIRDS VOTE  
OF THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO,  
AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED  
WITH THE STATEWIDE GENERAL ELECTION TO BE HELD  
ON NOVEMBER 3, 2020, ONE BALLOT MEASURE  
AUTHORIZING A \$900 MILLION GENERAL OBLIGATION  
BOND ISSUANCE FOR AFFORDABLE AND SUPPORTIVE  
HOUSING, AND FIXING THE MAXIMUM RATE OF  
INTEREST TO BE PAID THEREON.

WHEREAS, on January 14, 2020, the City Council (Council) adopted a Resolution of  
Necessity Related to a Proposed Ballot Measure for the November 3, 2020 Municipal Special  
Election Concerning the Issuance of General Obligation Bonds to Finance the Construction of  
Affordable and Permanent Supportive Housing (Resolution of Necessity), on a 6 to 3 vote, which  
is attached to this Ordinance as Exhibit A, and on file with the Office of the City Clerk as  
Resolution No. R-312816; and

WHEREAS, the Resolution of Necessity confirmed a citywide state of emergency  
regarding a severe shortage of affordable housing in the City of San Diego (City), where cost  
burden is the most common housing problem experienced by renter and owner households, and  
most of the cost-burdened households are low- or moderate-income households; and

WHEREAS, the Resolution of Necessity confirmed the lack of more affordable housing  
has resulted in a high number of individuals experiencing homelessness within the City, and the  
number of housing units available does not satisfy the demand, as further detailed in the City's  
Community Action Plan on Homelessness (Action Plan); and

WHEREAS, the Resolution of Necessity confirmed that the Action Plan calls for the creation of more than 5,000 new housing homes or units over the next 10 years through the construction or rehabilitation of supportive housing, and the provision of additional rental assistance for low-income households, rapid rehousing for households experiencing homelessness, and diversion resources for households new to experiencing homelessness, with a total estimated cost of \$1.94 billion; and

WHEREAS, on July 7, 2020, the Council adopted Ordinance O- ~~21214~~ calling a Municipal Special Election in the City for November 3, 2020, for the purpose of submitting one or more ballot measures to the City's qualified voters; and

WHEREAS, to help address the needs confirmed by the Resolution of Necessity, the Council now seeks to place a measure on the November 3, 2020 Municipal Special Election ballot seeking voter authorization for the City to issue general obligation bonds, in an amount not to exceed \$900 million, to help to reduce homelessness, including those who are at risk of becoming homeless, in the City; and

WHEREAS, the specific purposes of the bonds to be issued are to fund the acquisition or improvement of real property to provide permanent supportive and affordable housing for vulnerable populations (Affordable Housing), which will help reduce homelessness in the City; and

WHEREAS, "vulnerable populations" includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses; and



WHEREAS, 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; and

WHEREAS, the proceeds of any bonds issued pursuant to this general obligation bond measure (Bond Measure) will be applied only to these specific purposes, as detailed in the measure; and

WHEREAS, the Council finds that issuing general obligation bonds to build Affordable Housing serves a public purpose and is the most cost-effective way to raise funds to acquire and construct the Affordable Housing needed, which will help to reduce homelessness in the City; and

WHEREAS, the San Diego Municipal Code (Municipal Code) requires certain developers/owners of real property (Developers) within the City to pay fees to support the supply of, or construct actual units that qualify as, Affordable Housing (Inclusionary Housing/Linkage Fees); and

WHEREAS, within 3 months of the certification of the voters' approval of this Bond Measure, the Council shall introduce an enforceable ordinance (Subsequent Ordinance) that, if adopted, would provide that Developers subject to the Inclusionary Affordable Housing Regulations, codified in Chapter 14, Article 2, Division 13 of the Municipal Code, or subject to Housing Impact Fees on Commercial Development, codified in Chapter 9, Article 8, Division 6 of the Municipal Code (collectively, the Ordinances) will be entitled to a credit (Credit) toward

Inclusionary Housing/Linkage Fees paid pursuant to the Ordinances or in the case of Developers that elect or have previously elected to construct affordable housing, will be entitled to a credit as required by the Ordinances, and receive reimbursement (Reimbursement) for the Inclusionary Housing/Linkage Fees those Developers would have paid or have previously paid pursuant to the Ordinances, in an amount equal to the amount of Affordable Housing Tax they pay under the provisions of this Bond Measure, which Credit or Reimbursement may never exceed the total amount a Developer would be required to pay the City under the Ordinances; and

WHEREAS, article XVI, section 18(a) of the California Constitution allows public entities, such as the City, to incur indebtedness in any year exceeding the income and revenue provided for such year with the approval of two-thirds of the voters of the City voting on the measure at an election to be held for that purpose; and

WHEREAS, San Diego Charter (Charter) section 99 confirms that the indebtedness provisions in article XVI, section 18(a) of the California Constitution apply to the City; and

WHEREAS, Charter section 90.1, which authorizes the Council (by a two-thirds vote of the Council) to issue revenue bonds payable from enterprise funds for water facilities, wastewater facilities, or stormwater facilities, does not limit the authority of the qualified electors of the City to authorize the issuance of bonds for other purposes; and

WHEREAS, California Government Code sections 53410 and 53411 provide that any voter-approved local measure allowing a local agency to sell bonds must provide accountability measures that include, but are not limited to: (a) a statement indicating the specific purposes of the bonds; (b) a requirement that the bond proceeds be applied only to those identified specific purposes; (c) the creation of an account into which the bond proceeds will be deposited; and (d) a requirement that the chief fiscal officer file a report with the local agency's governing body at

least annually, describing the bond proceeds collected and expended, as well as the status of any project required or authorized to be funded; and

WHEREAS, the Bond Measure will establish accountability measures to ensure that the City uses the bond proceeds only for the purposes specified in this Ordinance, in compliance with California Government Code sections 53410 and 53411; and

WHEREAS, in compliance with the Charter and San Diego Municipal Code, the Council now desires to submit to the voters at the Municipal Special Election one ballot measure authorizing a bond issuance not to exceed \$900 million for Affordable Housing, as detailed in this Ordinance, and fixing the maximum rate of interest to be paid thereon; and

WHEREAS, this Ordinance requires a two-thirds vote of the Council for approval, which will authorize the measure to be submitted to voters in the City of San Diego; and

WHEREAS, the Bond Measure requires approval by a two-thirds majority of the local electorate voting on the measure; NOW, THEREFORE,

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

Section 1. One measure is hereby submitted to the qualified voters of the City of San Diego at the Municipal Special Election to be held on November 3, 2020, to be consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

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**MEASURE**

**AUTHORIZATION FOR THE CITY OF SAN DIEGO TO ISSUE GENERAL  
OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$900 MILLION TO  
GENERATE FUNDING FOR PERMANENT SUPPORTIVE AND AFFORDABLE  
HOUSING**

The San Diego City Council (Council) recognizes the existence of a housing crisis in the City of San Diego (City). Rising costs of home ownership and the increasing cost of rental units have resulted in an increasing number of homeless individuals. The latest homeless count revealed a total of 4,887 homeless individuals in the City, with 2,283 unsheltered.

The Council is placing this general obligation bond measure (Bond Measure) on the ballot which, if approved, would authorize the City to issue and sell taxable or tax-exempt bonds in accordance with the City Charter and pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 and including Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (collectively, the Bond Law), in an amount not to exceed \$900 million, for the acquisition or improvement of real property in order to provide within the City permanent supportive and affordable housing for vulnerable populations (Affordable Housing).

For purposes of the Bond Measure, the following definitions will apply:

“Vulnerable populations” includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses.

The following definitions shall apply, as cited above in the definition of “vulnerable populations:”

(1) “Extremely low income” includes individuals and families whose income does not exceed 30 percent of area median income, as established and revised periodically by the U.S. Department of Housing and Urban Development (HUD) for the County of San Diego;

(2) “Very low income” includes individuals and families whose income does not exceed 50 percent of area median income, as established and revised periodically by HUD for the County of San Diego; and

(3) “Low income” includes individuals and families whose income does not exceed 80 percent of area median income, as established and revised periodically by HUD for the County of San Diego.

The Affordable Housing may be provided at below-market rates and may also be provided in connection with supportive mental health and substance abuse services.

Bond proceeds used for vulnerable populations may also be used to fund:

- (a) 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
- (b) 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.

The Council views housing as a critical need of vulnerable populations, without which individuals in these populations are unlikely to achieve stability. Creating and improving housing for the City’s vulnerable populations is consistent with the City’s mission to plan for the needs of a dynamic community, provide quality services and promote a healthy, safe, and prosperous community for all.

## OVERVIEW AND ACCOUNTABILITY SAFEGUARDS

### Statement of Purpose

The specific purpose of the Bond Measure is to fund the acquisition or improvement of real property to provide Affordable Housing to reduce homelessness in the City. Bond proceeds will be used to assist “vulnerable populations,” which includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses.

Bond proceeds may also be used for the following: (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.

Bond proceeds may also be used, as part of the acquisition or improvement of real property, to provide the Affordable Housing (1) to pay the legal or other fees incidental to or connected with the authorization, issuance, and sale of the bonds and (2) to pay the costs of printing the bonds and other costs and expenses incidental to or connected with the authorization, issuance, and sale of the bonds (together, Costs of Issuance).

The Bond Measure responds to needs identified in the Resolution of Necessity adopted by the Council on January 14, 2020, as Resolution No. R-312816, which identified the need for more than 5,000 new homes for those who are homeless or at risk of becoming homeless.

The City intends to distribute the new Affordable Housing across the City and to leverage the bond proceeds by attracting both private and public matching funds, including from state and federal sources. Different forms of assistance for the specified vulnerable populations may be provided based on programs and spending as determined by the Council.

The proceeds of any bonds issued pursuant to this Bond Measure shall be applied only to these specific purposes.

**Applicability**

This Bond Measure, if approved, will apply to all taxable real property within the City. Within 3 months of the certification of the voters' approval of this Bond Measure, the Council shall introduce an enforceable ordinance (Subsequent Ordinance) that, if adopted, would provide that certain developers/owners of real property (Developers) will be eligible to receive a credit (Credit) or reimbursement (Reimbursement) in an amount equal to the amount of Affordable Housing Tax they pay. Developers subject to either the Inclusionary Affordable Housing Regulations, codified in Chapter 14, Article 2, Division 13 of the Municipal Code, or Housing Impact Fees on Commercial Development, codified in Chapter 9, Article 8, Division 6 of the Municipal Code (collectively, the Ordinances), will be entitled to the Credit which will be applied toward fees the Developers have paid pursuant to the Ordinances to support the supply of, or the costs of, constructing actual units that qualify as Affordable Housing (Inclusionary Housing/Linkage Fees). Developers that elect or have previously elected to construct Affordable Housing units as required by the Ordinances will be entitled to reimbursement (Reimbursement) in the amount of the Inclusionary Housing/Linkage Fees those Developers would have paid pursuant to the Ordinances. The amount of the Credit or Reimbursement received by Developers may never exceed the total amount of Inclusionary Housing/Linkage Fees paid, or that would

have been paid, by the Developers. Guidelines for the application of the Credit or Reimbursement will be delineated in the Subsequent Ordinance.

**Principal Amount and Estimated Cost**

This Bond Measure, if approved, would authorize the City to issue and sell taxable or tax-exempt bonds in accordance with the Bond Law in a principal amount not to exceed \$900 million, which is also the estimated cost of the proposed Affordable Housing.

