

MUNICIPAL TICKET,

General and Charter Amendment Election,

0-611 April 23, 1935

FOR MAYOR	
(Vote for One)	
PERCY J. BENBOUGH ^{\$955.00}	32,190
A. RAY SAUER, JR. ^{\$754.98}	18,615
SCATTERING	91
FOR CITY POLICE JUDGE	
(Vote for One)	
CLARENCE F. TERRY ^{\$0.00}	36,952
SCATTERING VOTE	108
FOR COUNCILMAN (Dist. No. 2)	
(Vote for One)	
WALTER W. AUSTIN ^{\$46.00}	17,727
RAYMOND M. WANSLEY ^{\$113.00}	19,681
SCATTERING VOTE	6
FOR COUNCILMAN (Unexpired Term) (Dist. No. 3)	
(Vote for One)	
BESSIE L. SEIFERT ^{\$164.00}	15,621
WALTER C. WURFEL ^{\$58.00}	21,612
SCATTERING VOTE	7
FOR COUNCILMAN (Dist. No. 5)	
(Vote for One)	
DAN ROSSI ^{\$54.42}	16,406
BRUCE R. STANNARD ^{\$113.00}	21,963
SCATTERING VOTE	3
FOR COUNCILMAN (Dist. No. 6)	
(Vote for One)	
JOHN S. SIEBERT ^{\$108.70}	21,232
ALFRED STAHEL, JR. ^{\$117.00}	16,246
FOR MEMBER OF BOARD OF EDUCATION (Majority Group)	
(Vote for One)	
VESTA C. MUEHLEISEN ^{\$68.75}	32,621
FOR MEMBER OF BOARD OF EDUCATION	
(Vote for One)	
ORTON E. DARNALL ^{\$111.27}	25,274
ELEANOR A. WEYMILLER ^{\$113.00}	13,445
SCATTERING VOTE	337

PROPOSITION I. Amend Section 157 of Article X of the City Charter. This amendment increases from 2% to 4% the contributions by members of the Police Department to the Police Relief and Pension Fund.	YES	226	66.52%
	NO	192	33.48%
36,418			
PROPOSITION II. Amends Section 158 of Article X of the City Charter. This amendment requires the City of San Diego to contribute to the Police Relief and Pension Fund a sum equal to 10% of all revenues received from the State of California from liquor licenses.	YES	331	31.78%
	NO	20	68.22%
F 29,357			
PROPOSITION III. Amend Section 179 of Article XI of the City Charter. This amendment increases from 2% to 4% the contributions by members of the San Diego Fire Department to the Firemen's Relief and Pension Fund.	YES	621	65.33%
	NO	12	34.67%
34,626			
PROPOSITION IV. Amend Section 180 of Article XI of the City Charter. This amendment requires the City of San Diego to contribute to the Firemen's Relief and Pension Fund a sum equal to 10% of all revenues received from the State of California from liquor licenses.	YES	117	46.19%
	NO	18	53.81%
F 34,896			
PROPOSITION V. Amend Section 184 of Article XI of the City Charter. This amendment applies to members of the San Diego Fire Department who enter the service subsequent to January 1, 1936. It requires that such members must be at least fifty years of age, and have served twenty-five years in the aggregate before being eligible for retirement.	YES	449	68.35%
	NO	10	38.65%
34,307			
PROPOSITION VI. Amend Section 103, Article VII of the Charter of The City of San Diego. This amendment empowers the City to acquire, own and operate public utilities; to grant franchises for the use of public property of the City only on condition that each grant contain reservations permitting electors to amend, modify or repeal; permitting condemnation by city of property of franchise grantee used and useful in the public service without payment for good will, going concern value, earning power, increased cost of production, severance damage, or increased value of property occupied by plant; permitting change of grade or alignment of streets by city without liability; limiting terms to not more than 50 years and prohibiting exclusive grants; requiring public utilities to pay the City for costs of all investigations initiated by complaint of the City whenever upon such investigations being made by the Railroad Commission the rates charged and practices performed are unreasonable, unjust, excessive or discriminatory.	YES	193	35.25%
	NO	21	64.05%
F 33,917			
PROPOSITION VII. Amend Section 104, Article VII of the Charter of The City of San Diego. This amendment prescribes the procedure for granting franchises for the use of public property after application, payment by applicant of cost of proceedings, recommendation of City Manager, publication of notice of intention to grant, requiring payment to City of not less than 2% of annual gross receipts arising from use, operation and possession of franchise, requiring bond for faithful performance, providing for forfeiture for failure to perform, requiring a two-thirds vote on ordinance making grant, subjecting ordinance granting franchise to right of referendum, requiring Manager to keep public records of all grants.	YES	475	34.85%
	NO	21	65.15%
F 32,928			

REGISTRATION

<p>PROPOSITION VIII. Amend Section 105, Article VII of the Charter of The City of San Diego. This amendment authorizes the City to require proper and adequate extensions and maintenance of plant, fixtures and service of franchise grantees; to prevent unjust discrimination in service or rates, and removes the limitation placed by General Laws on the City in the determination of the percentage of gross receipts to be paid to the City by franchise grantees.</p>	YES	11 727	36.387.
<p style="text-align: right;">F 32,232</p>	NO	20 505	63.627.
<p>PROPOSITION IX. Amend the Charter of The City of San Diego by adding thereto a new Article, to be known as and numbered "Article V-a." This amendment creates an independent department to be known as the Department of Water, Power and Sewage, the governing body to be a Board of Trustees, five in number, receiving as compensation a fee of \$10.00 per meeting attended, not exceeding 100 meetings in any one year. The management and control of works for water development and distribution, manufacture and distribution of electric energy, and works for the disposal and treatment of refuse and sewage will be placed in said board. The department will be entirely separate and distinct from The City of San Diego in so far as creating indebtedness is concerned. Any indebtedness incurred by the department will not be an indebtedness of the City, and will not be paid from taxes, but will be paid solely from revenue received. The board has power to acquire, construct, extend and improve works and property necessary for the development of the department. It has power to incur indebtedness for such purposes; such indebtedness to be repaid solely from revenue. Subject to the approval of the Council, the board has power to establish rates for services rendered. The board has power to borrow money from the United States Government and to enter into a contract for the construction of the All-American canal. The board has power to borrow money from the United States or others for the construction of the El Capitan pipe line, for the repair of Hodges Dam, for the construction of a municipal light plant, and for the construction of a municipal treatment plant for refuse and sewage; the cost of such improvements to be repaid from revenue only, and not from funds raised by taxation. The department will pay from its revenues to the City the interest and principal of outstanding bonded indebtedness pertaining to such municipal works. No major water development project costing in excess of 50% of annual receipts can be undertaken without submitting the proposition to a vote of the qualified electors of San Diego. The employees of the department will be subject to Civil Service rules and regulations. Further detailed particulars are contained in Resolution No. 62780, filed in the office of the City Clerk under Document No. 291845.</p>	YES	5 515	15.737.
<p style="text-align: right;">F TOTAL VOTE 35,050</p>	NO	29 535	84.277.
<p>PROPOSITION X. Shall the contract between the United States of America and The City of San Diego, executed by the Mayor of said City on the 2d day of October, 1934, a full, true and correct copy of which is on file in the office of the City Clerk of said City, bearing Document No. 289436, to which attention is directed for the full terms, specifications and provisions thereof, and which contract in general provides that the United States will construct a canal from a dam in the Colorado River to Imperial Valley, so as to provide a designed capacity of one hundred fifty-five (155) cubic feet of water per second to be used by The City of San Diego, and that payment by said City for such work will be that proportion of the total original construction cost, and operation and maintenance cost that the capacity provided in said canal for said City bears to the total capacity of said canal; said payments to be made in not to exceed thirty-eight (38) annual installments, and which involves the payment of money out of the appropriations of thirty-eight (38) fiscal years, commencing with the calendar year next succeeding the year when notice of completion of all work provided for in said contract is given to the City, be approved, ratified and made effective by the electors of said City?</p>	YES	19 217	57.827.
<p style="text-align: right;">TOTAL VOTE 33,238</p>	NO	14 021	42.187.
<p>PROPOSITION XI. Shall the following proposed ordinance, to-wit:</p> <p style="text-align: center;">"ORDINANCE NO. _____ (New Series)</p>	YES	8 928	26.247.
<p>AN ORDINANCE REPEALING ORDINANCE NO. 379 (NEW SERIES) OF THE ORDINANCES OF THE CITY OF SAN DIEGO.</p>	NO	25 091	73.767.
<p>BE IT ORDAINED By the People of The City of San Diego, as follows:</p> <p>Section 1. That Ordinance No. 379 (New Series) of the ordinances of The City of San Diego, California, adopted and ratified by the qualified electors of said The City of San Diego, at a special municipal election held in said City on the 19th day of December, A. D. 1933, which said ordinance provides that from and after the date of the taking effect thereof each councilman of The City of San Diego shall receive as compensation for his services Ten Dollars (\$10.00) per meeting, and not more than Six Hundred Dollars (\$600.00) in any fiscal year, be, and the same is hereby repealed.</p> <p>Section 2. This ordinance shall become a valid and binding ordinance of the City when a majority of the qualified electors voting on this ordinance shall vote in favor hereof, and shall be considered as adopted upon the date that the vote is canvassed and declared and shall go into effect ten (10) days thereafter."</p> <p>be adopted? 0-610</p>	YES	8 928	26.247.
<p>TOTAL VOTE 41,453 CITY PROPER 643 OUTSIDE GRAND TOTAL 42,096</p> <p style="text-align: right;">Council Initialed</p>	YES	8 928	26.247.

