

Councilmanic Districts 2, 5 and 6

SAMPLE BALLOT MUNICIPAL TICKET PRIMARY ELECTION

MARCH 23, 1937

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.

CITY ATTORNEY		OUT
(Vote for One)		SIDE
<i>26.50</i> DAYTON L. AULT	15243	
Earl H. Miller	526	
Scattering	38	
FOR MEMBERS OF BOARD OF EDUCATION (Vote for Three)		
<i>10¢</i> ROY O. AKERS	4598	16
<i>84.94</i> MARIE L. BROWN	5570	11
<i>67.72</i> MILDRED L. HALE	13063	77
<i>20.00</i> EDWARD L. HARDY	12989	74
<i>20.62</i> RAY REYNOLDS	5038	12
<i>43.54</i> ROBERT L. STONE	3438	25
<i>16.45</i> FRED M. THOMPSON	7365	79
<i>82.75</i> JACOB WEINBERGER	13704	79
Scattering	4	1

Councilmanic District No. 1

PRECINCT NO.....

Semi-Official Returns

MUNICIPAL PRIMARY ELECTION

MARCH 23, 1937

Election Officers, After Completing Canvass, will Enter Results Upon This Sheet and Return Same to City Clerk in Envelope Marked for That Purpose.

DO NOT PUT IN BALLOT CAN

FOR CITY ATTORNEY (Vote for One)		FOR COUNCILMAN DISTRICT NO. 1 (Vote for One)	
DAYTON L. AULT		WESLEY C. CRANDALL	2679
		EDWARD A. KICKHAM	1379
FOR MEMBERS OF BOARD OF EDUCATION (Vote for Three)		ELMER E. STEELE	486
ROY O. AKERS			
MARIE L. BROWN			
MILDRED L. HALE			
EDWARD L. HARDY			
RAY REYNOLDS			
ROBERT L. STONE			
FRED M. THOMPSON			
JACOB WEINBERGER			

Total Vote
25,596
25,475 city proper
121 outside
25,596

24
411
214

Councilmanic District No. 3

PRECINCT NO.....

Semi-Official Returns

MUNICIPAL PRIMARY ELECTION

MARCH 23, 1937

Election Officers, After Completing Canvass, will Enter Results Upon This Sheet and Return Same to City Clerk in Envelope Marked for That Purpose.

DO NOT PUT IN BALLOT CAN

FOR CITY ATTORNEY (Vote for One)		FOR COUNCILMAN DISTRICT NO. 3 (Vote for One)	
DAYTON L. AULT		DAVID C. CLARK	1137
		RALPH O. COGGESHALL	581
FOR MEMBERS OF BOARD OF EDUCATION (Vote for Three)		ADDISON E. HOUSH	1679
ROY O. AKERS		Scattering	1
MARIE L. BROWN			
MILDRED L. HALE			
EDWARD L. HARDY			
RAY REYNOLDS			
ROBERT L. STONE			
FRED M. THOMPSON			
JACOB WEINBERGER			

2754
148
94
21660

Councilmanic District No. 4

PRECINCT NO.....

Semi-Official Returns

MUNICIPAL PRIMARY ELECTION

MARCH 23, 1937

Election Officers, After Completing Canvass, will Enter Results Upon This Sheet and Return Same to City Clerk in Envelope Marked for That Purpose.

DO NOT PUT IN BALLOT CAN

FOR CITY ATTORNEY (Vote for One)		FOR COUNCILMAN DISTRICT NO. 4 (Vote for One)	
DAYTON L. AULT		GEORGE H. BRAY	229
		HERBERT E. FISH	1080
FOR MEMBERS OF BOARD OF EDUCATION (Vote for Three)		FRANK KIMBALL	526
ROY O. AKERS		LEWIS LIPTON	524
MARIE L. BROWN		HARRY A. SANFORD	318
MILDRED L. HALE		ANDREW K. WEIR	1067
EDWARD L. HARDY		Scattering	4
RAY REYNOLDS			
ROBERT L. STONE			
FRED M. THOMPSON			
JACOB WEINBERGER			

35-73
219.09
76.20
69.84
124.71

3-23-37

PRECINCT NO.

Semi-Official Returns

*Total Vote
25,343*

SPECIAL LIBRARY BOND ELECTION

March 23rd, 1937

Election Officers, After Completing Canvass, Will Enter Results Upon this Sheet and Return Same to City Clerk.

DO NOT PUT IN BALLOT CAN.

PROPOSITION TO BE VOTED UPON

Shall The City of San Diego incur a bonded indebtedness of \$250,000.00 for enlarging, making additions to or rebuilding the present main public library building, located on city-owned property on E Street, between Eighth Avenue and Ninth Avenue—Lots D, E, F, G, H and I, Block 47, of Horton's Addition to the City of San Diego,—and for the acquisition of necessary equipment therefor, in order that the public library service may be more economically conducted for the inhabitants of said City?