If bonds are approved, the City expects to sell the bonds in phases, as qualified projects are identified and ready to be funded. The City expects to sell bonds in multiple series over 7 years from the issuance date of the first series, for a total not to exceed \$900 million.

**Maximum Interest Rate**

The rate of interest to be paid on the bonds shall be market rates at the time of their issuance. However, the maximum rate of interest allowed to be paid on the bonds shall be eight percent (8%). Said interest shall be payable semiannually except that interest for the first year after the date of the bonds may be made payable at the end of said year.

**Special Bond Proceeds Account**

The proceeds of the bonds issued pursuant to this measure shall be deposited in a special account created by the City.

**Administration**

The program funds will be administered by the San Diego Housing Commission (Housing Commission), reporting to the Council as the City of San Diego Housing Authority.

**Annual Plan**

Bond proceeds will be used and expended in accordance with an annual allocation plan adopted by the Council. Proceeds will pay for costs associated with acquiring and improving real



properties, as well as Costs of Issuance. Bond proceeds will not be used to finance services or operations, nor are they intended to entirely replace existing funding sources currently dedicated to developing similar Affordable Housing or facilities that provide homeless services.

### **Annual Report**

The City's Chief Operating Officer, working with the City's Department of Finance and the Housing Commission, will ensure that an annual report is prepared pursuant to California Government Code section 53411, describing the amount of bond proceeds collected and expended, and the status of every project required or authorized to be funded with such proceeds. The parties responsible for the report shall ensure that it is submitted each year to the Council and filed with the City Clerk.

### **Citizens' Oversight Committee**

An advisory Citizens' Oversight Committee (Committee) composed of representatives or professionals in the areas of public finance, housing, homeless services, community and economic development, and architecture, will be established by ordinance of the Council.

Committee members will be appointed as stated in the ordinance, and in accordance with the City Charter's appointment procedures, similar to the manner that appointments are made to advisory boards under San Diego Charter section 43(a). In this case, however, the Committee will advise the Housing Commission. The Committee's duties, to be included in the ordinance, will include reviewing all proposed Affordable Housing projects and receiving progress reports on the Affordable Housing projects funded with the bond proceeds. The Committee will also be tasked with reviewing the Annual Report each year to ensure fiscal accountability, and in turn will report on its review to the Council.

**Independent and External Audit**

An external auditor will review the spending of bond proceeds to ensure accountability. The auditor will be selected by the Committee and confirmed by the Council after a competitive process that follows City contracting practices.

**Severability**

If any provision of this Bond Measure, or its application to any person or circumstance is determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Bond Measure and, to that end, the provisions of this Bond Measure are severable.

**TAX RATE STATEMENT**

A Municipal Special Election will be held in the City of San Diego, State of California (City) on November 3, 2020, to ask voters to authorize the sale of general obligation bonds of the City, in an amount not to exceed \$900 million, to mitigate the City's housing crisis. Bond proceeds will be used to provide permanent supportive and affordable housing for vulnerable populations (Affordable Housing), which will help to reduce homelessness in the City. Bond proceeds will be used to assist "vulnerable populations," which includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses.

The 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.

The proceeds of any bonds issued pursuant to this Bond Measure shall be applied only to these specific purposes.

If the Bond Measure is approved, the City expects to issue and sell the taxable or tax-exempt bonds in accordance with the Bond Law in multiple series over 7 years from the issuance date of the first series. Principal and interest on the bonds will be payable from the proceeds of taxes levied upon taxable property located within the City. The following information is provided in compliance with Sections 9400 to 9404 of the Elections Code of the State of California:

- The best current estimate of the tax that would be required to be levied to fund this Bond Measure during the first fiscal year of the sale of the first series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is \$0.00314 per \$100 (\$3.14 per \$100,000) of assessed valuation in fiscal year 2022.
- The best current estimate of the tax that would be required to be levied to fund this Bond Measure during the first fiscal year of the sale of the last series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is \$0.02085 per \$100 (\$20.85 per \$100,000) of assessed valuation in fiscal year 2028.
- The best current estimate of the highest tax rate that would be required to be levied to fund this Bond Measure, based on estimated assessed valuations

available at the time of filing of this statement, is \$0.02085 per \$100 (\$20.85 per \$100,000) of assessed valuation in fiscal years 2028 through 2062.

- The best current estimate of the final fiscal year in which the tax is anticipated to be collected is 2068.
- The best current estimate of the total debt service, including the principal and interest, that would be required to be repaid if all of the bonds are issued and sold is approximately \$2.1 billion.

Voters are directed to the fact that the foregoing information is based upon the City's projections and estimates only, which are not binding upon the City. Further, voters should note that the above estimates do not account for impacts to the tax rate if the Subsequent Ordinance is adopted.

The estimates provided herein do not account for the taxes levied to pay for bonds issued by the City pursuant to prior ballot measures approved by voters authorizing the issuance of bonds, if any.

Voters should note:

- The actual tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount of bonds sold at any given sale, market interest rates at the time of each bond sale, the credit quality of the City at the time each issue is sold, and actual assessed valuations of the real property being taxed over the term of repayment of the bonds, among other factors.

- The actual dates of issuance and sale of the bonds and the amount sold at any given time will be governed by the Affordable Housing needs of the City, as the City may determine, through the Committee and the Housing Authority, and other factors.
- The actual interest rates at which the bonds will be issued and sold will depend on the bond market at the time of each sale.
- Actual future assessed valuations of the real property being taxed pursuant to this Bond Measure will depend upon the amount and value of taxable real property within the City as determined in the annual assessment and the equalization process conducted by the County of San Diego.

#### END OF MEASURE

Section 2. The Bond Measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form to be determined by the Council, in compliance with the San Diego Municipal Code.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>MEASURE ____ . GENERAL OBLIGATION BONDS FOR AFFORDABLE HOUSING.</b> To provide permanent and supportive housing for extremely low- to low-income individuals and families, including supportive mental health and substance abuse services, for populations including veterans, seniors, the disabled, youth and the homeless, shall the City of San Diego issue up to \$900 million in general obligation bonds financed by property tax assessments estimated between approximately \$3 and \$21 per each \$100,000 of assessed valuation for fiscal years 2022 through 2068?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the measure.

Section 5. Passage of the Bond Measure requires the affirmative vote of two-thirds of those qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause this Ordinance or a digest of this Ordinance to be published once in the official newspaper following this Ordinance's adoption by the Council. Further, this Ordinance shall be published once a day for at least seven days in a newspaper published at least six days a week in the city, or once a week for two weeks in a newspaper published less than six days a week in the city. The first of said publications shall, in either event, be within fifteen days after the adoption of this Ordinance.

Section 7. Pursuant to San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted to the San Diego County Registrar of Voters under the deadline for publication of ballot materials. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this Ordinance is dispensed with prior to its passage, a written or printed copy having been available to the Council and the public prior to the day of its passage.

Section 9. This Ordinance may be passed by the Council on the date of introduction pursuant to Charter section 275(c) and shall take effect upon final passage pursuant to Charter sections 295(a) and 295(d).

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Bret A. Bartolotta  
Bret A. Bartolotta  
Deputy City Attorney

SBS:BAB:jdf  
07/08/2020  
07/14/2020 REV.  
08/06/2020 COR. COPY  
Or. Dept.: Rules Committee  
Doc. No. 2420326\_3

I certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 7/14/2020.

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

(Note: See attached memorandum and signature page)

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

**MEMORANDUM**

**DATE:** August 6, 2020  
**TO:** Council President Georgette Gómez  
**FROM:** Bret A. Bartolotta, Deputy City Attorney  
**SUBJECT:** Item #S502A, July 14, 2020

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This Office has prepared a corrected copy of San Diego Ordinance O-21219. Specifically, in the second line of the ballot question, the word "extremely" was inadvertently stricken, the word "and" was inadvertently substituted for "to," and the word "moderate" was inadvertently inserted instead of "low." These were typographical errors. We have prepared a corrected copy to reflect the language as it should appear on the November 2020 ballot. It should read as follows:

**MEASURE \_\_\_\_ . GENERAL OBLIGATION BONDS FOR AFFORDABLE HOUSING.**

To provide permanent and supportive housing for extremely low- to low-income individuals and families, including supportive mental health and substance abuse services, for populations including veterans, seniors, the disabled, youth and the homeless, shall the City of San Diego issue up to \$900 million in general obligation bonds financed by property tax assessments estimated between approximately \$3 and \$21 per each \$100,000 of assessed valuation for fiscal years 2022 through 2068?

BAB:jdf  
Enclosure  
cc: Haley Lesser, Director of Legislative Affairs



Section 9. This Ordinance may be passed by the Council on the date of introduction pursuant to Charter section 275(c) and shall take effect upon final passage pursuant to Charter sections 295(a) and 295(d).

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Bret A. Bartolotta  
Bret A. Bartolotta  
Deputy City Attorney

SBS:BAB:jdf  
07/08/2020  
07/14/2020 REV.  
Or. Dept.: Rules Committee  
Doc. No. 2420326\_2

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 07/14/2020.

ELIZABETH S. MALAND  
City Clerk

By /s/Linda Irvin  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

(Note: This ordinance was returned unsigned by the Mayor's Office to the Office of the City Clerk on July 29, 2020. Pursuant to the San Diego Charter Section 295(a)(2), the Mayor has 10 business days from the date the ordinance was transmitted to sign or veto the ordinance, said deadline being close of business on July 29, 2020. Therefore the date of expiration of that time shall be deemed the date of its final passage.)

#330 1/14/20

(R-2020-199)

RESOLUTION NUMBER R- 312816

DATE OF FINAL PASSAGE JAN 29 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO ESTABLISHING THE NECESSITY OF A  
PROPOSED ISSUANCE OF GENERAL OBLIGATION BONDS  
TO BE SUBMITTED FOR APPROVAL BY A TWO-THIRDS  
VOTE OF THE QUALIFIED VOTERS OF THE CITY TO  
FINANCE THE DEVELOPMENT OF AFFORDABLE  
HOUSING.