PROPOSITION XII. Shall The City of San Diego grant and convey to the United States Government, for use by said Government as sites for air and sea plane hangars and other Government buildings, all or any portion or portions of the areas of said tide-lands described in three separate parcels, as follows:

PARCEL NO. ONE.

Beginning at the point of intersection of the northwesterly line of Maple Street with the Mean High Tide Line of the Bay of San Diego, as said mean high tide line was established by that certain Superior Court Action numbered 35473; thence southwesterly along the southwesterly prolongation of the northwesterly line of Maple Street to a point distant 200 feet southwesterly from the southwesterly line of California Street; thence northwesterly on a line parallel to and distant 200 feet southwesterly from the southwesterly line of California Street to an intersection with the southwesterly prolongation of the southeasterly line of Nutmeg Street; thence northeasterly along the southwesterly prolongation of the southeasterly line of Nutmeg Street to an intersection with the said mean high tide line of the Bay of San Diego; thence southeasterly along the said mean high tide line to the point or place of beginning, containing approximately 34,900 square feet.

PARCEL NO. TWO.

Beginning at the intersection of the northwesterly line of Maple Street with the southwesterly line of California Street as said streets now exist; thence southwesterly along the northwesterly line of Maple Street and its southwesterly prolongation, a distance of 338 feet to the true point or place of beginning; thence northwesterly on a line parallel to and distant 338 feet southwesterly from the southwesterly line of California Street, a distance of 225.10 feet to a point; thence southwesterly at right angles to the last described line to a point which is 483 feet southwesterly from the southwesterly line of California Street; thence southeasterly on a line parallel to and distant 483 feet southwesterly from the southwesterly line of California Street, a distance of 300 feet to a point; thence northeasterly at right angles to last described line to a point which is 338 feet southwesterly from the southwesterly line of California Street; thence northwesterly on a line parallel to and distant 338 feet southwesterly from the southwesterly line of California Street, a distance of 74.90 feet to the true point or place of beginning, containing 43,500 square feet.

PARCEL NO. THREE.

Beginning at the point of intersection of the southwesterly prolongation of the northwesterly line of Laurel Street with the combined U. S. Bulkhead and Pierhead Line of the Bay of San Diego, as said combined pierhead and bulkhead line was established in 1928; thence northwesterly along the said combined pierhead and bulkhead line a distance of 1,000 feet to a point; thence southwesterly at right angles to said combined pierhead and bulkhead line, a distance of 500 feet to a point; thence southeasterly on a line parallel to and distant 500 feet southwesterly from the said combined pierhead and bulkhead line, a distance of 1,000 feet to a point; thence northeasterly at right angles to the last described line, a distance of 500 feet to the point or place of beginning, containing 500,000 square feet.

YES

NO

25,915 7970

6,889 2170

TOTAL VOTE 32,804

SPECIAL CITY BOND ELECTION APRIL 23, 1935

MUNICIPAL TICKET

INSTRUCTIONS TO VOTERS

If you desire to vote for the proposition contained herein, stamp a cross (X) in the voting square at the right of and opposite the word "Yes," which is in the square at the right of such proposition. If you desire to vote against the proposition contained herein, stamp a cross (X) in the voting square at the right of and opposite the word "No," which is in the square at the right of such proposition. All marks except the cross (X) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly stamp, tear or deface this ballot, return it to the inspector of the election and obtain another.

PROPOSITION TO BE VOTED UPON	
Shall the City of San Diego incur a bonded indebtedness of five hundred thousand dollars (\$500,000.00) for the acquisition and construction of a certain municipal improvement, to-wit: The acquisition of a one-half interest in a public building [the total estimated cost of which is one million dollars (\$1,000,000.00)], and the acquisition and construction in The City of San Diego of such public building; such public building to be owned jointly by The City of San Diego and the County of San Diego, and to be used for the municipal purposes of said City and for County purposes?	YES 23,777
	NO 17,439
	40 216

TOTAL VOTE 40,279 VOIDS 1289

56.64%

43.36%

(OUTSIDE PRECINCTS)

MUNICIPAL TICKET

GENERAL ELECTION

April 23, 1935

INSTRUCTIONS TO VOTERS

To vote for a candidate of your selection stamp a cross (X) in the voting square to the right of the name of such candidate. To vote for a person not on the ballot, write the name of such person under the title of the office in the blank space left for that purpose. All marks except the cross (X) are forbidden. All distinguishing marks or erasures are forbidden and make the ballot void. If you wrongly stamp, tear or deface this ballot, return it to the inspector of election and obtain another.

FOR MEMBER OF BOARD OF EDUCATION (Majority Group) (Vote for One)	
VESTA C. MUEHLEISEN	548
FOR MEMBERS OF BOARD OF EDUCATION (Vote for One)	
ORTON E. DARNALL	475
ELEANOR A. WEYMILLER	140

TOTAL VOTE 643

Failed to get
2/3 vote

4/23/35

Proposed Charter Amendments

The following proposed amendments to the Charter of the City of San Diego, California, will be submitted to the voters of the City of San Diego on Tuesday, April 23, 1935.