<i>48.15%</i>	
YES	
12	043
<i>51.85%</i>	
NO	
12	970

25,013

SAMPLE BALLOT

Charter Amendment and State Park Exchange Election
March 23, 1937

INSTRUCTIONS TO VOTERS

If you desire to ratify any 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 not to ratify any 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 election and obtain another.

Total Vote
25-346

PROPOSITION I. Amend Section 23 of Article III of the City Charter. This amendment provides a complete procedure for the exercise of the initiative, referendum and recall; it provides that 5% of the qualified electors of The City of San Diego may initiate any ordinance or legislative, administrative or executive action which the Council itself might adopt; that when such a petition is signed by 15% of the qualified electors of the City, then the Council must call a special election for the submission thereof to the people, but that if such initiative petition contains the names of at least 5% and less than 15%, the Council shall submit the same at the next general municipal election or at the next election at which all of the qualified electors of the City are entitled to vote; that for the referendum a petition presented within 30 days after the adoption by the Council of any ordinance, order or resolution as limited and referred to in said amendment, signed by at least 7% of the qualified electors of the City, shall temporarily suspend the taking effect thereof; that when such a referendary petition is signed by 15% of the qualified electors of the City, then the Council must call a special election for the submission thereof, but that if such petition contains the names of at least 7% and less than 15% of the qualified electors, the Council shall submit the same at the next general municipal election or at the next election at which all the qualified voters of the City are entitled to vote; that for the recall of any elective official of The City of San Diego it requires a petition signed by at least 25% of the qualified electors of said City, and that thereupon the Council shall, by ordinance, order the holding of a special election for the purpose of submitting the question of such recall and the election of a successor. All of the percentages for the filing of the petitions specified in this amendment are based upon the total number of votes cast for all candidates for the office of Mayor at the last general municipal election or primary election at which a Mayor was elected, prior to the filing of said petition. Further detailed particulars are contained in Resolution No. 65400, filed in the office of the City Clerk as Document No. 301055.	YES	9133
	NO	11865

43.49%

56.51%

20,998

PROPOSITION II. Amend Sections 103, 104 and 105 of Article VII of the Charter of The City of San Diego.

(a) Section 103. 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 reproduction, 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 10515

(b) Section 104. This amendment prescribes the procedure for granting franchises for the use of public property after application, payment by applicant of costs 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 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 record of all grants.

49.02%

10935

(c) Section 105. This amendment subjects all franchises to right of City to repeal same at any time for misuse, nonuse, failure to begin construction within time prescribed, or otherwise comply with terms; reserves right to examine accounts and records of any franchise holder, require reports and impose regulations for health, safety and welfare of public; requires owner of street or interurban franchise to maintain portions of streets occupied by its tracks in good repair, flush with street and with good crossings; and to lay suitable foundations for tracks when new paving is put down by the City.

NO

50.98%

21,450

PROPOSITION III. Amend Section 54 of Article V of the Charter of The City of San Diego. This amendment extends the annual appropriation of \$150,000 for the development of the harbor and tidelands of The City of San Diego until the fiscal year 1943-44.

YES 14290

65.86%

NO 7407

34.14%

21,697

PROPOSITION IV. Amend Section 96 of Article VII of the Charter of The City of San Diego. This amendment permits progressive payments on city contracts up to 90% of the contract price, and provides that the balance shall not be payable until 5 days after expiration of period for filing bids and acceptance of the work.

YES 10874

56.81%

NO 8267

43.19%

19,141

PROPOSITION V. Shall The City of San Diego accept a grant from the State of California of all the State-owned tidelands bordering upon Mission Bay, together with a conveyance or long-term lease at a nominal consideration of the so-called Mission Beach amusement center, and a long-term lease at a nominal consideration of all other lands near Mission Bay heretofore acquired by the State with bond funds for state park purposes; and convey to the State in exchange, to be held, maintained and administered as a free and public state park the City-owned area comprising Torrey Pines Park, and consisting of those portions of the following Pueblo Lots heretofore dedicated by the City for park purposes, to-wit: Pueblo Lots numbered 1340, 1338, 1339, 1337, 1336, 1332, 1333, 1331, 1330, 1325, 1326 and 1324; reserving therefrom all roads and rights of way for roads now existing, projected or contemplated?

YES 6980

31.38%

NO 15260

68.62%

22,240

PROPOSITION VI. If the exchange described in the foregoing Proposition V is made and the City acquires jurisdiction over the entire Mission Bay area, shall that portion of tidelands to be filled and reclaimed by dredging operations bordering the southeasterly portion of Mission Bay, and lying between the Causeway and Pacific Highway, be developed and used for commercial and industrial purposes?