WHEREAS, the Council of the City of San Diego (Council) recognizes the existence of a citywide housing crisis, in which the rising cost of home ownership and the increasing cost of rental units have resulted in a high number of individuals experiencing homelessness within the City of San Diego (City); and

WHEREAS, even though housing for vulnerable populations is being built, the number of units available to these vulnerable populations does not satisfy the demand; and

WHEREAS, the cost of housing in San Diego is twice the average among other metropolitan areas nationally according to the San Diego Regional Economic Development Corporation's 2019 *Inclusive Growth Web Study*; and

WHEREAS, in January 2019, 5,082 persons were identified as homeless in a "point-in-time count" (2019 Count) within the City, including 572 identified as Chronically Homeless individuals according to the San Diego Regional Task Force on the Homeless; and

WHEREAS, the City represents 46 percent of the County of San Diego's (County's) population, but 63 percent of the County's population experiencing homelessness, according to the Corporation for Supportive Housing's *City of San Diego Community Action Plan on Homelessness* (Action Plan); and

WHEREAS, the 2019 Count has shown steady numbers of people experiencing homelessness in the City over the last five years, yet data from the Homeless Management Information System indicates that 68 percent of persons who entered a shelter or temporary housing program in the region in 2017 were identified as being homeless for the first time, according to a September 2019 Policy Brief entitled *Housing Instability in San Diego County* (Policy Brief); and

WHEREAS, more than half of those counted in the 2019 Count were unsheltered (2,600), a significantly higher rate than the national ratio of sheltered people to unsheltered people, according to the Action Plan; and

WHEREAS, the 2019 Count shows that of the persons who are living unsheltered, 572 experience chronic homelessness; and

WHEREAS, the 2019 Count estimated that 795 households experiencing homelessness in the County were members of a family composed of both adults and children experiencing homelessness; and

WHEREAS, the Council declared a Shelter Crisis on November 10, 2010, and a second declaration related to a Hepatitis A outbreak on October 3, 2017, documented in San Diego Resolutions R-305325 and R-311331; and

WHEREAS, the City has adopted numerous policies that emphasize "Housing First" principles to prioritize the provision of housing as an essential prerequisite to ensure success in helping unsheltered individuals seek stability and transition from the streets into housing; and

WHEREAS, in 2017 and 2018, the City opened three bridge shelters and found through programmatic evaluation of operations that the rates of finding permanent housing for the homeless are below initial goals, primarily because of a lack of housing stock according to the

*San Diego Temporary Bridge Shelter Evaluation* prepared for the San Diego Housing Commission; and

WHEREAS, for surveys conducted with the 2019 Count, most respondents cited rental subsidies as being the most helpful service to assist in finding stable housing; and

WHEREAS, the Council accepted the Action Plan, which lays out an overview of needs for the City's homeless service system, along with recommended solutions and a total estimated cost of \$1,939,144,441 to complete; and

WHEREAS, the most cited barrier in the Action Plan to successfully placing people experiencing homelessness into permanent solutions was the lack of low-income and supportive housing in the market, particularly for people at or below 30 percent of San Diego area median income (AMI); and

WHEREAS, the Action Plan explains that this lack of housing creates pressure in the homeless response system and inhibits the ability of the system to successfully identify and provide permanent housing to people experiencing homelessness; and

WHEREAS, cost burden is the most common housing problem experienced by both renter and owner households, and most of the cost-burdened households are low- or moderate-income (LMI) households, according to the City's *Fiscal Year 2020-2024 Consolidated Plan*, (Consolidated Plan); and

WHEREAS, the Consolidated Plan also states that of all renter households that are cost-burdened, 85 percent are LMI households and, of all owner households that are cost-burdened, 52 percent are LMI households; and

WHEREAS, among individuals who self-identified as housing unstable and called 2-1-1 San Diego seeking housing assistance, 25 percent became homeless within four months of making the call, according to the Policy Brief; and

WHEREAS, the Policy Brief also reports that half of the 27,625 people who called 2-1-1 San Diego seeking a form of housing assistance reported being part of a family, including children under age 18; and

WHEREAS, 28 percent of the City's households have at least one person age 62 or older, and these senior households tend to have lower incomes and experience greater cost burdens with housing, according to the Consolidated Plan; and

WHEREAS, the County has the third-largest veteran population in the United States, according to the Consolidated Plan; and

WHEREAS, veterans account for 13 percent of unsheltered people in the City, and represent 59 percent of the City's persons experiencing chronic homelessness, according to the Action Plan; and

WHEREAS, the City's *2013-2020 Housing Element* (Housing Element) identifies the City's housing needs and quantifies objectives, and the City's policies and programs include providing support to assist the development of affordable or supportive housing for special needs populations, which include individuals and families experiencing homelessness, veterans, seniors, youth, persons with disabilities and lower-income families with children; and

WHEREAS, of the housing production needs identified in the Housing Element, the City has constructed only 10.2 percent of the units identified for very low-income level persons and only 15.7 percent of the units identified for low income level persons; and

WHEREAS the *2018 Housing Inventory Annual Report* found San Diego had 0.38 housing units per person compared to other cities such as Denver, Colorado and Seattle, Washington, with 0.45 and 0.48, respectively, thereby providing fewer housing choices per person, according to the Action Plan; and

WHEREAS, the Action Plan cites the need for 5,400 new units of supportive housing, low-income housing, or rapid short-term rental assistance and services over 10 years and 767 diversion resources per year; and

WHEREAS, by accepting the Action Plan, the Council has adopted three goals related to homelessness: to decrease unsheltered homelessness by 50 percent, end veteran homelessness, and prevent and end youth homelessness as outlined in the San Diego County Coordinated Community Plan to End Youth Homelessness; and

WHEREAS, the Action Plan recommends that 60 percent of the new supportive housing units and 80 percent of the rapid rehousing and low-income housing units come online in the first four years of the plan; and

WHEREAS, the Action Plan estimates that 90 percent of those who identify as chronically homeless in the 2019 Count need supportive housing, which is affordable housing with supportive services, to end their homelessness; and

WHEREAS, the Action Plan states that the City and County have only 119 shelter beds per 100,000 residents, falling to 17<sup>th</sup> nationwide, with comparable California regions such as San Francisco (971 beds per 100,000) and Long Beach (353 beds per 100,000) showing the need for additional resources; and

WHEREAS, the Action Plan cites an increase in the production of permanent housing solutions as one of the five key strategies to resolving homelessness in San Diego; and

WHEREAS, the San Diego Housing Commission (Housing Commission) maintains and allocates funding for affordable housing through local and federal resources, including HOME Investment Partnerships Program funds that the U.S. Department of Housing and Urban Development awards to the City and the Housing Commission administers, and the City's Affordable Housing Fund, which the Housing Commission also administers and which in Fiscal

Year 2019 leveraged approximately \$5 in additional funding for every \$1 from the Affordable Housing Fund, according to the Fiscal Year 2019 City Affordable Housing Fund Annual Report; and

WHEREAS, with increased local funding, the Housing Commission can assist private developers of affordable housing to meet the critical needs of San Diegans experiencing homelessness, including veterans, seniors, youth, persons with disabilities, and lower-income families with children, by leveraging state housing funds; and

WHEREAS, given limited resources and other priority endeavors in the City to ensure public safety, infrastructure improvements and a growing economy, additional funding for housing is needed to achieve the goals in the Action Plan; and

WHEREAS, the Council finds that the issuance of general obligation bonds is the most cost-effective way to raise funds to acquire and construct permanent supportive and affordable housing for vulnerable populations such as those described above; and

WHEREAS, in order for the City to issue general obligation bonds for this purpose, it is necessary to prepare an ordinance submitting a ballot measure to incur general obligation bonded indebtedness to the qualified voters of the City; and

WHEREAS, the City is authorized to issue general obligation bonds to finance municipal improvements in accordance with the City Charter and pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 and including Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (collectively, the Bond Law); and

WHEREAS, the California Government Code and the City Charter authorize the City to purchase, lease, receive, hold, and enjoy real and personal property, and control and dispose of property for the common benefit and as necessary or proper for municipal purposes, including

without limitation for affordable housing purposes under terms and conditions the City deems best suited to the provision of affordable housing pursuant to applicable laws; and

WHEREAS, real property of the City, in accordance with the City's best interests, may be used to provide permanent supportive housing for San Diegans experiencing homelessness and housing affordable to veterans, seniors, youth, persons with disabilities, and lower-income families as defined either in this Resolution, by Section 50079.3 of the California Health and Safety Code or by the United States Department of Housing and Urban Development; and

WHEREAS, financing permanent supportive housing, affordable housing, and other facilities at which supportive services may be provided (Affordable Housing), which may be owned by the City, other public entities, nonprofit or private entities, serves a public purpose; and

WHEREAS, the City desires to cause the acquisition, construction, or completion of Affordable Housing in order to improve public safety, reduce homelessness, and for other valid public purposes related to the provision of Affordable Housing constituting municipal improvements within the City, to the full extent permitted by applicable law; and

WHEREAS, the City will seek to leverage its resources to attract both private funding and matching funds from both state and federal sources to provide additional resources for such Affordable Housing; and

WHEREAS, the Council thus expresses its intention to submit a bond measure to the qualified voters of the City at the November 3, 2020 Municipal Special Election for the purpose of authorizing general obligation bonds to be spent on increasing the availability of Affordable Housing within the City; and



WHEREAS, in order to initiate proceedings under the Bond Law to provide for the acquisition and improvement of real property to construct Affordable Housing, the Council must make certain findings and determinations; and

WHEREAS, pursuant to the Bond Law, a two-thirds vote of the Council will be required to pass the Ordinance submitting the bond measure to the qualified voters of the City at the November 3, 2020 Municipal Special Election; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City, as follows:

Section 1. The Council hereby finds and determines that the statements set forth above in the recitals to this Resolution are true and correct.

Section 2. The public interest or necessity demand the acquisition, construction or improvement of (a) Affordable Housing to provide extremely low-income, very low-income or low-income individuals, seniors, youth, veterans, and families who are homeless, chronically homeless or at risk of homelessness with shelter, which includes facilities from which assistance and services, such as mental health treatment, health care, drug and alcohol treatment education and job training, may be provided and (b) 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.

Section 3. The City Clerk's Office is hereby requested to present to the Council the necessary resolutions and ordinance that, upon adoption, would submit a ballot measure to incur general obligation bonded indebtedness in the maximum aggregate principal amount, and for the purposes set forth above, to the qualified voters of the City at the November 3, 2020 Municipal Special Election.

Section 4. This action by the City Council, making findings for initiation of a future bond measure to be considered at a later date, is not a "project" for purposes of the California

Environmental Quality Act (CEQA) in accordance with CEQA Guidelines section 15378(b)(5), as this is an administrative action involving no commitment to any specific projects at any specific location, and will not result in a direct or indirect physical change in the environment. Any future bond measure, and further, any affordable housing projects funded by such bond proceeds, will require its own environmental review.

Section 5. This resolution shall take effect immediately upon its adoption.

APPROVED: MARA W. ELLIOTT, City Attorney

By

  
Bret A. Bartolotta  
Deputy City Attorney

BAB:jdf  
12/18/2019  
Or.Dept: Council District 3  
Doc. No.: 2210816

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of 1/14/2020.

ELIZABETH S. MALAND  
City Clerk

By

  
Deputy City Clerk

Approved: \_\_\_\_\_

(date)

KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_

(date)

KEVIN L. FAULCONER, Mayor

(Note: This resolution was returned unsigned by the Mayor's Office to the Office of the City Clerk on January 29, 2020. Pursuant to the San Diego Charter Section 295(a)(2), the Mayor has 10 business days from the date the resolution was transmitted to sign or veto the resolution, said deadline being close of business on January 29, 2020. Therefore the date of expiration of that time shall be deemed the date of its final passage.)

Passed by the Council of The City of San Diego on JAN 14 2020 by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 29 2020

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Stacy Brady Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 312816

Passed by the Council of The City of San Diego on JUL 14 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 29 2020.

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy  
for Linda I.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 14 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By [Signature], Deputy  
for Linda I.