ALLEN H. WRIGHT, City Clerk.

PROPOSITION I.

Amend Section 157 of Article X of the City Charter, so as to read as follows:

"Section 157. **Contributions To Fund By Police.** The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee of the Police Department a sum equal to four per cent (4%) of the salary paid to said member or employee, and all fines imposed upon members of the Police Department in keeping with the rules and regulations of said Department, to be forthwith paid into said Police Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay of any member or employee of the Police Department to said fund."

PROPOSITION II.

Amend Section 158 of Article X of the City Charter, so as to read as follows:

"Section 158. **Contributions To Fund By Council.** The Council shall, for the purposes of said Police Relief and Pension Fund herein provided for, except as hereinafter provided, direct the payment annually, from the General Fund of The City of San Diego, into the Police Relief and Pension Fund, of the following moneys:

(a) One-third (1/3) of all rewards given or paid to members of the Police Department because of or in recognition of the performance of official duty.

(b) One-third (1/3) of all fines collected in the City Police Court of The City of San Diego for violation of any law except such fines as may be otherwise provided for under the laws of the State of California.

(c) Five per cent (5%) of all revenues derived from licenses granted by The City of San Diego where said licenses are directly under the supervision of the Police Department.

(d) Ten per cent (10%) of all revenues received from the State of California under and by virtue of the provisions of the Statutes of the State of California of 1933, page 1697, and amendments thereto.

(e) For the payment of a sum equal to all revenue paid into the Police Relief and Pension Fund by members or employees of the Police Department as provided for in Section 157 of this Article, said sum to be equal to the amount retained by the Auditor and Comptroller of The City of San Diego during the next preceding year; and such further sum or sums as shall be required for maintenance of said Police Relief and Pension Fund.

Provided, however, that whenever said Police Relief and Pension Fund contains a sum of money amounting to one thousand dollars (\$1000.00) for each and every member of the Police Department, then and in that event all payments into said Police Relief and Pension Fund provided for in this section shall cease, and shall only be resumed in the event that said Fund shall be decreased below the amount herein specified."

PROPOSITION III.

Amend Section 179 of Article XI of the City Charter, so as to read as follows:

"Section 179. **Contributions To Fund By Firemen.** The Auditor and Comptroller of The City of San Diego shall retain from the pay of each regular member or employee, except temporary laborers or employees, of the Fire Department a sum equal to four per cent (4%) of the amount paid the said member or employee, and all fines imposed upon members of the Fire Department in keeping with the rules and regulations of said Department to be forthwith paid into said Firemen's Relief and Pension Fund, and no other or further retention or reduction shall be made from such pay for any other fund."

PROPOSITION IV.

Amend Section 180 of Article XI of the City Charter, so as to read as follows:

"Section 180. **Contributions To Fund By Council.** The Council shall, except as hereinafter provided, direct the payment annually from the General Fund of the City into the Firemen's Relief and Pension Fund for the purposes of this Article, the following moneys:

(a) All rewards given or paid to members of the Fire Department force while in the discharge of Fire Department duties.

(b) One-third (1/3) of all fines collected in the City Police Court in The City of San Diego for the violation of any law, except such fines as may be otherwise directed by the General Law of the State of California.

(c) Five per cent (5%) of all revenues derived from licenses granted by The City of San Diego, where such licenses are directly under the supervision of the Police Department.

(d) Ten per cent (10%) of all revenues received from the State of California under and by virtue of the provisions of the Statutes of the State of California of 1933, page 1697, and amendments thereto.

(e) A sum equal to the amount paid into the Firemen's Relief and Pension Fund by the members of the Fire Department each year, as required under Section 179 of this Article during the next preceding year, and such further sum each year as may be required for the maintenance of said Firemen's Relief and Pension Fund; provided, however, that when said Firemen's Relief and Pension Fund contains a sum of money amounting to \$1000.00 for each and every member of the Fire Department, then and in that event all payments under the said Firemen's Relief and Pension Fund, as provided for in this Section, shall cease, and only be resumed in the event that said fund shall be decreased below the amount herein specified."

PROPOSITION V.

Amend Section 184 of Article XI of the City Charter, so as to read as follows:

"Section 184. Retirement For Service.

(a) Whenever any person who shall have been duly appointed, selected or sworn, and shall have served for twenty years or more in the aggregate as a member in any rank or capacity of the regular constituted force, or in any department of said force provided for by this Article, the Board of Trustees shall upon the written request of any person, or his guardian, or without such request if it deem it for the good of the service,

retire such person from further service in the Fire Department; and from the date of making such order, the service of such person shall cease, and the person so retired shall thereafter during his lifetime be paid from the regular funds of the Firemen's Relief and Pension Fund a yearly pension equal to one-half the amount attached to the rank held by him for one year or more previous to the time of his retirement; provided, however, that members of the San Diego Fire Department who enter the service of the Department subsequent to January 1, 1936, shall not be so retired before they reach the age of fifty years, and before twenty-five (25) years of service in the aggregate.

In computing the time of service required for retirement, the amount of time served in the United States Army, Navy, Marine Corps or any division thereof in time of war by any member of the Fire Department who shall have left said Department for the purpose of and entered such service of the United States Army, Navy, Marine Corps or any division thereof immediately thereafter, and who shall have returned to said Fire Department within three months, after having been honorably discharged from said military service, or any member having served as substitute in the San Diego Fire Department, shall have such time counted as part of the aggregate service required for a retirement pension.

(b) Upon the death of said pensioner, one-third of the amount of his annual salary shall be paid to his widow until she remarries and in no case shall such pension exceed seventy-five dollars (\$75.00) per month, and if no widow, each child under eighteen years of age, if they are not married, shall receive twenty dollars (\$20.00) per month, but in no case shall pensions exceed the sum of seventy-five dollars (\$75.00) per month for one family; and if no children, one-third of his annual salary, not to exceed fifty dollars (\$50.00) per month, shall be paid to a dependent mother or father; and any dependent orphaned sister or brother under eighteen years of age, and unmarried, shall receive twenty dollars (\$20.00) per month but in no case to exceed fifty dollars (\$50.00) per month for the family; provided, however, if such pensioner was pensioned under subdivision (a) of this Section or Section 186 of this Article, the widow shall not be entitled to any pension unless she was married to said pensioner three years previous to the time of such retirement. In the event of the widow receiving a pension, and refusing to provide for dependent child or children, or other dependents provided for

in this section, the Board of Trustees, upon satisfactory proof, shall have the power to divide the pension as it may deem proper. In the event that a member of the San Diego Fire Department who has been pensioned for disability shall marry after being placed on the pension list, upon the death of such member his widow shall not be entitled to any pension under the terms of this Article."

PROPOSITION VI.

Amend Section 103, Article VII, of the Charter of The City of San Diego, so as to read as follows:

"Section 103. ~~Public Utilities—Municipal Acquisition and Operation—Franchises.~~

(1) The City of San Diego shall have power to establish, acquire and operate public works and/or public utilities for supplying light, water, power, heat, transportation, telephone service or other means of communication. Such works and/or utilities may be acquired by original construction or by the purchase or condemnation of existing works and/or utilities, including their franchises, or both.