YES 6763

30.93%

NO 15100

69.07%

21,863

1A

3/23/37

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, March 23, 1937.

• ALLEN H. WRIGHT, City Clerk.

PROPOSITION I.

Amend Section 23, Article III, of the Charter of The City of San Diego, so as to read as follows:

"Section 23. The Initiative, Referendum and Recall.

(a) **The Initiative.** Any proposed ordinance, legislative, administrative or executive, which the Council itself might adopt, may be submitted to the Council by a petition filed with the City Clerk, as provided in paragraph (b) hereof, praying for the adoption of such ordinance, or, if the same be not adopted, that such ordinance be submitted to a vote of the electors of the city. Any such petition shall be known as an initiative petition. Any proposed ordinance amending or repealing an ordinance theretofore proposed by petition and adopted by a vote of the electors may be submitted to the Council by a petition filed with the City Clerk, as provided in paragraph (b) hereof, praying that such ordinance be submitted to a vote of the electors of the city. Any such petition shall be known as an initiative petition. Any initiative petition shall set forth the proposed ordinance in full, and shall be signed by qualified electors of the city equal in number to the percentages hereinafter prescribed. The basis on which such percentages of qualified electors of the city shall be estimated shall be the total number of votes cast for all candidates for the office of Mayor at the last general municipal election, or primary nominating election, at which a Mayor was elected prior to the filing of such petition.

(b) Any petition submitting a proposed ordinance, legislative, administrative or executive, to the Council, as provided in this Article, shall be in the form, and shall be signed, filed and certified as follows:

In making such petition, sheets of white paper of a uniform size shall be used. Such petition shall consist of separate papers, as follows: Each paper shall consist of a sheet or sheets, containing the proposed ordinance, with additional sheet or sheets for the signatures thereto; provided, however, that if any paper consists of more than one sheet it shall be and remain securely fastened together at the top. The proposed ordinance, as set

forth in any paper, shall be followed by the signatures, which need not all be appended to one sheet or paper. Such petition shall be signed by qualified electors of the city in their own proper persons only, and opposite the signature written by each signer his residence shall be written by him, giving the street and number, when such designation by street and number can be given, or if the signer be unable to write, then such signature and residence shall be written by some person at his request, and the same identified on the margin by the signature of the person making the affidavit hereinafter provided. The number of the election precinct of each signer shall also appear on the paper after his or her name. Each such paper shall have attached thereto at the bottom of the last sheet thereof the affidavit of a qualified elector of the city stating that all of the signatures on each sheet thereof were made in his presence, and that all of the sheets constituting such paper were fastened together at the time such signatures were appended thereto; and that to the best of his knowledge and belief such signature is the genuine signature of the person whose name purports to be thereunto subscribed. Each of the other sheets of such paper, containing signatures, shall be identified by the signature of the person making such affidavit.

Within twenty days from the date of the filing of such petition, the City Clerk shall examine the same and ascertain whether or not said petition is signed by the requisite number of qualified electors of the city; and if requested by the City Clerk the Council shall authorize him to employ persons specially for that purpose, in addition to the persons regularly employed in his office, and the provisions of the charter respecting the Classified Civil Service of the city shall not apply to the persons so specially employed. When the City Clerk has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination, and if from such examination he shall find that said petition is signed by the requisite number of electors of the city or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be. If by the certificate of the City Clerk the petition is found to be insufficient, it may be amended by filing a supplemental petition or petitions within ten days from the date of such certificate. The City Clerk shall

within ten days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided. If his certificate shall show any such petition, or any such petition as amended, to be insufficient, it shall be retained by him and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the City Clerk, such petition, or such petition as amended, is shown to be sufficient, the City Clerk shall present the same to the Council without delay. The sufficiency or insufficiency of such petition shall not be subject to review by the Council.

If any supplemental petition be filed, all the signatures appended to the petition and to the supplemental petition or petitions shall be considered in determining the number of qualified electors signing the initiative petition.