Office of the City Clerk, San Diego, California

Ordinance Number O- **21219**

Passed by the Council of The City of San Diego on July 14, 2020, by the following vote:

**YEAS:** **BRY, CAMPBELL, WARD, MONTGOMERY, MORENO, GÓMEZ.**

**NAYS:** **KERSEY, CATE, SHERMAN.**

**NOT PRESENT:** **NONE.**

**RECUSED:** **NONE.**

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: **Matthew R. Hilario**, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of ORDINANCE NO. **O-21219** (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was passed on the day of its introduction, to wit, on **July 14, 2020**, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter. The final passage date is **July 29, 2020**.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By:  \_\_\_\_\_, Deputy

ORDINANCE NUMBER O- 21211 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 07 2020

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, BY REPEALING SECTION 43(d), BY AMENDING SECTIONS 40 AND 41, AND BY ADDING A NEW SECTION 41.2, AND BY AMENDING ARTICLE VIII, BY AMENDING SECTION 115, RELATING TO THE DISSOLUTION OF THE COMMUNITY REVIEW BOARD ON POLICE PRACTICES AND THE ESTABLISHMENT OF A COMMISSION ON POLICE PRACTICES.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by San Diego Ordinance O-21214, introduced and adopted on July 7, 2020, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 3, 2020, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, on June 21, 2019, Andrea St. Julian, on behalf of Women Occupy San Diego, filed with the Office of the City Clerk of the City of San Diego (City), a proposed amendment to the Charter (Proposal or proposed Charter amendment), related to the dissolution of the existing Community Review Board on Police Practices and the establishment of a Commission on Police Practices; and

WHEREAS, the Proposal was submitted to the City in accordance with Council Policy 000-21 (Oct. 31, 2017), titled "Submission of Ballot Proposals," for consideration for the November 2020 election; and

WHEREAS, on July 31, 2019, in accordance with Council Policy 000-21, the Council's Rules Committee considered the Proposal and voted to forward it to the Public Safety and Livable Neighborhoods (PS & LN) Committee for the second committee review and further policy direction; and

WHEREAS, on September 18, 2019, the PS & LN Committee voted to modify some of the language in the Proposal and to forward it to the City Attorney for legal review and analysis and to draft legally appropriate language, and to return the Proposal to the PS & LN Committee for further consideration; and

WHEREAS, on October 23, 2019, the PS & LN Committee voted to forward the revised Proposal to the Council to determine if the Council wished to authorize the meet-and-confer process related to the proposed Charter amendment, so that it could be considered for the November 2020 ballot after the meet-and-confer process concluded; and

WHEREAS, on November 5, 2019, by San Diego Resolution R-312737, the Council voted to direct the City's Management Team for labor negotiations to provide written notice to the City's recognized employee organizations of the Council's desire to place the Proposal on a future ballot for consideration by City voters; and

WHEREAS, on November 7, 2019, in accordance with the Meyers-Milias-Brown Act (MMBA) and Council Policy 300-06, the City provided notice of the Proposal to the City's six recognized employee organizations: the Deputy City Attorneys Association (DCAA), IAFF

Local 145, Local 127 AFCME, the San Diego Municipal Employees Association (MEA), the San Diego Police Officers Association (POA), and Teamsters Local 911. Only DCAA, MEA, and POA requested to meet; and

WHEREAS, on November 26, 2019, the City met with DCAA, MEA, and POA for discussion of the Proposal. DCAA and MEA identified no impacts related to the proposed Charter amendment that they wished to discuss with the City; and

WHEREAS, the City continued discussions with POA on the substance of the proposed Charter amendment, on February 4, 2020, March 3, 2020, and April 29, 2020; and

WHEREAS, on May 21, 2020, the City and reached agreement, which was approved by the Council on June 23, 2020, by San Diego Resolution R-313121 (June 29, 2020); and

WHEREAS, the Council now wishes to submit to the voters at the November 3, 2020, Municipal Special Election one measure amending 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"); and

WHEREAS, the proposed Charter amendment dissolves the Community Review Board on Police Practices and establishes a Commission on Police Practices (Commission), which is an investigatory body of the City, to be composed of community members appointed by the City Council, who will have subpoena powers, independent legal counsel, and City staff outside of the Police Department and Mayoral supervision; and



WHEREAS, the proposed Commission must independently investigate all deaths occurring while a person is in the custody of the Police Department; all deaths resulting from interaction with an officer of the Police Department; and all City police officer-related shootings. The Commission has this duty whether or not a complaint has been made against a police officer or the Police Department. These investigations must be conducted by Commission staff or contractors who are independent of the Police Department, and in accordance with the officer's federal and state law rights; and

WHEREAS, the proposed Commission may, but is not required to, investigate complaints against officers of the Police Department, which do not involve in-custody deaths, deaths resulting from an interaction with a police officer, or police officer-related shootings. However, the Commission must not investigate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified; and

WHEREAS, the proposed Commission must receive, register, review and evaluate all complaints against officers of the Police Department, except complaints where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified; and

WHEREAS, the proposed Commission may, but is not required to, review, evaluate, and investigate allegations of inappropriate sexual conduct, physical assault, or domestic violence by officers of the Police Department, whether or not a written complaint has been submitted to the Commission or the Police Department; and

WHEREAS, the proposed Commission must review and evaluate all factual findings and evidentiary conclusions of the Police Department arising from investigations of police misconduct, and all disciplinary decisions proposed by the Chief of Police or designee following sustained findings of police misconduct, with the terms “police misconduct” and “police officer misconduct,” as used in the section, to be defined by the Council by ordinance; and

WHEREAS, the proposed Commission must review and evaluate the Police Department’s compliance with federal, state, and local reporting laws and requirements, and must prepare and submit semi-annual reports to the Mayor and Council regarding the exercise of the Commission’s duties and powers. These reports must be public, but must not disclose any information required to be kept confidential by controlling federal or state law; and

WHEREAS, the proposed Commission has other duties and powers, as specified in the proposed Charter amendment or to be specified by Council, by ordinance, if the proposed Charter amendment is approved by the City’s qualified voters; and

WHEREAS, the Council’s proposal of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. One measure amending the City Charter by amending Article V, by repealing Section 43(d), by amending Sections 40 and 41, and by adding a new Section 41.2, and by amending Article VIII, by amending Section 115, all related to dissolution of the Community Review Board on Police Practices and establishment of a Commission on Police Practices, is hereby submitted to the qualified voters at the Municipal Special Election to be held on November

3, 2020, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

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**MEASURE**

**ARTICLE V**

**EXECUTIVE AND ADMINISTRATIVE SERVICE**

**Section 40: City Attorney**

A City Attorney shall be elected for a term of four years in the manner prescribed by Section 10 of this Charter. The City Attorney shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day that is not a weekend or a holiday.

No person shall serve more than two consecutive four-year terms as City Attorney. If for any reason a person serves a partial term as City Attorney in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.

The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties, except in the case of the Ethics Commission and the Commission on Police Practices, which each shall have its own legal counsel independent of the

City Attorney. The attorney and his or her deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office. The City Attorney must be licensed to practice law in the State of California and must have been so licensed for at least ten years at the time he or she submits nominating petitions.

The City Attorney shall appoint such deputies, assistants, and employees to serve him or her, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter. The City Attorney may appoint no more than six Assistant City Attorneys and four other assistants, who shall serve at the pleasure of the City Attorney and may be removed by the City Attorney at any time.

No Deputy City Attorney, who has served continuously as a Deputy City Attorney in the Office of the City Attorney for one year or more shall be terminated or suspended without good cause, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in the Office of the City Attorney.

To ensure that Deputy City Attorneys conduct their legal work with the highest level of integrity, honesty, and professionalism, good cause for purposes of

termination or suspension includes, but is not limited to, failure to comply with the California Rules of Professional Conduct.

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

The City Attorney shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper,

documents, or evidence necessary to be used in any suit, or required for the purpose of the office.

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

The City Attorney shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or commission which fails to perform any duty expressly enjoined by law or ordinance.

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

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

Effective December 10, 2020, the salary paid to the City Attorney will be equal to the salary prescribed by law and as adjusted by law for judges of the Superior Court for the State of California, provided that the salary of the City Attorney may not be decreased during a term of office.

Whenever a vacancy exists in the office of the City Attorney, an Assistant City Attorney, previously designated by the City Attorney to fulfill duties in the event of a vacancy and whose name has been recorded with the City Clerk as the Interim City Attorney in the event of a vacancy, shall fulfill the duties of the City Attorney as the Interim City Attorney until a replacement can be appointed or elected as provided by this Charter. The Interim City Attorney shall have the full authority of the Office.

**Section 41: Commissions**

The Mayor shall appoint, subject to the confirmation of the Council, members of all commissions, established pursuant to this section, except the members of the Commission on Police Practices, whose appointment and service are governed by Section 41.2 of this Charter. Whenever the Mayor does not appoint a member within forty-five (45) days after a vacancy occurs, the Council shall make such appointment. The commissioners shall be limited to two (2) full consecutive terms, with one (1) term intervening before they become eligible for reappointment; and this provision shall apply to anyone who has served two (2) full consecutive terms by January 1972. The terms of commissioners may extend beyond the elective term of the appointing Mayor. The Mayor shall fill, subject to the confirmation of the Council, any vacancy and such appointment shall be for

the unexpired term of the office being filled. The City Council may remove a member of the Civil Service Commission for cause by vote of two-thirds (2/3) of the members of the Council. However, before the Council may remove a member of the Civil Service Commission, written charges shall be made against the commission member and an opportunity afforded for public hearing before the Council upon such charges. The City Council may remove members of all other commissions established pursuant to this section for cause by vote of a majority of the members of the Council.

(a) Funds Commission. [No change in text.]

(b) Civil Service Commission. [No change in text.]

(c) City Planning Commission. [No change in text.]

(d) Ethics Commission. [No change in text.]

**Section 41.2: Commission on Police Practices**

A Commission on Police Practices is established, which supersedes the Community Review Board on Police Practices. The Commission on Police Practices is referred to in this section as the "Commission," the Police Department of the City of San Diego is referred to as the "Police Department," and an officer of the Police Department is referred to as an "officer" or "police officer."

The Commission is an investigatory body of the City of San Diego, independent of the Mayor and the Police Department.

The Commission has certain mandatory duties and discretionary powers, as described in this section. The City Council may, by ordinance, mandate additional



duties and authorize additional powers for the Commission, consistent with this section and applicable federal and state law. The City Council may also establish rules and procedures to implement this section. Subject to any limitations set forth in governing federal or state law, the Commission is authorized to refer any matter before the Commission to the grand jury, district attorney, or other governmental agency that is authorized by law to investigate the activities of a law enforcement agency.

The City Council must appoint the members of the Commission. The City Council may remove members of the Commission for cause by a vote of a majority of the members of the City Council. The City Council must, by ordinance, establish the number, term length, qualifications, and method for appointing members of the Commission, and define the circumstances and process under which the City Council determines there is cause for removal of a member of the Commission.

The Commission will be composed of members of the Community Review Board on Police Practices serving at the time this section takes effect, until the City Council has formally appointed members to the Commission, in accordance with the ordinance described in this section.

The City Council must appoint and establish the initial annual compensation for the Commission's Executive Director, who serves at the direction and will of the Commission. The Commission must conduct the annual performance review of the Executive Director, and may modify the Executive Director's annual compensation, consistent with the compensation schedules established by the City

Council in adopting the annual salary ordinance. The Executive Director serves as the appointing authority for additional employees assisting the Commission, who must be appointed and serve in accordance with this Charter. The Executive Director is authorized to employ outside experts or consultants to assist with the Commission's work on a contractual basis, consistent with the City's contracting rules. The Commission must retain its own legal counsel, who is independent of the City Attorney, for legal support and advice in carrying out the Commission's duties and actions.

The Executive Director serves as custodian of the Commission's records and must comply with all applicable laws related to records retention, protection, confidentiality, and disclosure. The Police Department must make available its records, relating to any matter under investigation, review, or evaluation by the Commission, subject to the restrictions of applicable federal and state law.

The Commission has the power to conduct investigatory proceedings, subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, and require by subpoena the production of any books, papers, records, or other items material to the performance of the Commission's duties or exercise of its powers, subject to the restrictions of and in accordance with this section and applicable federal and state law. The Commission may enforce its administrative subpoenas by initiating contempt procedures, upon a majority vote of the Commission and in the manner provided by applicable state law.