(2) Every franchise, right or privilege to erect or lay telegraph or telephone wires, to construct or operate street or inter-urban railways, bus lines, or other transportation lines upon any public street, highway or other property, to lay gas pipes for the purpose of carrying gas for light, heat or power, to erect or lay poles, wires or conduits for transmitting electric light, heat or power along, under or upon any public street, highway or other public property, or to exercise any other franchise, right or privilege for the use of public property, hereafter proposed to be granted by The City of San Diego, shall be granted upon the conditions in this section provided, and not otherwise; provided, however, that nothing herein contained shall be deemed to prevent the imposition by the Council of such other and additional terms and conditions not in conflict herewith as in the judgment of the Council are to the public interest.

(a) No franchise shall be granted for a period longer than fifty (50) years.

(b) Every grant of a franchise, right or privilege shall reserve to the City the right to purchase, take over or condemn

for public operation, at any time, the works, plant and property of a franchise grantee, his or its successors or assigns, used and useful in the public service, or in the discretion of the City prospectively useful in the public service, at their physical valuation, but without compensation for franchise value, good will, going concern value, earning power, increased cost of production, severance damage, or increased value of property occupied by plant or equipment.

(c) Every grant of a franchise, right or privilege shall reserve to the City the right, at any time, upon reasonable notice, to change the grade, location, alignment or use of any street or place in, or over which such franchise or permit is exercised or operated without a liability or obligation on the part of said City in any wise occasioned by any change of the pipes, poles, lines, or other equipment of the franchise grantee, his or its successors or assigns, required by such change of grade, location, alignment, or use.

(d) Every grant of a franchise, right, or privilege shall contain the following provisions:

That, whenever, upon any investigation of a public utility, made upon complaint filed by The City of San Diego, the Railroad Commission of the State of California shall find that any rate, toll, charge or schedule or joint rate is unjust, unreasonable, excessive, or in excess of rates of return permitted by law, or unjustly discriminatory, or preferential, or otherwise in violation of law; or that any measurement, regulation, practice, act or service is unjust, unreasonable, unsafe, insufficient, preferential or discriminatory, or otherwise in violation of law; or it shall find that any service is inadequate, or that any service that can reasonably be demanded is not being furnished or when an investigation is necessary because of an application by a public utility and such application is not justified, the Council of The City of San Diego shall ascertain and declare, and by resolution fix the expenses incurred by the City upon such investigation; and the public utility affected shall pay to the City such portion of the expenses of the City and such portion of the compensation of its officers, agents and employees, including employees temporarily employed, as is reasonably attributable to such investigation, valuation or revaluation; providing an opportunity to be heard thereon shall first have been granted to such public utility. The decision of the Council shall be final,

provided, however, that the total amount which is required to be paid by the public utility in any calendar year shall not exceed one-half of one per centum ($\frac{1}{2}\%$) of such public utility's gross operating revenues derived from its operation in the last preceding calendar year. Such sums required to be paid, not paid within thirty (30) days after the determination thereof by the Council, shall draw interest at the rate of six per centum (6%) per annum.

(e) Every grant of a franchise, right or privilege shall be subject to the right of a majority of the electors of the City, voting at any election, at any time thereafter, to repeal, change or modify the grant, and every ordinance making such grant shall contain a reservation of such right to repeal, change or modify said ordinance. The Council, by a majority vote, may, by resolution, order submitted to the electors at any general municipal election, or at any special election called by the Council for that purpose, the proposition of the repealing, changing or modifying the terms and provisions of any ordinance granting a franchise, right or privilege under the provisions of this Charter; provided, however, any election at which any such proposition is submitted shall be held not less than forty (40) days and not more than sixty (60) days after the adoption of a resolution ordering the submission of such proposition.

(f) No franchise, right or privilege shall be transferable, except with the approval of the Council expressed by ordinance.

(g) No exclusive franchise, right or privilege shall ever be granted."

PROPOSITION VII.

Amend Section 104, Article VII, of the Charter of The City of San Diego, so as to read as follows:

"Section 104. Franchises—Procedure For Granting.

An applicant for any franchise, right or privilege shall file with the Council an application. Every such application shall be accompanied by a cash deposit of one hundred dollars (\$100.00), or a certified check for said amount, payable to the City Clerk, certified to by some responsible bank, as a guarantee of good faith of the applicant, and as a fund out of which to pay all

expenses connected with such application. Upon receipt of such an application and deposit, the City Council shall refer the same to the City Manager for his recommendations. After considering the recommendation of the City Manager, the Council shall, in its discretion, advertise the fact of said application, together with the statement that it is proposed to grant the same, in one or more daily newspapers, published in the City. Said advertisement must be published in such newspaper once a day for ten (10) successive days, or as often during said period as said newspaper is published; and the full publication must be completed not less than twenty (20), nor more than forty (40) days before any further action can be taken thereon.

The publication must state the character of the franchise or privilege proposed to be granted, the term for which it is proposed to be granted, and, if it be a street railroad, bus line, or other transportation line, the route to be traversed; that sealed bids therefor will be received up to a certain hour and day named therein, and that the successful bidder, and his or its successors or assigns, must during the life of said franchise, pay to the City as a rental for that portion of the public property occupied by the grantee of the franchise, a percentage of the gross annual receipts of the grantee of the franchise, arising from its use, operation or possession. Such percentage shall be fixed by the Council by resolution prior to such publication, and shall in no event be less than two per cent (2%) of such gross annual receipts. Such publication shall further state that in the event said payment be not made said franchise shall be forfeited.

Said advertisement shall also contain a statement that said franchise will be struck off, sold and awarded to the person, firm or corporation who shall make the highest cash bid therefor; provided, however, that at the time of the opening of said bids any responsible person, firm or corporation, present or represented, may bid for such franchise, right or privilege a sum not less than ten per cent (10%) above the highest sealed bid therefor, and said bid so made may be raised not less than ten per cent (10%) by any other responsible bidder, and said bidding may so continue until finally said franchise shall be struck off, sold and awarded by said Council to the highest bidder therefor, in gold coin of the United States; provided, however, that if in the judgment of the Council no adequate bid has been made, the Council may withdraw such franchise from sale, or advertise for new bids. Each sealed bid shall be accompanied with cash or a

certified check payable to the Treasurer of the City for the full amount of said bid, and no sealed bids shall be considered unless said cash or check is inclosed therewith, and the successful bidder shall deposit at least ten per cent (10%) of the amount of his bid with the City Clerk before the franchise shall be struck off to him, and if he shall fail to make said deposit immediately, then and in that case his bid shall not be received and shall be considered as void, and the said franchise shall then and there be again offered for sale to the bidder who shall make the highest cash bid therefor, subject to the same conditions as to deposit as above mentioned. Said procedure shall be had until said franchise is struck off, sold and awarded to a bidder who shall make the necessary deposit of at least ten per cent (10%) of the amount of his bid, as herein provided. Said successful bidder shall deposit with the City Clerk, within twenty-four (24) hours of the acceptance of his bid, the remaining ninety per cent (90%) of the amount thereof, and in case he or it shall fail so to do, then the said deposit theretofore made shall be forfeited, and the said award of said franchise shall be void, and the said franchise shall then and there by said governing body be again offered for sale to the highest bidder therefor, in the same manner and under the same restrictions as hereinbefore provided; and in case said bidder shall fail to deposit with the said City Clerk the remaining ninety per cent (90%) of his bid, within twenty-four (24) hours after its acceptance, the award to him of said franchise shall be set aside, and the deposit theretofore made by him shall be forfeited, and no further proceeding for a sale of such franchise shall be had unless the same shall be readvertised and again offered for sale in the manner in this section above set forth.