Any signer to a petition or supplemental petition may withdraw his name by filing with the City Clerk a verified revocation of his signature before the filing of the petition or supplemental petition containing his signature, with said City Clerk. No signature can be revoked after the petition, or supplemental petition to which it is attached, has been filed. The City Clerk shall endorse on said petition and on any supplemental petition the name of the person or persons who filed the same, respectively. If any signature to such petition or supplemental petition be questioned and in the judgment of the City Clerk should be investigated, the City Clerk shall forthwith mail notice to such purported signer, stating that his name is attached to such petition or supplemental petition, and cite him to appear before him forthwith to answer whether such signature is genuine. If the City Clerk finds that any signature is not genuine, he shall strike the name from such petitions. After an election based on any initiative petition, the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

(c) (1) If the petition praying for the adoption by the Council of any proposed ordinance, or if the same be not adopted, for the submission of such ordinance to a vote of the electors of the city, be signed by fifteen per cent of the qualified electors

of said city estimated upon the basis aforesaid, and asks for the calling of a special election, then the Council shall either:

(2) Pass said ordinance, without alteration, within twenty days after the presentation of such petition to the Council by the City Clerk, and if the Council shall fail to pass said ordinance within said time, the Council shall thereupon, within ten days after it shall have so failed of passage, call a special election, at which said proposed ordinance, without alteration, shall be submitted to a vote of the qualified electors of said city; such election shall be held not less than thirty days from the date of the presentation of such petition to the Council nor more than ninety days from said date; provided, however, that if any other election for any purpose at which all the qualified voters of the city are entitled to vote shall be called and held in said city within said ninety days, then such ordinance shall be submitted either at such last named other election or at the special election above provided for, as the Council shall determine.

(3) Forthwith after the presentation of such petition to the Council, it shall call a special election for the purpose of submitting said ordinance to a vote of the electors of the city, and such election shall be held not less than thirty days from the date of the presentation of such petition to the Council nor more than ninety days from said date; provided, however, that if any other election for any purpose at which all the qualified voters of the city are entitled to vote shall be called and held in said city within said ninety days, then such ordinance shall be submitted either at such last named other election or at the special election above provided for, as the Council shall determine.

Any ordinance proposed by initiative petition and passed by the Council shall be subject to the referendum by petition as herein provided in the case of other ordinances.

(4) If the said petition be signed by at least five per cent of the qualified electors of said City, estimated upon the basis aforesaid but does not conform to both the requirements of subdivision (1), paragraph (c) hereof, even though it may ask for the calling of a special election, then such ordinance, unless enacted by the Council without alteration, shall be submitted

without alteration by the Council to a vote of the electors of the City at the next election for any purposes at which all the qualified voters of the city are entitled to vote, that shall be held at any time after thirty days from the date of the presentation of said petition to the Council.

(5) In the event that said petition prays for the submission of a proposed ordinance amending or repealing an ordinance theretofore proposed by petition and adopted by a vote of the electors, and is signed by qualified electors of the city equal in number to fifteen per cent of the qualified voters of the city estimated on the basis aforesaid, then but not otherwise, the Council must submit such proposed ordinance to a vote of the electors of the city at the next election for any purpose at which all the qualified voters of the city are entitled to vote, that shall be held at any time after thirty days from the date of the presentation of such petition to the Council.

(d) Any person or persons filing an initiative petition, or the person or organization on whose behalf such petition is filed, shall have the right to file with the City Clerk, at least twenty days prior to the election at which the ordinance proposed by such petition is to be submitted to a vote of the electors of the city, printed copies of an argument favoring said proposed ordinance, and the Council shall have the right to present, or permit to be presented and filed with the City Clerk within the same limit of time, printed copies of an argument opposing said ordinance. No such argument shall exceed two thousand words in length, and such argument shall be printed in such form and upon such character of paper, suitable for mailing, as the City Clerk shall prescribe. The City Clerk shall enclose one copy of each such argument with the sample ballot and a copy of the proposed ordinance mailed to each voter, provided he has been furnished with printed copies of such argument equal in number to five percent in excess of the total number of qualified electors of the city. Nothing in this section contained shall authorize the Council to expend money of the city for the formulating or printing of any such argument.

(e) If a majority of the qualified electors voting on any ordinance proposed by petition shall vote in favor thereof, such

ordinance shall become an ordinance of the city upon the declaration by the Council of the result of the election at which such proposed ordinance was submitted; and any such ordinance adopted by a vote of the qualified electors of the city voting thereon cannot be amended or repealed except by an ordinance proposed by petition and adopted by vote of the electors, as hereinbefore provided, or by an ordinance submitted by the Council to a vote of the electors of the city and so adopted as hereinbefore provided, or by an amendment of this charter amending or repealing the same.

(f) The Referendum.

The Council shall have 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 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. If a majority of the qualified electors voting on such proposed ordinance, order or resolution, 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, and it shall have the same force and effect as an ordinance adopted under the provisions of this article relating to the referendum.