The Commission must independently investigate all deaths occurring while a person is in the custody of the Police Department; all deaths resulting from

interaction with an officer of the Police Department; and all City police officer-related shootings. The Commission has this duty whether or not a complaint has been made against a police officer or the Police Department. These investigations must be conducted by Commission staff or contractors who are independent of the Police Department, and in accordance with the officer's federal and state law rights.

The Commission may, but is not required to, investigate complaints against officers of the Police Department, which do not involve in-custody deaths, deaths resulting from an interaction with a police officer, or police officer-related shootings. However, the Commission must not investigate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified.

In determining whether to investigate a complaint that the Commission has the discretionary power, but not the mandatory duty, to investigate, the Commission must consider whether the complaint arises from any of the following: (1) an incident in which the use of force by a City police officer against a person resulted in great bodily injury; (2) dishonesty by a City police officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by another peace officer or custodial officer, including an allegation of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence; (3) an incident that has generated substantial public interest or concern; (4) an incident in which data shows a pattern of misconduct by any Police Department officer; or

(5) an incident in which data shows a pattern of inappropriate policies, procedures, or practices of the Police Department or its members.

The Commission must receive, register, review, and evaluate all complaints against officers of the Police Department, except the Commission must not review or evaluate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified.

The Commission may, but is not required to, review, evaluate, and investigate allegations of inappropriate sexual conduct, physical assault, or domestic violence by officers of the Police Department, whether or not a written complaint has been submitted to the Commission or the Police Department.

The Commission must review and evaluate all factual findings and evidentiary conclusions of the Police Department arising from investigations of police misconduct and all disciplinary decisions proposed by the Chief of Police or designee following sustained findings of police misconduct, with the terms "police misconduct" and "police officer misconduct," to be defined by the City Council by ordinance. The Commission may, but is not required to, review and evaluate the Police Department's administration of discipline arising from sustained complaints, which do not involve allegations of police misconduct, and from matters investigated by the Commission. The Commission may, but is not required to, make recommendations to the Police Department on the discipline of individual officers against whom complaints have been made or about whom the Commission has conducted an investigation.

The Commission must review and evaluate the Police Department's compliance with federal, state, and local reporting laws and requirements. The Commission must also prepare and submit semi-annual reports to the Mayor and City Council regarding the exercise of the Commission's duties and powers. These reports must be public, but must not disclose any information required to be kept confidential by controlling federal or state law.

The Commission may, but is not required to, review and evaluate the policies, procedures, practices, and actions of the Police Department. The Commission may make specific recommendations to the Police Department, the Mayor, and the City Council on any policies, procedures, practices, and actions of the Police Department.

The Chief of Police must consider the Commission's evaluation of proposed police officer discipline, prior to imposition of the discipline, to the extent permitted within applicable federal and state law, and only if the evaluation is completed before the statutory timelines, set forth in the California Public Safety Officers Procedural Bill of Rights or subsequent, applicable state laws, for the Police Department to act on the evaluation. The Chief of Police retains authority and discretion to discipline subordinate employees in the Police Department, in accordance with Section 57 of this Charter.

Any sustained findings of police officer misconduct by the Commission are subject to appeal, as required by California law. These sustained findings may be appealed to the City's Civil Service Commission.

**Section 43: Advisory Boards and Committees**

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

~~(d) Community Review Board on Police Practices. Notwithstanding any other provision of this Charter, the Mayor and City Council shall have the exclusive authority to create and establish a community review board on police practices to review and evaluate citizens' complaints against members of the San Diego Police Department and the San Diego Police Department's administration of discipline arising from such complaints. The Mayor and City Council shall establish such rules and regulations as may be necessary for this board to carry out its functions; provided, however, that such rules and regulations shall be consistent with the laws of the State of California concerning citizens' complaints against peace officers. Nothing in such rules and regulations shall interfere with the board's authority to independently refer a completed citizen complaint 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 board shall review all deaths occurring while a person is in the custody of the San Diego Police Department and all police officer-related shootings. The board shall submit semiannual reports to the Mayor and City Council concerning its evaluation of the San Diego Police Department's investigation of citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law.~~

## ARTICLE VIII

### CIVIL SERVICE

#### Section 115: Civil Service Commission

This Commission shall have supervision over the selection, promotion, and removal of all employees of the City, subject to the Civil Service provisions of this Charter. This Commission shall also conduct and determine appeals of sustained findings of police officer misconduct by the Commission on Police Practices, established by this Charter, as required by California law.

### END OF MEASURE

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Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>MEASURE __. CHARTER AMENDMENTS ESTABLISHING COMMISSION ON POLICE PRACTICES.</b> Shall the City Charter be amended to dissolve the Community Review Board on Police Practices and replace it with a Commission on Police Practices, with members appointed by the City Council, its own staff, subpoena power, independent legal counsel, and authority to investigate police officer misconduct, review complaints against officers, and make recommendations on police officer discipline, police policies, and Police Department legal compliance?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

Section 7. In compliance with San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.



Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/Joan F. Dawson  
Joan F. Dawson  
Senior Deputy City Attorney

JFD:jvg:jdf  
06/19/2020  
07/22/2020 COR. COPY  
Or. Dept.: Public Safety and Livable Neighborhoods Committee  
Doc. No.: 2432154

Passed by the Council of The City of San Diego on JUL 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 07 2020.

AUTHENTICATED BY:

(Seal)

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Sty Brady, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 07 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Sty Brady, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21211

Passed by the Council of The City of San Diego on July 7, 2020, by the following vote:

**YEAS:** **BRY, CAMPBELL, WARD, MONTGOMERY, KERSEY, CATE, SHERMAN,  
MORENO, & GÓMEZ.**

**NAYS:** **NONE.**

**NOT PRESENT:** **NONE.**

**RECUSED:** **NONE.**

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: **Connie Patterson**, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of  
ORDINANCE NO. **O-21211** (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was passed on the day of its introduction, to wit, on  
**July 7, 2020**, said ordinance being of the kind and character authorized for passage on its  
introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such  
reading was dispensed with by a vote of five members of the Council, and that a written  
copy of the ordinance was made available to each member of the Council and the public  
prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: , Deputy

#331A  
717

ORDINANCE NUMBER O- 21212 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 07 2020

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE VI, SECTION 66, TO ESTABLISH DISTRICT-ONLY ELECTIONS FOR MEMBERS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by San Diego Ordinance O- 21214, introduced and adopted on July 7, 2020, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 3, 2020, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, California Constitution, art. IX, 16(a), 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;" and

WHEREAS, Charter section 66 governs the composition and elections of the Board of Education of the San Diego Unified School District (School Board); and

WHEREAS, Charter section 66 directs that the School Board be composed of five members, elected at the same time as the City Council, with the top two vote-getters in individual district primary elections advancing to a general election in the entire San Diego Unified School District (School District); and that School Board members serve four-year terms; and

WHEREAS, the Council now seeks to amend Charter section 66 to provide that School Board members would be elected in general elections by voters in their individual districts, rather than in elections held across the entire School District, and is proposing this ballot measure for that purpose; and

WHEREAS, the district-only election process would be similar to that used for City Council elections; and

WHEREAS, the proposal to amend Charter section 66 to establish district-only elections in both the primary and general elections for School Board members was submitted by Parents for Quality Education and, in accordance with Council Policy 000-21, discussed at hearings of the Council's Rules Committee on July 31, 2019 and May 13, 2020; and

WHEREAS, the Rules Committee voted 5-0 on May 13, 2020 to forward the Charter amendment ballot measure proposal to the Council for consideration for the November 2020 ballot; and

WHEREAS, the Council, by resolution, has also asked the San Diego County Board of Supervisors to approve consolidating the Municipal Special Election ballot with the ballot for the statewide general election for the November 3, 2020 election; and

WHEREAS, passage of this measure requires the affirmative vote of a majority of those qualified electors registered within the legal boundaries of the San Diego Unified School District

voting on the matter at the Municipal Special Election; in accordance with California Constitution article IX, section 16(b), only those voters registered to vote within the geographic boundaries of the School District may vote on a City Charter amendment regarding School Board elections; and

WHEREAS, the City will request that the San Diego County Registrar of Voters submit this particular ballot measure only to those voters who are registered to vote within the legal boundaries of the School District; and

WHEREAS, the Council now desires to submit to the voters registered within School District boundaries, at the Municipal Special Election to be held November 3, 2020, one measure amending the Charter by amending Article VI, section 66, to establish district-only elections for members of the Board of Education of the San Diego Unified School District; and

WHEREAS, the Council's proposal of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. One measure amending the City Charter by amending Article VI, section 66, to establish district-only elections for members of the Board of Education of the San Diego Unified School District, is hereby submitted to the qualified voters of the San Diego Unified School District, at the Municipal Special Election to be held on November 3, 2020, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

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MEASURE

ARTICLE VI

BOARD OF EDUCATION

SECTION 66: BOARD OF EDUCATION

The government of the San Diego Unified School District shall be vested in a Board of Education, composed of five members who shall be nominated and elected by the registered voters of the individual Board of Education District for which they are a candidate. Board of Education elections will be held at the regular Mmunicipal Pprimary Eelections and the Municipal Ggeneral muncipal Eelections, at the same time as the election of Councilmembers. At the Mmunicipal Pprimary Eelection, ~~there shall be chosen by the registered voters of each an individual~~ Board of Education District shall nominate two candidates to fill the office of their ~~for the office of any~~ Board of Education member ~~from in~~ a District whose term expires the ~~succeeding~~ following December. The top two vote-getters in the Municipal Primary Election for an individual seat will advance to the Municipal General Election. At the ~~general~~ Mmunicipal General Election, the registered voters of the individual Board of Education District ~~whole San Diego Unified School District~~ shall select one of the nominees to fill the seat from among the candidates chosen at the primary election in each district one candidate for the office of each Board of Education member whose term expires the succeeding December. Each candidate for the Board of Education shall have been a registered voter of the San Diego Unified School

District and an actual resident of the election district from which the candidate seeks to be nominated for thirty (30) days immediately preceding the filing of a nomination petition. The members shall serve for a term of four years from and after 10 a.m. the first Monday after the first day of December next succeeding this election and until their successors are elected and qualified, except as herein provided.

Notwithstanding any other provision of this Charter, and commencing in 2020, no person shall serve more than three four-year terms as a member of the Board of Education. Board members who hold the office as of the date of the Municipal General Election in 2020 shall not have prior or current terms counted for purposes of applying this term limit provision.

Any vacancy occurring ~~in~~ on the Board shall be filled from the election district in which the vacancy occurs, by appointment by the remaining Board members; but in the event that the ~~said~~ remaining members fail to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, they must immediately cause to be held a primary election ~~in the district in which the vacancy occurs~~ and a general election ~~within the entire school district~~ as set forth in this section to fill such vacancy; provided, however, that any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.



For the purpose of electing members of the Board of Education, the San Diego Unified School District shall be divided into five (5) districts as nearly equal in registered voter population as practicable. For the first primary and regular election held under this section, as amended, the boundaries of such election districts shall be established by the Board of Education as such Board existed on the effective date of the amendment to this section. Thereafter, the boundaries of such election districts shall be subject to alteration and change under the provisions of this section. The Board of Education, by resolution, may change and alter the boundaries of the election districts and in the resolution 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 the said resolution.