Work to erect or lay telegraph or telephone wires, to construct street or interurban railways, to lay gas pipes for the purpose of carrying gas for light, heat or power, to erect poles or wires for transmitting electricity for light, heat or power along or upon any public street, highway, or other public property, or to exercise any other right or privilege whatever, a franchise for which shall have been granted in accordance with the terms of this section, shall be commenced in good faith within not more than four (4) months from the granting of any such franchise, and if not commenced within said time, said franchise so granted shall be declared forfeited, and work to construct street or interurban railways under any such franchise shall be completed within

not more than three (3) years from the granting of such franchise, and, if not so completed within said time, such franchise so granted shall be forfeited; provided, that for good cause shown the Council may by resolution extend the time for completion thereof, not exceeding three (3) months. Work under any franchise other than for a street or interurban railway shall be prosecuted diligently and in good faith so as to meet and fill the reasonable needs of the inhabitants of the City.

The successful bidder for any franchise, right or privilege struck off, sold and awarded under this section, shall file a bond running to The City of San Diego, with at least two good and sufficient sureties, to be approved by the Council, in a penal sum by the Council to be prescribed and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfill and perform each and every term and condition of such franchise, and that in case of any breach of a condition of such bond the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and sureties upon said bond. Said bond shall be filed with the City Clerk within five (5) days after such franchise is awarded, and upon the filing and approval of such bond the said franchise shall, by said Council, be granted by ordinance to the person, firm or corporation to whom it has been struck off, sold or awarded, and in case that said bond shall not be so filed the award of said franchise shall be set aside, and any money paid therefor shall be forfeited, and said franchise shall, in the discretion of said governing or legislative body, be readvertised and again offered for sale in the same manner and under the same restrictions as above in this section provided.

No grant of any franchise, right or privilege, and no renewal, extension or amendment of an existing franchise, shall be made except by ordinance adopted by a vote of at least five (5) of the members of the Council. No ordinance granting a franchise, or a renewal, extension or amendment of an existing franchise shall be effective until thirty (30) days after its passage, during which time it shall be subject to the referendum provisions of this Charter.

No clause or condition of any kind shall be inserted in any franchise or grant offered or sold under the terms of this section

which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale shall in any wise favor one person, firm or corporation as against another, in bidding for the purchase thereof.

Within six (6) months after this Charter takes effect, copies of all franchises existing at the time shall be deposited with the Manager, and the Council shall certify to the existence of such franchises. The Manager shall keep a public record of all franchises, leases or permits granted for the use of the public property of the City."

PROPOSITION VIII.

Amend Section 105, Article VII, of the Charter of The City of San Diego, so as to read as follows:

"Section 105. Right of Regulation.

All grants, renewals, extensions or amendments of franchise, whether it be so provided in the ordinance or not, shall be subject to the right of the City to repeal the same by ordinance at any time for misuse or non-use, or for failure to begin construction within the time prescribed, or otherwise to comply with the terms prescribed; also to require proper and adequate extensions of plant and service, the maintenance of the plant and fixtures at the highest practicable standard of efficiency, the establishing of reasonable standards of service and quality of products, and the preventing of unjust discrimination in service or rates; and also at any time to examine and audit the accounts and other records of any franchise holder, and to require annual and other reports from each franchise holder; provided, that the Council may prescribe more detailed forms for the franchise holders within its jurisdiction, in addition to the forms and reports required by the General Laws of the State of California and the regulations of the State Railroad Commission, and to impose such other regulations as may be necessary for the health, safety and welfare of the public.

The owner of a street or interurban railway franchise or privilege shall at all times keep that portion of the street occupied by his or its tracks in good condition, constantly in repair, flush with the street and with good crossings, and in the event

that the street on which said franchise or privilege is granted shall be paved either by the City, or under proceedings authorized by the General Laws of the State, the said owner of said franchise or privilege shall be required to pay for only that portion of any construction in excess of that covered by the specifications for the improvement of the rest of the street and which shall be necessary to provide a safe and suitable foundation for the operation of car lines over a paved street. It is the intent and purpose of this section to relieve the owner of a franchise or privilege to operate street cars on the streets of The City of San Diego of the costs of new surface pavement between the tracks of said owner and for two feet on either side thereof on streets to be hereafter paved, and to require the owner of said franchise or privilege to lay a suitable foundation for the operation of car lines over a paved street.

Nothing herein contained, however, shall relieve the said owner of said franchise or privilege of his or its obligation to keep those portions of the streets occupied by the said owner constantly in repair, flush with the street, and with good crossings and to keep that portion of the pavement now existing or which may hereafter be placed between the rails, and for two feet on each side thereof, and between the tracks if there be more than one, in good condition.

In the event that a street on which a franchise under this Section shall have been granted shall be paved or improved under any of the General Laws in force at the time said improvement is started, the property owners shall be required to bear the entire cost of the improvements of the street, including the cost of improving that portion of the street occupied by the owner of said franchise, save and except that portion required to be borne by the owner of the franchise, as hereinbefore provided."

PROPOSITION IX.

Amend the Charter of The City of San Diego by adding thereto a new Article; to be known as and numbered "Article V-a," which said Article shall read as follows:

ARTICLE V-a

DEPARTMENT OF WATER, POWER AND SEWAGE

Section 1. The City of San Diego shall continue in the ownership and enjoyment of the prior and paramount right to the waters of the San Diego River heretofore vested in it, its predecessors or predecessor, including the Pueblo of San Diego; and is hereby declared to have the full, free and paramount right to use the water, surface and underground, of the San Diego River, including its tributaries, from its source to its mouth.

Section 2. The City shall not sell, lease or otherwise dispose of its rights in the waters of the said San Diego River, in whole or in part. No other water or water right, nor any of the following property now owned or controlled, or hereafter acquired and controlled by the City, to-wit: Electric energy, or the right to develop electric or other power by means of any water or water rights now or hereafter owned or controlled by the City, shall ever be sold or leased in whole or in part without the assent of two-thirds of the qualified voters of the city voting on the proposition at a general or special election at which such proposition shall be lawfully submitted.

No electric power shall ever be sold, supplied or distributed to any person or corporation other than municipal for resale, rental or disposal to consumers or other persons; provided, that nothing in this section contained shall be construed to prevent the ordinary sale and distribution by the City of water or electric energy to its inhabitants for its own use, or to prevent the supply or distribution by the City of surplus water or surplus electric energy to consumers and municipal corporations outside of the City as may be provided by law.

Section 3. There is hereby created and established the Department of Water, Power and Sewage. Said department shall have the power and duty:

(a) To be a body politic and corporate with power of perpetual succession and to sue and be sued, and to have a seal and alter the same at pleasure.