(g) At any time within the thirty days mentioned in Section 17 of this charter, a petition addressed to the Council, and signed by qualified electors of said city equal in number to at least seven per cent of such qualified electors, computed upon the basis for estimating percentages specified in paragraph (a) hereof, may be filed with the City Clerk, demanding the submission of any ordinance, order or resolution passed by the Council, to a vote of the qualified electors of said city, except any ordinance, order or resolution which shall take effect upon its publication or passage as provided in Section 17 of this Charter. Any such petition shall be known as a referendary petition and shall contain the ordinance, order or resolution in full, the submission of which to a vote is thereby demanded. Such vote shall be known as a referendary vote.

The provisions of this charter relating to the form and to the mode of signing initiative petitions, and to the filing, examination, certification and amendment of the same, and to the presentation thereof to the Council by the City Clerk, shall apply to referendary petitions filed under the charter.

If any referendary petition or petitions be filed, as hereinbefore provided, and the City Clerk shall be unable to make his certificate to the sufficiency or insufficiency thereof within thirty days after the publication of the ordinance, or the adoption of the order or resolution, the submission of which to a referendary vote is thereby demanded, such ordinance, order or resolution shall be suspended from taking effect after the expiration of said thirty days and until the date of the certificate of the City Clerk to the sufficiency or insufficiency of such petition or petitions. If by the certificate of the City Clerk such petition or petitions are certified to be sufficient, such ordinance, order or resolution shall not go into effect until it shall be adopted by vote of the electors of the city, as hereinafter provided; but if by such certificate such petition or petitions are certified to be insufficient, such ordinance, order or resolution shall go into effect upon the date of such certificate; provided, however, that no such ordinance, order or resolution shall take effect until the expiration of said thirty days. No referendary petition shall be amended by a supplemental petition filed after the expiration of said thirty days. In case more than one referendary petition be filed in relation to any certain ordinance, order or resolution, all such petitions shall be considered in determining the number of qualified electors, and with the same force and effect as though all the names had been appended to the one petition.

(h) Upon presentation to the Council by the City Clerk of a referendary petition or petitions, the ordinance, order or resolution, the submission of which to a referendary vote is thereby demanded, must be either repealed by the Council without delay, or submitted to a vote of the qualified electors of the city for approval or rejection at the next general municipal election occurring subsequent to thirty days from the date of the presentation of such referendary petition to the Council by the City Clerk; provided, that if before such general municipal election any other election for any purpose at which all the qualified

voters of the city are entitled to vote shall be held in said city, then such ordinance, order or resolution shall be so submitted at such last named other election, if the Council shall so determine; provided, however, that if any referendary petition or petitions shall be signed by fifteen per cent of the qualified electors of said city computed upon the basis for estimating the percentage of such electors set forth in paragraph (a) hereof, and asks for the calling of a special election, the Council must, upon the presentation thereof to it, immediately call a special election at which the ordinance, order or resolution contained in such petition shall be submitted to a referendary vote; such election shall be held not less than thirty days from the date of the presentation of such petition to the Council nor more than ninety days from said date; provided, however, that if any other election for any purpose at which all the qualified voters of the city are entitled to vote shall be called and held in said city within said ninety days, then such ordinance shall be submitted either at such last named other election or at the special election above provided for, as the Council shall determine.

If any referendary petition or petitions presented to the Council as aforesaid be certified by the City Clerk to be signed by at least seven per cent but less than fifteen per cent of the qualified electors of the said city, computed upon the basis aforesaid, then and in that event additional referendary petitions for the submission of such ordinance, order or resolution to a referendary vote may be filed; all such additional referendary petitions shall be in the same form, and be signed, examined, amended, and certified and presented to the Council in like manner as provided in paragraph (b) hereof; and if it shall appear from the certificate of the City Clerk thereto that such additional referendary petition or petitions are signed by such number of qualified electors of the city, as, when added to the number of qualified electors whose signatures are appended to such referendary petition or petitions examined and certified by the City Clerk, shall equal fifteen per cent of the qualified electors of said city, computed upon the basis aforesaid, and if such additional referendary petition or petitions asks for the calling of a special election, the Council must upon the presentation of such additional referendary petition or petitions to it by the City Clerk immediately call a special election at which such

ordinance, order or resolution shall be submitted to a referendary vote; such election shall be held not less than thirty days from the date of the presentation of such additional referendary petition to the Council nor more than ninety days from said date; provided, however, that if any other election for any purpose at which all the qualified voters of the city are entitled to vote shall be called and held in said city within said ninety days, then such ordinance shall be submitted either at such last named other election or at the special election above provided for, as the Council shall determine.