**END OF MEASURE**

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Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters registered to vote within the geographic boundaries of the San Diego Unified School District in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>MEASURE ____ . CHARTER AMENDMENT: DISTRICT-ONLY ELECTIONS FOR SCHOOL BOARD MEMBERS.</b> Shall the Charter be amended to change the process for electing School Board members in the San Diego Unified School District, by providing that voters in individual sub-districts nominate and elect their representative in both the primary and general elections, rather than the current system in which candidates are nominated in individual sub-districts in the primary but advance to a general election in the entire School District?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word “Yes” shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors registered to vote within the geographic boundaries of the San Diego Unified School District voting on the matter at the Municipal Special Election. In accordance with California Constitution article IX, section 16(b), only those voters registered to vote within the geographic boundaries of the School District may vote on a City Charter amendment regarding School Board elections.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance’s adoption by the City Council.

Section 7. In compliance with San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days

prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Sharon B. Spivak  
Sharon B. Spivak  
Senior Deputy City Attorney

SBS:jdf  
06/25/2020  
Or.Dept: Rules Committee  
Doc. No.: 2414914

Passed by the Council of The City of San Diego on JUL 07 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 07 2020.

AUTHENTICATED BY:

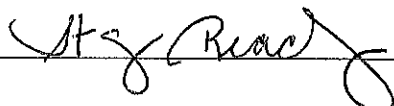
KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 07 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O-

21212

Passed by the Council of The City of San Diego on July 7, 2020, by the following vote:

YEAS: BRY, CAMPBELL, WARD, MONTGOMERY, KERSEY, CATE, SHERMAN,  
MORENO, & GÓMEZ.

NAYS: NONE.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: Connie Patterson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of  
ORDINANCE NO. O-21212 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was passed on the day of its introduction, to wit, on  
July 7, 2020, said ordinance being of the kind and character authorized for passage on its  
introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such  
reading was dispensed with by a vote of five members of the Council, and that a written  
copy of the ordinance was made available to each member of the Council and the public  
prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Connie Patterson, Deputy

8500a  
7/14/20

(O-2021-1)  
(COR. COPY)

ORDINANCE NUMBER O- **21217** (NEW SERIES)

DATE OF FINAL PASSAGE **JUL 14 2020**

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, ONE MEASURE AMENDING THE CITY CHARTER BY AMENDING ARTICLE VI, SECTION 66; AND BY AMENDING ARTICLE XVI, SECTIONS 300, 301 AND 302; REGARDING VACANCY IN OFFICE, REMOVAL FOR CAUSE; AND SUCCESSION TO OFFICE FOR MEMBERS OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION.

WHEREAS, pursuant to California Constitution, article XI, section 3(b), California Elections Code (Elections Code) section 9255(a)(2), and San Diego City Charter (Charter) section 223, the Council of the City of San Diego (Council) has authority to place Charter amendments on the ballot to be considered at a Municipal Election; and

WHEREAS, by San Diego Ordinance O- **21217**, introduced and adopted on **JUL 14 2020**, the Council has called a Municipal Special Election to be consolidated with the California State General Election to be held November 3, 2020, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, California Constitution, art. IX, section 16(a), 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;" and

WHEREAS, Charter section 66 governs the composition and elections of the Board of Education of the San Diego Unified School District (School Board), including election procedures when there is a vacancy on the School Board; and

WHEREAS, Charter section 300 provides procedures when a vacancy occurs in elective offices, for reasons including death, residency issues, incapacity, removal, certain convictions or resignation; and

WHEREAS, the procedures in Charter section 300 apply to the elective offices of Mayor, City Attorney, and Councilmember, but the section does not reference School Board members; and

WHEREAS, Charter section 301 provides procedures for removal for cause for dereliction of duty or malfeasance in office for the elective offices of Mayor, City Attorney, and Councilmember, but the section does not reference School Board members; and

WHEREAS, Charter section 302 provides procedures for succession in office for Mayor, City Attorney, and Councilmember, but does not reference School Board members; and

WHEREAS, the Council now proposes to submit a ballot measure to voters to amend the Charter to include the elective office of School Board member in section 300, Vacancy in Elective Office; section 301, Removal for Cause; and section 302, Succession to Elective Office, providing that School Board members will be governed by vacancy, removal, and succession laws similar to those already in place for the Mayor, City Attorney, and Councilmembers; and

WHEREAS, the Council also proposes amendments to Charter section 66 to amend 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; and

WHEREAS, the Charter amendment proposal was submitted in the Council Policy 000-21 process by Councilmember Chris Cate and Councilmember Vivian Moreno, and discussed at hearings of the Council's Rules Committee on July 31, 2019 and March 11, 2020; and

WHEREAS, the Rules Committee voted 5-0 on March 11, 2020 to forward the Charter amendment ballot measure proposal to the Council for consideration for the November 2020 ballot; and

WHEREAS, the Council, by resolution, has also asked the San Diego County Board of Supervisors to approve consolidating the Municipal Special Election ballot with the ballot for the statewide general election for the November 3, 2020 election; and

WHEREAS, passage of this measure requires the affirmative vote of a majority of those qualified electors registered within the legal boundaries of the San Diego Unified School District voting on the matter at the Municipal Special Election and, in accordance with California Constitution article IX, section 16(b), only those voters registered to vote within the geographic boundaries of the School District may vote on a City Charter amendment regarding School Board members, their removal from office and their elections; and

WHEREAS, the City will request that the San Diego County Registrar of Voters submit this particular ballot measure only to those voters who are registered to vote within the legal boundaries of the School District; and

WHEREAS, the Council now desires to submit to the voters registered within School District boundaries, at the Municipal Special Election to be held November 3, 2020, one measure amending the Charter by amending Article VI, section 66, and by amending Article XVI, sections 300, 301, and 302, to establish procedures for vacancy in office, removal for cause, and



succession to office for members of the San Diego Unified School District Board of Education;  
and

WHEREAS, the Council's proposal of a Charter amendment is governed by California Constitution, article XI, section 3(b), Elections Code section 9255(a)(2), and California Government Code section 34458, and is not subject to veto by the Mayor; NOW, THEREFORE,

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

Section 1. One measure amending the City Charter by amending Article VI, section 66, and by amending Article XVI, sections 300, 301, and 302, to establish procedures for vacancy in office, removal for cause, and succession to office for members of the San Diego Unified School District Board of Education, is hereby submitted to the qualified voters of the San Diego Unified School District, at the Municipal Special Election to be held on November 3, 2020, and consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

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### MEASURE

*Note for voter pamphlet:*

Section 66 of the City Charter is also the subject of a separate Charter amendment ballot measure on the November 3, 2020 ballot that would establish district-only elections for the Board of Education. The amendments proposed in the two Charter amendment measures are not in conflict and involve separate subjects requiring separate approval.

If both measures are approved by the voters, the City of San Diego intends for both sets of amendments to take effect and to be submitted for chaptering by the California Secretary of State. This ballot measure adds two new paragraphs to the section about vacancies in office, which are unrelated to the district-only elections subject of the other pending measure and do not conflict with its provisions. The amendments to the last two paragraphs of Charter section 66 in

this measure are identical to the amendments in the other measure. The additional amendments in the separate measure, regarding the elections process, do not conflict with the proposed amendments below.

**ARTICLE VI**  
**BOARD OF EDUCATION**

**SECTION 66: BOARD OF EDUCATION**

The government of the San Diego Unified School District shall be vested in a Board of Education, composed of five members who shall be nominated and elected at the regular municipal primary elections and general municipal elections at the same time as the election of Councilmembers. At the municipal primary election there shall be chosen by the registered voters of each Board of Education District two candidates for the office of any Board of Education member from a District whose term expires the succeeding December. At the general municipal election the registered voters of the whole San Diego Unified School District shall select from among the candidates chosen at the primary election in each district one candidate for the office of each Board of Education member whose term expires the succeeding December. Each candidate for the Board of Education shall have been a registered voter of the San Diego Unified School District and an actual resident of the election district from which the candidate seeks to be nominated for thirty (30) days immediately preceding filing of a nomination petition. The members shall serve for a term of four years from and after 10 a.m. the first Monday after the first day of December next succeeding this election and until their successors are elected and qualified, except as herein provided.

Notwithstanding any other provision of this Charter, and commencing in 2020, no person shall serve more than three four-year terms as a member of the Board of Education. Board members

who hold the office as of the date of the Municipal General Election in 2020 shall not have prior or current terms counted for purposes of applying this term limit provision.

Article XVI of this Charter shall govern: (1) when a vacancy in the office of member of the Board of Education shall be deemed to occur, and (2) when a member of the Board of Education shall be removed for cause.

Vacancies for the office of member of the Board of Education shall be filled as provided in this Charter section.

Any vacancy occurring ~~in~~ on the Board shall be filled from the election district in which the vacancy occurs, by appointment by the remaining Board members; but in the event that the said remaining members fail to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, they must immediately cause to be held a primary election ~~in the district in which the vacancy occurs~~ and a general election ~~within the entire school district~~ as set forth in this section to fill such vacancy; provided, however, that any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

For the purpose of electing members of the Board of Education, the San Diego Unified School District shall be divided into five (5) districts as nearly equal in registered voter population as practicable. For the first primary and regular election held under this section, as amended, the boundaries of such election districts shall be established by the Board of Education as such Board existed on the effective date of the amendment to this section. Thereafter, the boundaries of such election districts shall be subject to alteration and change under the provisions of this section. The Board of Education, by resolution, may change and alter the boundaries of the

election districts and in the resolution 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 the said resolution.

**ARTICLE XVI**  
**ELECTIVE OFFICERS**

**SECTION 300: VACANCY IN ELECTED OFFICE**

For purposes of this section, elective office includes the offices of Mayor, Councilmember, City Attorney, and members of the Board of Education of the San Diego Unified School District. A vacancy in elective office occurs when any of the following events occur during the term:

- (a) The death of the elective officer.
- (b) ~~An elective officer~~ For the Mayor or City Attorney, the elective official ceases to be a resident and elector of the City ~~or a Councilmember moves from the district that the Councilmember was elected to represent. Redistricting shall not cause a vacancy in the office of a Councilmember.~~
- (c) For a Councilmember, the Councilmember moves from the district that the Councilmember was elected to represent. Redistricting shall not cause a vacancy in the office of a Councilmember.
- (d) For a member of the Board of Education of the San Diego Unified School District, the Board member ceases to be a resident and elector of the sub-district within the school district that the member was elected to represent. Redistricting shall not cause a vacancy in the office of a member of the Board of Education.

- (eg) An adjudication by a court of competent jurisdiction declaring that the elective officer is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the elective officer will not be able to perform the duties of his or her office for the remainder of his or her term.
- (df) The resignation of an elective officer, effective on the date specified in the written letter of resignation or, if there is no date specified in the letter, upon the date of receipt of the letter by the City Clerk, in the case of the Mayor, City Attorney, or a Councilmember, or, upon the date of receipt of the letter by the Board Action Officer of the San Diego Unified School District, in the case of a member of the Board of Education.
- (eg) For a Councilmember only, unexcused absences from eight consecutive meetings or fifty percent of any scheduled meetings as provided by section 12 of this Charter.
- (fh) An elective officer's conduct requiring forfeiture of office, upon conviction or finding of civil liability by a court of competent jurisdiction, as provided by this Charter. An elective officer shall be deemed to have been convicted or found liable when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.
- (gi) An elective officer's conviction of a felony. An elective officer shall be deemed to have been convicted when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either

sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

- (h) The elective officer's removal from office. An elective officer may be removed only by recall or removal proceedings as provided by this Charter.