(b) The power of the said department shall be vested in and exercised by a majority of the members of the Board of Trustees of said department, created as hereinafter provided.

Such board shall consist of five members, four of whom shall be appointed by a vote of five members of the Council of The City of San Diego, the fifth member to be the City Manager. The members so appointed shall be entitled to reimbursement for all expenses incurred in connection with the performance of their duties and an attendance fee of Ten Dollars (\$10.00) per meeting attended, not exceeding One Thousand Dollars (\$1000.00) in any fiscal year to any member, shall be paid to each member of said board, except the City Manager. The first appointment of members of the board shall be made not later than at a regular meeting of the City Council to be held within ninety days next succeeding the effective date of this amendment, which shall be the date of its ratification by the Legislature of the State of California. The term of office of the four members of the board first appointed by the Council shall be one, two, three and four years, respectively, dated from January first of the year next succeeding the year in which such appointments are made, and thereafter the term of office of the members shall be four years. Members shall hold office until their successors are appointed and qualify. The Council by a vote of five of its members may remove for cause any member within the term for which he shall have been appointed, after giving to such member a copy of the charge against him and an opportunity to be heard in his defense. Promptly after the appointment the members of the board shall meet to organize. At such meeting and at the first meeting in each year thereafter the members of the board shall choose from their number a president and secretary. The Board of Trustees shall have power to do all things necessary or convenient in conducting and developing the enterprises of the department as may be here in this Article provided, including but not limited to:

- (1) The power to adopt and amend by-laws for the management and regulation of its affairs and enterprises in which it is engaged.
- (2) To use, with the consent of the Council, the agents, employees or facilities of such municipality; and to provide for payment of the agreed proportion of the cost thereof; provided, that nothing in this section contained shall be construed as imposing any cost upon

The City of San Diego in connection with the acquisition, operation or control of the enterprises in which the board is engaged.

- (3) To appoint officers, agents and employees and to fix their compensation; subject, however, to all the provisions of the City Charter respecting the Civil Service of The City of San Diego, except as here in this Article otherwise provided.

To enter into an agreement with the Council of the City under the terms of which the present officers and employees of any board, commission or department in or of The City of San Diego may be transferred to the department herein created, and shall be eligible for such transfer and appointment, without additional examination, to offices and positions under such department.

- (4) To inquire into any matter relating to the affairs of the department; to compel by subpoena the attendance of witnesses and production of books and papers material to any such inquiry; to administer oaths to witnesses, and to examine witnesses on such books and
- (5) To appoint an advisory board to assist in the formation of proper policies in respect of the enterprises.

(c) To acquire, construct, reconstruct, extend, improve, manage, maintain, control and operate works and property together with all parts thereof and appurtenances thereto, for the purpose of supplying the city and its inhabitants with water and electric energy, and with the collection, disposal and treatment of sewage and refuse, and generally for the conduct and development of said enterprises, and to acquire and take by purchase, lease, condemnation or otherwise; and to hold in the name of the City any and all property situated within or without the City and within or without the State that may be necessary or convenient for such purposes.

No enumeration of particular powers hereby granted shall be construed to imperil any general grant of power in this Article contained.

(d) To provide for the cost of the acquisition, construction, reconstruction, extension, improvement and betterment of any of said property and works and facilities as are herein authorized from funds derived from the sale of bonds, notes, certificates or other evidences of indebtedness of said department, and/or from revenues received from said works to which such extensions and betterments pertain, and/or from the proceeds of loans contracted in accordance with the provisions of subsection (e) hereof.

(e) The board shall have power to borrow money to the extent and in the manner herein authorized, under such procedure as may be prescribed by ordinance and upon terms and conditions approved by the Council, for the purpose of acquiring, constructing, reconstructing, repairing, extending, improving or operating the works and properties herein authorized; and to issue notes, certificates, bonds or other evidence of indebtedness therefor, subject to the following provisions:

- (1) The principal and interest of any indebtedness so created shall be payable only out of the revenue funds pertaining to the municipal works for or on account of which such indebtedness was created; excepting, however, that provision may be made for the payment of any such indebtedness, or any part thereof, by the authorization and sale of general municipal bonds in the manner elsewhere prescribed in this Charter.
- (2) The whole amount of any such indebtedness shall be payable in not to exceed fifteen (15) years from the time of contracting the same; provided that any such indebtedness, or part thereof, made payable after one year from the time of contracting the same, shall be subject to the right of the board to pay the same, with accrued interest thereon, on any interest due date after said one-year period.
- (3) The rates for service from the municipal works for or on account of which any such indebtedness is created shall be so fixed as to provide for payment at maturity of the principal and interest, or of any part of such

principal and interest as may come due annually on such indebtedness, in addition to all other obligations and liabilities payable from the revenue fund pertaining to such works as herein provided.

- (4) Such indebtedness so incurred shall not, except as authorized by subsection (1) hereof, be a debt of The City of San Diego, and The City of San Diego shall not be liable in any way whatsoever thereon, nor may the holder of any such bond, note, certificate or other obligation, compel the levy of any tax for its payment. Said obligations shall not be payable out of any funds other than those of the department issuing the same, as herein provided. None of the members of the board, nor any person executing said obligations, shall be liable personally on said obligations by reason of the issuance thereof.
- (5) The bonds, notes, certificates or other evidences of indebtedness, as herein authorized, may be issued in one or more series; may bear such date or dates, mature at such time or times, not exceeding fifteen (15) years, except as hereinafter provided, from their respective dates; bear interest at such rate or rates, not exceeding 6% per annum, payable semi-annually; be in such denominations; be in such form; be executed in such manner; be payable in such medium of payment, at such place or places, and be subject to such terms of redemption; be declared or become due before the maturity date thereof, as the board may recommend and the Council of the City may by ordinance approve; provided, however, that every bond, note or other evidence of indebtedness issued by the Board under the authority of this Article shall contain a recital to the effect that the indebtedness so incurred shall not be payable out of any funds other than those revenue funds of the department pertaining to the municipal works for which the indebtedness was incurred.

Bonds may be issued for money or property, at public or private sale, for such price or prices as a majority of such board may determine and the Council approve.

provided, that the interest cost to maturity of the money or property (at its value as determined by such board, the determination of which shall be conclusive) received for any issue of said bonds shall not exceed 6% per annum, payable semi-annually.

- (6) The total outstanding indebtedness incurred under the provisions of this Article for the purpose of reconstructing, repairing, extending, improving, and for betterments and additions to any existing municipal works included within the provisions of this Article must not exceed 50% of the gross operating revenue from such existing works during the preceding fiscal year. Any indebtedness incurred under the provisions of this section for the purpose of the acquisition and construction of any works or property relating to the furnishing of electrical energy, and the furnishing of sewage and refuse disposal service, shall not be so limited; provided, however, that every such indebtedness shall be repaid only out of revenues obtained from the operation of the works and property acquired and constructed with the funds derived from the bonds issued and sold as herein provided and/or from the proceeds of loans herein provided for. After any works or property for the furnishing of electrical energy and for the furnishing of sewage and refuse disposal services shall be acquired and constructed, any indebtedness incurred for the reconstructing, repairing, extending, improving or operating shall be limited to 50% of the gross operating revenue from such works during the preceding fiscal year.