If, upon the presentation by the City Clerk to the Council of a referendary petition signed by at least seven per cent, but less than fifteen per cent, of the qualified electors of the city, computed as aforesaid, the Council shall have ordered the ordinance set forth in such petition submitted to a vote of the electors of the city at the next general municipal election and said general municipal election will occur more than ninety days from the date of the presentation to the Council of said additional referendary petition or petitions, such action shall be annulled by the presentation to it of additional petitions, which request the calling of a special election, and which, together with such referendary petition, shall be signed by at least fifteen per cent of the qualified electors of the city, and in such event the Council shall submit such ordinance to such vote at an election to be held within ninety days of said date of presentation as hereinbefore provided.

(i) No ordinance, order or resolution that has been submitted to a referendary vote shall go into effect unless a majority of the qualified electors voting thereon shall vote in favor thereof; and if such ordinance, order or resolution so submitted shall receive the votes of a majority of such qualified electors voting thereon, it shall be deemed to be adopted, and shall take effect upon the declaration by the Council of the result of the election at which it shall have been so submitted; provided, however, that any ordinance, order or resolution so adopted shall be subject to amendment or repeal by the Council at any time, but such amendment or repeal shall not be made within six months after such adoption, except by unanimous vote of the Council,

and such amendment or repeal shall be subject to a referendary vote as provided in this article.

(j) When ever any ordinance proposed by initiative petition, or any ordinance, order or resolution for the submission of which to a referendary vote a petition or petitions shall have been filed, is submitted at any election, there shall be printed on the ballots to be used at such election the words, "Shall the ordinance (or order, or resolution, or proposed ordinance, as the case may be, stating the nature of the ordinance, order or resolution, or of the proposed ordinance) be adopted?" And opposite such proposition to be voted on, and to the right thereof, the words "Yes" and "No" shall be printed on separate lines with voting squares. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes," his vote shall be counted in favor of the adoption of the ordinance, order or resolution, or the proposed ordinance; and if he shall stamp a cross (X) in the voting square after the printed word "No," his vote shall be counted against the adoption of the same.

(k) Any number of ordinances, proposed by initiative petitions, or ordinances, orders or resolutions submitted by the Council to a referendary vote, or so submitted in pursuance of referendary petitions, may be voted upon at the same election, either general or special; provided, that there shall not be held in any period of six months more than one election called for the purpose of submitting an ordinance or ordinances proposed by initiative petitions, but if any election be called for any other purposes within such period, such ordinance or ordinances may also be submitted thereat. If the provisions of two or more ordinances, orders or resolutions adopted at the same election by vote of the qualified electors of said city, under the provisions of this article, conflict, then the ordinance, order or resolution receiving the highest affirmative vote shall prevail.

(l) The Council, at its own instance, or upon the presentation to it of an initiative petition, may submit any proposed ordinance, order or resolution for the repeal of any ordinance, order or resolution, adopted or approved by vote of the qualified electors of the city, in pursuance of an initiative or referendary petition, as in this article provided, or for the amendment

of such ordinance, order or resolution, to be voted upon at any succeeding election held in said city, for any purpose at which all the qualified voters of the city are entitled to vote, and in the event that such proposed ordinance, order or resolution so submitted by the Council receive a majority of the votes cast thereon at such election, the ordinance, order or resolution to which such ordinance, order or resolution so adopted is amendatory, or that is to be repealed thereby, shall be amended or repealed accordingly.

(m) Whenever any ordinance, order, resolution or proposition is required by this article to be submitted to the electors of the city at any election, the City Clerk shall cause the same to be printed, and he shall enclose a printed copy thereof in an envelope with a sample ballot, and mail the same to each voter.

(n) The provisions and requirements of paragraph (d) hereof relative to the preparation, printing and distribution of arguments for or against any ordinance proposed by initiative petition shall apply, and be effective, in the case of the submission to vote of the electors in pursuance of a referendary petition of any ordinance, order or resolution.

(o) **The Recall.**

(1) For the recall of any elected official sought to be removed, a petition signed by qualified electors equal in number to at least twenty-five per cent of the entire vote cast for Mayor at the last preceding general municipal election, demanding the submission to the electors of the city of the question whether the incumbent of such office shall be removed by vote of such electors, and if so removed, the election of a successor of such incumbent, shall be addressed to the Council and filed with the City Clerk. Such petition shall contain a general statement of the grounds for which such removal is sought, of not more than three hundred words in length, and the sufficiency of such statement shall not be subject to review; provided, however, that no petition for the removal of any elective officer shall be so filed until he has actually held his office for six months.

(2) The provisions of this article relating to the form and to

the mode of signing initiative petitions, and to the filing, examination, certification and amendment thereof, and to the presentation of the same to the Council, shall apply to any petition filed with the City Clerk under this paragraph relating to the recall, which petition shall be designated as a recall petition. The sufficiency or insufficiency of any recall petition shall not be subject to review by the Council.