**SECTION 301: REMOVAL FOR CAUSE**

- (a) ~~Any elective officer~~ The Mayor, City Attorney, Councilmembers, and members of the Board of Education of the San Diego Unified School District are subject to removal for cause for dereliction of duty or malfeasance in office as provided in this section.
- (1) Dereliction of duty means an adjudication that the elective officer has failed, refused, or neglected to perform the duties of the office, except when prevented by illness, injury, or other reasonable cause.
- (2) Malfeasance in office means a conviction for crimes of moral turpitude or crimes involving a violation of official duties.
- (b) Upon an elective officer's criminal conviction or a court's adjudication of dereliction of duty, the City Clerk shall provide notice of the conviction or adjudication to the Council and the subject elective officer, if the elective officer at issue is the Mayor, City Attorney, or a Councilmember. If the elective officer at issue is a member of the Board of Education, the Board Action Officer of the San Diego Unified School District shall provide notice of the conviction or adjudication to the Board of Education and the subject member.
- (1) An elective officer shall be deemed to have been convicted when trial court judgment is entered. For purposes of this section, "trial court

judgment” means a judgment by the trial court either sentencing the elective officer or otherwise upholding and implementing the plea, verdict, or finding.

- (2) A court of competent jurisdiction's order of enforcement for failure to obey a writ of mandamus constitutes an adjudication of dereliction of duty.
- (c) Upon notification from the City Clerk of a criminal conviction of, or adjudication of dereliction of duty by, the Mayor, City Attorney, or member of the Council, the Council may proceed to vote on calling a special municipal election as provided by subsection (d). Upon notification from the Board Action Officer of the San Diego Unified School District of a criminal conviction of, or adjudication of dereliction of duty by, a member of the Board of Education, the San Diego Unified School District shall follow the procedures in subsection (e).
- (d) Upon an affirmative vote of no less than three-fourths of the Council (currently seven of nine Councilmembers) that cause exists for removal of the Mayor, City Attorney, or a Councilmember, the Council shall call a special election in compliance with the City's election laws for the purpose of submitting to the voters a proposition measure to remove and replace the elective officer. By ordinance, the Council shall provide a complete procedure for special elections to remove and replace elective officers by a majority of voters, which may include reasonable limitations on calling special elections within 180 days of a scheduled municipal or statewide election where the subject elective officer is a candidate for his or her current elective office. If there is a municipal or statewide election

scheduled to be held within 180 days, the Council may consolidate the special election with that election.

- (de) Upon an affirmative vote of no less than three-fourths of the members of the Board of Education of the San Diego Unified School District that cause exists for removal of a Board member, the Board shall cause a special election to be held to submit to voters a measure to remove and replace the Board member by a majority vote, using the procedures set for Board member elections in Charter section 66. The election shall be held within 180 days of the vacancy. If the Board member's removal occurs within 180 days of a scheduled municipal or statewide election, the Board may consolidate the special election with that election.
- (ef) Nothing in this section shall be construed to interfere with the power of the people to initiate a recall of an elective officer, as provided in this Charter and the California Constitution. Removal proceedings under this section shall be suspended any time a recall petition is found to be sufficient as defined by the City's election laws.

**SECTION 302:      SUCCESSION TO ELECTIVE OFFICE**

- (a) If a vacancy in the office of ~~an elective officer~~ Mayor, City Attorney, or a Councilmember occurs by reason of a successful recall or removal election, the Council shall adopt procedures to fill the vacancy. A vacancy in the office of member of the Board of Education of the San Diego Unified School District shall be filled as provided in Charter section 66. The School Board may adopt additional procedures for the conduct of the election that are consistent with this Charter, as may be necessary.



- (b) If a vacancy occurs in the office of an ~~elective officer~~ Mayor, City Attorney, or a Councilmember for any reason other than a successful recall or removal election, the following procedures shall apply:
- (1) If the vacancy occurs with one year or less remaining in the term, the Council shall appoint a person to fill the vacant office within 30 days of the office being vacated. Any person appointed by the Council to fill a vacant office shall not be eligible to run for that office for the next succeeding term; or,
  - (2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within ninety days of the vacancy, unless there is a municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that election.
  - (3) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the vacant office.
  - (4) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within 90 days of the first special election, unless there is a municipal or statewide election scheduled to be held within 120 days of the proposed special run-off election date, in which case the Council may consolidate the special run-off election with

that election. The two candidates receiving the highest number of votes cast for the vacant office in the first special election shall be the only candidates for the vacant office and the names of only those two candidates shall be printed on the ballot for that office.

- (5) The person appointed or elected to fill a vacancy in elective office shall serve in that elective office for the remainder of the unexpired term.

**END OF MEASURE**

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Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters registered to vote within the geographic boundaries of the San Diego Unified School District in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>MEASURE __. CHARTER AMENDMENT: PROCEDURES TO REMOVE SCHOOL BOARD MEMBERS FOR CAUSE AND TO FILL VACANCIES.</b> Shall the City Charter be amended to include the office of School Board member from the San Diego Unified School District under City laws that address removal of elected officials for cause, filling vacancies in elected office, and succession to office?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors registered to vote within the geographic boundaries of the San Diego Unified School District voting on the matter at the Municipal Special Election. In accordance with California Constitution article IX, section 16(b), only those voters registered to vote within the geographic boundaries of the School District may vote on a City Charter amendment regarding School Board elections.

Section 6. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance's adoption by the City Council.

Section 7. In compliance with San Diego Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 9. Pursuant to sections 295(b) and 295(d) of the Charter of the City of San Diego, this ordinance shall take effect on the date of passage by the City Council, which is deemed the date of its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Sharon B. Spivak  
Sharon B. Spivak  
Senior Deputy City Attorney

SBS:jdf  
07/06/2020  
07/09/2020 Cor. Copy  
Or.Dept: Rules Committee  
Doc. No.: 2420183\_2

Passed by the Council of The City of San Diego on JUL 14 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 14 2020.

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Linda Bruen, Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 14 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Linda Bruen, Deputy

Office of the City Clerk, San Diego, California

**21217**

Ordinance Number O-

Passed by the Council of The City of San Diego on July 14, 2020, by the following vote:

**YEAS:** **BRY, CAMPBELL, WARD, MONTGOMERY, KERSEY, CATE, SHERMAN,**  
**MORENO, & GOMEZ.**

**NAYS:** **NONE.**

**NOT PRESENT:** **NONE.**

**RECUSED:** **NONE.**

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: , Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of  
ORDINANCE NO. **O-21217** (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was passed on the day of its introduction, to wit, on  
**July 14, 2020**, said ordinance being of the kind and character authorized for passage on its  
introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such  
reading was dispensed with by a vote of five members of the Council, and that a written  
copy of the ordinance was made available to each member of the Council and the public  
prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: , Deputy

ORDINANCE NUMBER O- 21220 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 24 2020

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED WITH THE CALIFORNIA STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 2020, ONE MEASURE RELATING TO COASTAL ZONE HEIGHT LIMITS IN THE MIDWAY-PACIFIC HIGHWAY COMMUNITY PLAN AREA.

WHEREAS, People's Ordinance No. 10960 (New Series) (the Height Limit Ordinance) was enacted by the voters of the City of San Diego (City) as Proposition D on November 7, 1972, to limit the height of buildings in the City to 30 feet or less in the Coastal Zone, as defined in the Ordinance; and

WHEREAS, San Diego Municipal Code (Municipal Code) section 27.1049 requires that any initiated legislative act adopted by a majority vote of the voters may be amended or repealed only by a majority vote of the voters or by San Diego Charter (Charter) amendment; and

WHEREAS, the Height Limit Ordinance was amended by a majority vote of the City's voters on November 8, 1988, as Proposition L, to allow the restoration of the chimney and rooftop cupola as part of the historic restoration of the 1915 Agar/Mission Brewery building located at Washington and Hancock Streets; and

WHEREAS, the Height Limit Ordinance was amended by a majority vote of the City's voters on November 3, 1998, as Proposition D, to allow Sea World to plan and construct exhibits and educational facilities upon certain conditions; and

WHEREAS, the Height Limit Ordinance was amended by a majority vote of the City's voters on November 7, 2000, as Proposition C, for the International Gateway of the Americas project in San Ysidro; and

WHEREAS, the City Council (Council) now proposes to submit a measure to City voters that would amend the Height Limit Ordinance codified in Municipal Code section 132.0505 to exclude the Midway-Pacific Highway Community Plan area, as shown on Exhibit A to this Ordinance, from the 30-foot height limit in the Coastal Zone; and

WHEREAS, Councilmember Jennifer Campbell and Councilmember Chris Cate initially submitted the proposal to the Council's Rules Committee for consideration in accordance with the Council Policy 000-21 process, in which proposals are considered for the November 2020 ballot; and

WHEREAS, the Midway-Pacific Highway Plan area encompasses approximately 1,324 acres, of which 88 acres is owned by the City, including the current Pechanga Sports Arena site; and

WHEREAS, the Council adopted an update to the Midway-Pacific Highway Community Plan in September 2018, after a multi-year process of obtaining planning group and public input; and

WHEREAS, some of the Midway-Pacific Highway Community Plan land use goals include creating a vibrant, balanced, and pedestrian-oriented community that provides residential, commercial, office, industrial, institutional, military, and civic uses; special districts and villages to highlight and foster the diverse character areas within the community; a compatible mix of land uses that support active transportation and a healthy environment; and a variety of housing types for all age, income, and social groups; and

WHEREAS, those who have proposed the amendment to the Height Limit Ordinance contend that the Height Limit Ordinance was designed to protect public view corridors along the coast; and



WHEREAS, those who have proposed the amendment to the Height Limit Ordinance contend that there are no public view corridors in the Midway-Pacific Highway Community Plan area to protect, and removing the height limit would be the catalyst to attracting needed investment to bring to life the vision of the Midway-Pacific Highway Community Plan; and

WHEREAS, those who have proposed the amendment to the Height Limit Ordinance contend that removing the 30-foot height limit in the Midway-Pacific Highway Community Plan area would allow for enhanced community and economic investments, including a potential new state-of-the-art entertainment complex; and

WHEREAS, if approved by a majority vote of the City's voters, building height would still be regulated by zoning laws in the Municipal Code, and proposed development must comply with the governing laws; and

WHEREAS, if approved by a majority vote of the City's voters, the amendments would not remove any other Community Plan areas from the Coastal Zone height limitations; and

WHEREAS, if approved by a majority vote of the City's voters, the California Coastal Commission must approve the amendments in the portions of the Midway-Pacific Highway Community Plan area within California Coastal Commission jurisdiction before the amendments covering those areas would become effective; and

WHEREAS, Charter section 23 and Municipal Code section 27.1001 provide that the City Council may place any legislative act on the ballot to be considered at a Municipal Special Election; and

WHEREAS, by Ordinance No. O-21214, adopted on JUL 07 2020, the Council has called a Municipal Special Election in the City of San Diego, to be consolidated

with the California State General Election to be held on November 3, 2020, for the purpose of submitting to the qualified voters of the City one or more ballot measures; and

WHEREAS, the Council considered this issue at Committee and Council hearings and has voted to ask San Diego voters to consider a ballot measure that would remove the Midway-Pacific Community Plan area from the 30-foot limit on building height in the Height Limit Ordinance; and

WHEREAS, the Council desires to submit, to the qualified voters of the City of San Diego, at the Municipal Special Election to be held on November 3, 2020, one measure amending People's Ordinance No. 10960 (New Series), as amended by a majority vote of the City's voters on November 8, 1988, November 3, 1998, and November 7, 2000, to remove the Midway-Pacific Community Plan area from the 30-foot limit on building height in the Height Limit Ordinance; NOW, THEREFORE,