(f) The board is hereby authorized to borrow money from the Federal Government or the State Government, or any duly authorized agency created by either of said governments, to defray the expenses of any construction work in the department. The principal and interest of such borrowed money shall be paid from the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created, and the principal shall be repaid in not more than forty (40) annual payments, but no payments of principal need be required during the first three years following the

date of any such loan. The board is hereby authorized to make contracts providing for expenditure or incurring financial obligations, to be paid in whole or in part in succeeding fiscal years for or on account of extensions and improvements of the works under the control of said department, including the right to enter into a contract with the Federal Government in connection with the construction of the All-American Canal, and any improvements authorized and provided for by act of Congress in the development of the Colorado River. All payments under said contract shall be made out of the revenue fund pertaining to the municipal works for or on account of which such indebtedness was created. All such contracts not entered into with the United States Government, or other governmental agency, shall provide for the completion of all payments therein provided for within a period of time not exceeding fifteen (15) years from the date of such contract.

(g) To purchase water, gas and electrical energy.

(h) To regulate and control the use, sale and distribution of water and electric energy owned or controlled by the City; the collection of water and electric rates; and the granting of permits for connections with said water or electric works; and to fix the rates to be charged for such connection; and, subject to the approval of the Council by ordinance, to fix the rates to be charged for water or electric energy for use within or without the City, and to prescribe the time and manner of payment of the same. Such rates shall be so fixed at least every two years; provided, that, except as hereinafter otherwise prescribed such rates shall be of uniform operation as near as may be and shall be fair and reasonable, taking into consideration among other things, the nature of the use, the quantity supplied, and the value of the service; provided, further, that the rates inside the city may be less but not greater than the rates outside the City for the same or similar uses.

(i) To supply and distribute, at rates fixed as hereinbefore provided, any surplus water or surplus electric energy, owned or controlled by the City and not required for the use of consumers served by the City within its limits, to consumers outside the City for their own use, and to municipal corpora-

tions and corporations exercising municipal functions and/or having quasi-municipal powers outside the City for municipal uses, or for resale, disposal or distribution, to consumers within their limits; provided, that the supplying or distribution of such surplus water or surplus electric energy shall, in any case, be subject to the paramount right of the City, at any time, to discontinue the same, in whole or in part, and to take and hold, or to distribute, such surplus water or surplus electric energy for the use of the City and its inhabitants; provided, further, that contracts for supplying surplus water or surplus electric energy by the City to municipal corporations outside the City, or for interchange of surplus water or surplus electric energy with any such outside municipal corporations, may be made by the board in the name of the City, upon such terms and conditions, and for such compensation to the City, as shall be prescribed by resolution adopted by the Board and approved by an ordinance of the City; but in every such contract the right shall be reserved to the City to terminate the same upon three years' written notice to such municipal corporation, to be given by said board whenever it shall be determined and declared by resolution adopted by the board and approved by an ordinance of said City that the water or electric energy to be supplied under such contract is required for The City of San Diego and its inhabitants; provided, further, that every such contract must, before the execution thereof, be assented to by the majority of the qualified electors of said City voting upon the proposition at a general or special election at which such proposition shall be submitted.

(j) To regulate and control the use of works and property acquired and constructed for the purpose of the collection, disposal and treatment of refuse and sewage; the collection of fees and rates for the collection and disposal of refuse and sewage within the municipal jurisdiction of The City of San Diego, to fix the fees and rates to be charged for such service, subject to the approval of the Council by ordinance; to enter into contracts for the sale and disposal of any products obtained by treatment of refuse and sewage and/or resulting from the operation of said works; and to enter into contracts with the United States Government or others for refuse and sewage collection and disposal service to be furnished by the department. The fees and rates for service furnished in connec-

tion with the collection, disposal and treatment of refuse and sewage shall be approved and provided for under such terms and conditions as the Council may by ordinance prescribe. Until such time as the department shall have acquired and placed in operation works or property for the collection, disposal and treatment of refuse and sewage, the provisions relating to refuse and sewage elsewhere contained in the Charter of The City of San Diego shall be applicable, and in full force and effect.

(k) In the discretion of the board, to divide the work of the department into three bureaus, namely; A Bureau of Water Works and Supply; a Bureau of Power and Light; and a Bureau of Refuse and Sewage; and to discontinue such bureaus and consolidate the work thereof. In case such divisions are made, the Board shall have the power to appoint a general manager for each such bureau in lieu of one general manager for the entire department. In case such division is not made, the general manager of the department shall be the Chief Engineer of the department, shall not be subject to Civil Service provisions, and shall have recognized ability and broad experience in hydraulic, sanitary and electrical engineering, and the economics of water and electric utilities. In case such division is made, or any of them, the general manager of the Bureau of Water Works and Supply shall be the Chief Engineer of such bureau, and shall be known as the Chief Engineer of Water Works; and the general manager of the Bureau of Power and Light shall be the Chief Engineer of such bureau, and shall be known as the Chief Electrical Engineer; and the general manager of the Bureau of Refuse and Sewage shall be the Chief Engineer of such bureau, and shall be known as the Chief Sanitary Engineer. Each such bureau general manager shall be directly responsible to the board, and shall not be subject to Civil Service provisions of the City Charter, and shall have the same powers and duties as a department general manager in relation to the affairs of such bureau and in relation to the board.

The board shall also have the discretion to appoint a general executive secretary to the board, a confidential secretary to the general manager, and a confidential secretary to each of the Chief Engineers of each bureau. All such appointments

may be made without regard to or limited by the Civil Service provisions of the City Charter.

(l) To require the services of the City Attorney in all cases to which the board or department is a party; provided, however, that the board shall pay into the General Fund of the City such proportion of the annual salary of the City Attorney as may be agreed upon between the board and the Council. The board shall have authority to employ additional competent attorneys to assist the City Attorney in any legal matters connected with the department, subject to confirmation by the City Council.

(m) To lease, for a term not exceeding five years, any or all of the lands under its control for agricultural or other purposes, which shall not conflict with the beneficial uses of said lands by the City for the purposes for which they are held by the board; and, except as otherwise provided in this Charter, to sell, from time to time, such personal property placed under its control as shall not be longer necessary or suitable for the use of such department. The board shall have the right, in conjunction with the joint use of poles, or pole facilities, conduits or manholes with other utilities owning and maintaining poles or pole facilities, to buy, sell or lease fractional interests in poles or pole facilities, conduits or manholes owned or controlled by said other utilities or by said board. No real property, nor any rights or interest in real property, held by said board, shall be sold, leased or otherwise disposed of, or in any manner withdrawn from its control, save and except as may be provided elsewhere in the Charter of The City of San Diego.

(n) To control and order, except as otherwise in this Article provided, the expenditure of all money received from the sale or use of water, or from any other source in connection with the operation of said water works, and all money received from the sale or use of electric energy, or from any other source in connection with the operation of said electric works, and all money received from the operation and use of the works and property acquired or constructed for the collection, disposal and treatment of refuse and sewage; pro-

vided, that all such money pertaining to said water works shall be deposited in the City Treasury to the credit of a fund to be known as the "Water Revenue Fund," and all such money pertaining to said electric works shall be deposited in the City Treasury to the credit of a fund to be known as the "Power Revenue Fund," and all such money pertaining to said refuse and sewage works shall be deposited in the City Treasury to the credit of a fund to be known as the "Sewage Revenue Fund;" and the money so deposited in each such fund shall be kept separate and apart from other money of the City, and shall be drawn only from said fund upon demands authenticated by the signature of the chief accounting employee of the board.