(3) Upon the presentation of such recall petition to the Council, by the City Clerk, the Council shall thereupon, by ordinance, order the holding of a special election for the purpose of submitting to the electors of the city at large or in the San Diego School District as the case may be, the question whether such officer shall be recalled, and if recalled, for the election of his successor. Such special election shall be held not less than fifty nor more than sixty days after the date of the certificate of the City Clerk to the sufficiency of such recall petition; provided, however, that if any other election for any purpose at which all the qualified voters of the city are entitled to vote, is to occur within sixty days after the date of such certificate, the Council may, in its discretion, order the holding of such recall election, and the consolidation thereof with such other election, occurring not more than sixty days after the date of said certificate of the City Clerk.

(p) The ballots used at every recall election shall have printed thereon, as to every officer whose recall is to be voted on thereat, the following question:

"Shall (inserting the name of the officer sought to be removed) be removed from the office of (inserting the name of his office) by the recall?"

And opposite such question to be voted on, and to the right thereof, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If an elector shall stamp a cross (X) in the voting square after the printed word "Yes," his vote shall be counted in favor of the recall of such officer, and if he shall stamp a cross (X) in the voting square after the word "No," his vote shall be counted against such recall.

On such ballots, under each question, there shall also be printed the names of all persons who have been nominated as candidates to succeed the person whose removal is sought, in case he shall be removed from office by vote of the electors. The nomination of such candidates shall be made as hereinafter provided, except that the person whose removal is sought shall be deemed a candidate, and unless, within five days after the date of the City Clerk's certificate to the petition, he resigns his office, or declines, in writing duly signed and verified by him, and filed with the City Clerk, to be a candidate, his name shall be printed on the ballot the same as if he had been regularly nominated in accordance with the provisions of this article:

(q) Any incumbent of an office whose removal is sought under the provisions of this article, may file with the City Clerk, at least twenty days prior to such recall election, printed copies of a statement of not more than two thousand words in length, justifying his course in office; and the person filing such recall petition, or the person or organization on whose behalf a recall petition was filed, shall have the right to present to the City Clerk, within the same limit of time, printed copies of a statement in support of such recall of not exceeding two thousand words in length. Any statement filed under this section shall be printed in such form and upon such character of paper suitable for mailing as the City Clerk shall prescribe.

The City Clerk shall enclose one copy of any such statement so filed with him with the sample ballot mailed to each voter, provided he has been furnished with printed copies of such statement equal to five per cent in excess of the total number of qualified electors of the city, or of the San Diego School District in case the election is in said district.

(r) Any elective officer for whose recall and removal from office an election is held, shall continue to perform the duties of his office until such time as the Council having canvassed the vote at such recall election, shall declare that a majority of the electors voting on the question as to whether such person shall be recalled and removed from office, have voted in favor of his recall and removal from office. But if such person shall resign at any time after the date of the certificate of the City

Clerk certifying that the petition for his recall is sufficient and prior to the declaration of the result of such election, thereby creating a vacancy in such office, or a vacancy occurs therein during such time from any cause, such vacancy may be filled in the same manner as other vacancies occurring in such office, but in that event the person appointed to fill such vacancy shall hold his office only until the person declared by the Council to have been elected at the recall election shall qualify. Proceedings for the recall of any elective officer shall be deemed to be pending from the date of the certificate of the City Clerk certifying that the recall petition is sufficient, and if he shall resign at any time subsequent thereto the recall election shall be held notwithstanding such resignation.

In the event that a majority of the electors voting on the question as to whether the person shall be recalled and removed from office shall vote in favor of the removal of such person from office by the recall, the person for whose removal from office such majority has voted shall be deemed to be and shall be recalled and removed from office upon the declaration of the result of such election by the Council, except as hereinafter next provided, and the candidate receiving at said election the highest number of votes for that office shall be thereby elected. If the incumbent receive the highest number of votes, he shall continue in office, but if some person other than the incumbent receive the highest number of votes at such election, he shall become the successor of the incumbent so removed and shall hold office only during the unexpired term of such officer.

(s) No person who has been removed from an elective office by the recall, or who has resigned from such office while recall proceedings for his removal were pending against him, shall be appointed to any office under this charter within two years after such removal or resignation.