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

Section 1. One measure amending People's Ordinance No. 10960 (New Series), as amended by a majority vote of the City of San Diego's qualified voters on November 8, 1988, November 3, 1998, and November 7, 2000, pertaining to the height of buildings in the Coastal Zone in the City of San Diego, and removing the 30-foot height limit for the Coastal Zone within the Midway-Pacific Highway Community Plan area, is hereby submitted to the qualified voters of the City at the Municipal Special Election to be held November 3, 2020, with the measure to read as follows:

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**MEASURE**

**Article 2: Overlay Zones**

**Division 5: Coastal Height Limit Overlay Zone**

**§132.0505 Coastal Height Limit**

- (a) Notwithstanding any section to the contrary, no building or addition to a building shall be constructed with a height in excess of thirty feet within the Coastal Zone of the City of San Diego.
- (b) The words "Coastal Zone" as used within this section shall mean that land and water area of the City of San Diego from the northern City limits, south to the border of the Republic of Mexico, extending seaward to the outer limits of City jurisdiction and extending inland to the location of Interstate 5 on January 1, 1971. This limitation shall not apply to:
  - (1) that land area of the Coastal Zone 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 ~~or, and~~ ;
  - (2) that land area of the Coastal Zone bounded by Ingraham Street on the west, Sea World Drive on the south, Mission Bay on the north and the boat ramp access road in South Shores Park on the east, ~~or, and~~ ;
  - (3) that land area of the Coastal Zone approximately bounded on the north and west by Camino de la Plaza, on the south by the international border with the Republic of Mexico, and on the east by Virginia Avenue, including that adjacent strip of land of

approximately forty by 520 feet which is located south of Camino de la Plaza and east of Virginia Avenue, ~~all as more particularly described on Document No. OO-18836, a copy of which is on file with the City Clerk; and~~

- (4) that land area of the Coastal Zone within the Midway-Pacific Highway Community Plan area approximately bounded by the San Diego River on the north; San Diego International Airport and Laurel Street on the south; Interstate 5 on the east; and Sports Arena Boulevard, Midway Drive, Kemper Street, Rosecrans Street, and Lytton Street, including the Kemper Neighborhood Village and the Lytton District, on the west; as more particularly described in Document No. OO-\_\_\_\_\_, a copy of which is on file with the City Clerk.

- (c) The base of measurement of the height shall be in accordance with the Uniform Building Code of 1970.
- (d) Other than the restoration of the chimney and rooftop cupola as part of the historic restoration of the 1915 Agar/Mission Brewery Building located at Washington and Hancock Streets in San Diego, California, and as described in sections 132.0505(b)(1) through (b)(4), there shall be no exception to the provisions of this section.
- (e) No building or structure or addition to a building or structure within the land described in exception section 132.0505(b)(2), shall exceed one-half

the height of the existing Sea World Sky Tower on that land using the base of measurement in accordance with the Uniform Building Code of 1970.

- (f) No taxpayer funds shall be spent for any improvements in connection with a building or structure or addition to a building or structure within the land described in exception section 132.0505(b)(2).
- (g) The exception set forth in section 132.0505(b)(2) shall remain in effect as long as the land described therein is used for recreational, exhibition, educational, research and scientific purposes.
- (h) No more than five acres of the approximately sixty-six acre site described in section 132.0505(b)(3) may contain buildings or structures, or additions to buildings or structures, measuring up to 150 feet in height. No more than five additional acres of the remaining portion of the property may contain buildings or structures, or additions to buildings or structures, measuring up to eighty feet in height. As to the remaining portion of the property, no buildings or structures, or additions to buildings or structures, shall exceed fifty feet in height. The footprint of the entire building or structure shall be used to calculate the five acres, whether or not the entire building or structure measures 150 feet or eight feet in height. The measurement of height shall use the base of measurement in accordance with the Uniform Building Code of 1970.
- (i) This section may be amended, including an amendment to make an exception to the thirty-foot height limitation, only by a majority vote of the voters of the City of San Diego.

(The Midway-Pacific Community Plan area is shown on a map attached to this Ordinance as Exhibit A, and incorporated by reference here, and which will be published in the voter pamphlet as part of this measure.)

**END OF MEASURE**

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Section 2. The measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this Ordinance.

Section 3. On the ballot to be used at this Municipal Special Election, in addition to any other matters required by law, there shall be printed substantially the following:

<b>MEASURE ____ . REMOVING 30-FOOT HEIGHT LIMIT IN MIDWAY-PACIFIC HIGHWAY COMMUNITY PLAN AREA.</b> Shall People's Ordinance O-10960 be amended to exclude the Midway-Pacific Highway Community Plan area, which includes the Sports Arena, from the 30-foot height limit on buildings in the Coastal Zone, with any future development still required to comply with other governing laws?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this measure. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the measure.

Section 5. Passage of this measure requires the affirmative vote of a majority of those qualified electors voting on the matter at the Municipal Special Election.

Section 6. The City Clerk shall cause this Ordinance or a digest of this Ordinance to be published once in the official newspaper following this Ordinance's adoption by the City Council.

Section 7. In compliance with Municipal Code section 27.0402, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

Section 8. A full reading of this Ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 9. This Ordinance may be passed by the Council on the date of introduction pursuant to Charter section 275(c) and shall take effect upon final passage pursuant to San Diego Charter sections 295(a) and 295(d).

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Leslie FitzGerald  
Leslie FitzGerald  
Senior Chief Deputy City Attorney

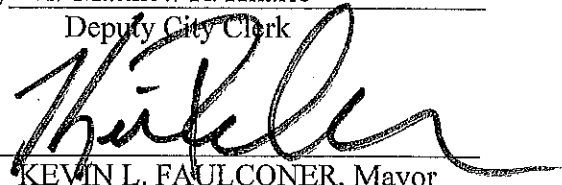
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06/25/2020  
07/21/2020 REV.  
Or. Dept: Rules Committee  
Doc. No.: 2431451

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 07/21/2020.

ELIZABETH S. MALAND  
City Clerk

By /s/ Matthew R. Hilario  
Deputy City Clerk

Approved: 7/24/20  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

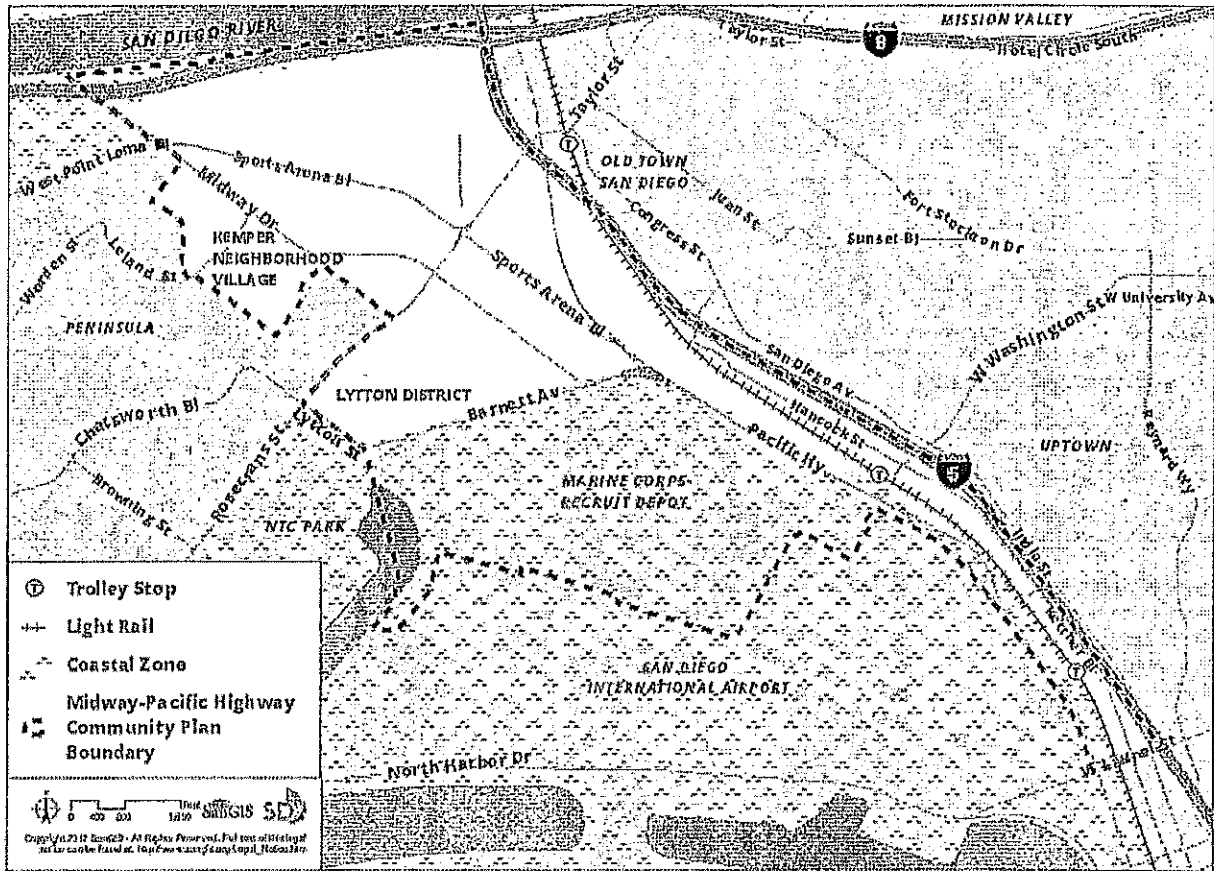
\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor



## **Exhibit A**

The Ordinance would submit to the qualified voters of the City of San Diego, at the Municipal Special Election Consolidated with the California State General Election to be held on November 3, 2020, a measure relating to Coastal Zone Height Limits in the Midway-Pacific Highway Community Plan area.

Exhibit A is a one-page map incorporated by reference into the ballot measure and to be published in the voter pamphlet as part of this measure.



Passed by the Council of The City of San Diego on JUL 21 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

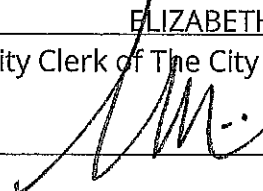
Date of final passage JUL 24 2020.

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on JUL 21 2020, said ordinance being of the kind and character authorized for passage on its introduction by Section 275 of the Charter.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21220

Passed by the Council of The City of San Diego on July 21, 2020, by the following vote:

YEAS: CAMPBELL, WARD, MONTGOMERY, KERSEY, CATE, SHERMAN, &  
MORENO.

NAYS: BRY AND GÓMEZ.

NOT PRESENT: NONE.

RECUSED: NONE.

AUTHENTICATED BY:

**KEVIN L. FAULCONER**

Mayor of The City of San Diego, California

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(Seal)

By: Connie Patterson, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true, and correct copy of  
ORDINANCE NO. O-21220 (New Series) of The City of San Diego, California.

I FURTHER CERTIFY that said ordinance was passed on the day of its introduction, to wit, on  
July 21, 2020, said ordinance being of the kind and character authorized for passage on its  
introduction by Section 275 of the Charter. The date of final passage is July 24, 2020.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such  
reading was dispensed with by a vote of five members of the Council, and that a written  
copy of the ordinance was made available to each member of the Council and the public  
prior to the day of its passage.

**ELIZABETH S. MALAND**

City Clerk of The City of San Diego, California

(SEAL)

By: Connie Patterson, Deputy