Section 4. None of the money in or belonging to the Water Revenue Fund, the Power Revenue Fund, or the Sewage Revenue Fund shall be appropriated or used for any purpose, except the following purposes pertaining to the municipal works from or on account of which such money was received, to-wit:

First. For the necessary expenses of operating and maintaining such works.

Second. For the payment of the principal, interest, or either, due or coming due during the fiscal year in which the revenues in said fund or funds are received, or are to be received, upon outstanding notes, certificates, bonds, or other evidences of indebtedness issued against revenues from such works in pursuance of Section 3, subsection (e), or general obligation bonds of the City heretofore or hereafter issued for the purpose of such works or parts thereof.

Third. For the necessary expenses of constructing, extending and improving such works, including the purchase of lands, water rights and other property, also the necessary expenses of conducting and extending the business of the department pertaining to such works; also the necessary expenses of advertising for, soliciting for, and increasing the business of the department; also for promoting the sale of the products of said department; also for reimbursement to another bureau or department of the City on account of services rendered, or material, supplies, or equipment furnished; also for expenditures for purposes for

which bonds, or evidences of indebtedness provided for in Section 3, subsection (e), shall have been authorized, subject to reimbursement as soon as practicable, from moneys derived from the sale or issuance of such bonds or evidences of indebtedness.

Fourth. To return and pay into the General Fund of the City, from time to time, upon resolution of the Board, from any surplus money in either such revenue fund, any sums paid by the City from funds raised by taxation for the payment of the principal or interest of any municipal bonds issued by the City for or on account of the municipal works to which such revenue fund pertains, or of liability arising in connection with the construction, operation or maintenance of the municipal works to which said fund pertains.

Fifth. For defraying the expenses in connection with the Retirement System applicable to the employees of the department now or hereafter established in The City of San Diego.

Sixth. For establishing and maintaining a reserve fund to insure the payment at maturity of the principal and interest on all bonds now outstanding or hereafter issued for the purpose of the Municipal Works, and such other reserve funds pertaining to such works as the board may provide for by resolution, subject to the approval of the Council by ordinance. The money set aside and placed in such fund or funds so created shall remain in said fund or funds until expended for the purposes thereof, and shall not be transferred to the "Reserve Fund" of the City.

Section 5. The board may provide for the cost of extensions, improvements and betterments for said water works from funds derived from the sale of general obligation bonds of the City and/or from revenues received from said water works and/or from the proceeds of loans contracted in accordance with the provisions of Section 3.

Section 6. The City Council of The City of San Diego shall at the time of fixing the general tax levy, and in the manner for such tax levy provided, levy and collect annually each year until all of the outstanding bonds voted and issued pertaining to the water works system has been paid, or until there shall be a

4/23/35

sum in the Treasury of said City set apart for that purpose; to meet all sums coming due for principal and interest on such bonds, a tax sufficient to pay the annual interest on such bonds, and also such part of the principal thereof as shall become due before the time for fixing the next general tax levy; provided, however, that the board shall each year apportion and set apart out of the revenue fund in the City Treasury pertaining to the municipal water works for repayment to the City an amount or amounts sufficient to pay at maturity all sums coming due in said year for principal and interest upon all (except as herein-after provided) outstanding general obligation bonds so voted and issued for the purposes of said works for which taxes have been levied and collected as in this section provided; and said amounts shall be transferred forthwith into a special fund in the City Treasury, to be designated by name indicating the nature or purpose of such special fund, and the money in such special fund shall be subject to apportionment by the Auditor from time to time to the General Fund of the City for the purpose of making such repayment on account of the principal and interest of said bonds, and for no other purpose. Any interest or increment received on the money in any such special fund shall be paid into such special fund and become a part thereof. The foregoing provisions of this section shall apply to all such bonds now outstanding; provided, however, that the foregoing provisions with respect to repayment by the board shall not apply to all bonds now outstanding known and designated as the El Capitan Dam Bonds until such time as the El Capitan Dam and Reservoir shall be in complete operation and supplying water to the department; provided, further, that payment out of revenue, as herein provided, of the principal and interest of bonds issued subsequent to January 1, 1936, for securing water or electric energy from new sources, shall be required only to the extent determined by resolution of the board, approved by a majority vote of the Council prior to the submission to the electors of the City of the proposition of authorizing such bonds. Such resolution shall be subject to amendment only by resolution of said board, approved by a majority vote of the Council and assented to by a majority of the electors of the City voting on the question of approving such resolution at a general or special election at which such question shall be lawfully submitted. Except as in this section provided, said board may, in its discretion, apply the moneys in such revenue funds to such purposes permitted by Section 4 of this Article, and in such order and such amounts, as in the exer-

cise of such discretion it shall determine. Balances remaining unexpended in said revenue funds, and all sums receivable into said fund from unpaid bills of consumers and other similar sources at the close of any fiscal year, shall be available for appropriations for, and expenditures in, succeeding fiscal years in like manner and for like purposes as revenues received during such succeeding years.

Section 7. The obligations of contracts of The City of San Diego shall not be impaired by the provisions of this Article. Any revenues of the Water Department which have heretofore been appropriated by valid contract for the purpose of the development, conservation and distribution of water in connection with the Hodges Reservoir Dam and system shall be expended for such purpose only.

All contracts of The City of San Diego in relation to the water works system shall be assumed by the department, and the terms and conditions to be performed on the part of the City shall be complied with and performed by the department, and all benefits of such contracts shall inure to the benefit of said department; provided, however, that the board may, with the consent of all parties to any contract heretofore or hereafter executed, enter into supplemental agreements altering, modifying or supplementing the original agreement.

Section 8. The Council shall have the power and is hereby authorized to submit to a vote of the qualified electors of the City at any election for any purpose, at which all of the qualified voters of the City are entitled to vote, any proposed ordinance, order or resolution, legislative, administrative or executive, that the Council itself might adopt. Whenever the Council rejects, refuses or fails, within a period of sixty days, to approve any recommendation, resolution or contract proposed by the board, which the Council by this Article is authorized to approve, the Council shall upon demand of the board, made within ten days after the expiration of said sixty-day period, submit to a vote of the qualified electors of the City at the next succeeding special or general election held within The City of San Diego, the proposition of whether the recommendation, resolution or contract proposed by the board shall be approved, adopted or entered into. If a majority of the qualified electors voting on any such

4/23/35

proposed ordinance, order, recommendation, resolution or contract vote in favor of the same it shall be deemed to be adopted, and shall take effect upon the declaration of the result of such election by the Council.

Section 9. If any provision of this Article, or the application of such provision to any person, body or circumstances shall be held invalid, the remainder of this Article or the application of such provisions to persons, bodies or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Section 10. This Article is complete in itself, and shall be controlling. The provisions of any other law, or of any other section of the City Charter, in conflict herewith, as to the subject-matter hereof, are superseded and shall not apply to the department created and established under this Article.