(t) Any candidate to be voted for at a recall election, other than the incumbent sought to be removed, may be nominated by petition, which petition shall conform to the provisions of this charter so far as applicable relating to nominating petitions at primary nominating elections for the respective elective offices. Each petition must be presented to the City Clerk not

insufficient

less than twenty-five days before such recall election. Immediately upon the presentation of any such petition the City Clerk shall ascertain and determine, in the manner hereinbefore provided as to initiative petitions, whether or not such petition is signed by the requisite number of qualified electors of the city. If requested by the City Clerk, the Council shall allow him additional assistants for that purpose, as in other cases, and he shall, within five days after the presentation thereof attach his certificate to such petitions, showing the result of his examination. If it shall appear therefrom that any such petition is not signed by the requisite number of qualified electors, the same may be amended within three days from the date of such certificate, by presenting a supplemental petition. The Clerk shall within five days after such supplemental petition is filed, make like examination thereof and shall certify the result of his examination thereof; but no further supplemental petition shall be allowed. If any such petition, as amended by a supplemental petition, be signed by the requisite number of qualified electors, both the petition and supplemental petition being considered together for that purpose, the person therein named shall be deemed to be nominated as a candidate to be voted for at such recall election."

PROPOSITION II.

Amend Sections 103, 104 and 105, 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 requirement 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, and their physical valuation, but without compensation for franchise value; good will, going concern value, earning power, increased cost of reproduction, severance damage, or increased value of property, or of rights of way occasioned by or attributable to use or occupancy of the same 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 Railroad Commission of the State of California shall fix, determine and declare the just and proper amounts to be charged against such public utility on account of the expenses incurred by the City upon such investigation, including attorney's fees, court or commission charges, together with such expenses and compensation of the officers, agents and employees, both regular and temporary, of the City, as the said Commission may deem just and proper as reasonably attributable to such investigation, valuation or revaluation; and the public utility affected shall pay to the City the amount or amounts so fixed and determined by said Commission, and the decision of said Commission shall be final; provided, however, that the total amount which may be required to be paid to the City 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 said Commission, 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."

"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 lawful money 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 which 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 fran-

chises, leases or permits granted for the use of the public property of the City."

"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; 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 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 cost of new surface pavement between 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 owner

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 III.

Amend Section 54, of Article V, of the Charter of The City of San Diego, so as to read as follows:

"Section 54. Harbor Department.

(a) The Mayor, with the approval of the Council, shall appoint three electors of the City as members of the Harbor Commission, one to serve for two years, one for three years, and one for four years. Thereafter, members of the Harbor Commission shall be appointed to serve for four years and until their successors have been appointed and qualified. The members of the Harbor Commission in office at the time this Charter becomes effective shall remain in office until their successors are appointed and qualified. The Council may at any time by a vote of at least five (5) of their members remove from office any or all of said Harbor Commissioners. The members of the Harbor Commission shall serve without pay.

(b) The Harbor Commission is vested with jurisdiction and authority to exercise in the name of The City of San Diego such powers as are prescribed by general laws now in force and

hereafter enacted, together with such additional powers and duties as may be prescribed by ordinance, this Charter, or the laws of the United States. The Commission shall have jurisdiction, supervision, management and control of the Bay of San Diego fronting upon The City of San Diego and within the jurisdiction of said City, including all tide and submerged lands, whether filled or unfilled, situated below the line of mean high tide within the limits of said City, except, however, such tide and submerged lands which have heretofore or which hereafter may be transferred to the exclusive control of the United States and excepting further such other land as may by vote of the people or act of the State Legislature be transferred to a purpose and use inconsistent with commerce, navigation and fisheries.

(c) The Harbor Commission shall have power to adopt, with the approval of the Council by ordinance, such rules and regulations as may be necessary to exercise and carry out the powers and duties prescribed by this Charter for said Harbor Commission.

(d) The Harbor Commission, subject to the Civil Service provisions of this Charter, shall appoint a Port Director, together with such other officers, employees and subordinates as may be necessary in the judgment of said Harbor Commission to carry out the duties prescribed by this Charter for said Harbor Commission and for the promotion of commerce, navigation and fisheries. All such offices and employments shall be created by ordinance upon the direct recommendation of the Harbor Commission. The Harbor Commission shall also have authority and power to employ legal counsel whenever in the judgment of said Commission such employment is necessary.

(e) The Port Director shall be the chief administrative officer of the Harbor Commission, and he shall exercise such powers and perform such duties as may be prescribed by the Harbor Commission. In addition to any duties imposed by the Harbor Commission and this Charter the Port Director shall also perform such duties as may be imposed upon harbor masters, port directors and administrative heads of harbors and ports by State or Federal law.

(f) The Council shall appropriate each fiscal year until the fiscal year 1943-44 the sum of \$150,000.00 in the annual appropriation ordinance for the use of the Harbor Commission on harbor improvements. This sum so appropriated annually, together with such portions of the revenue and receipts of the Department as may not be needed for operating expenses, shall be placed in a trust fund in the City Treasury and expended by the Harbor Commission for capital purposes only in the development of the harbor of San Diego and of tide lands heretofore or hereafter granted to The City of San Diego by the State of California. When the harbor has been fully developed all such funds which are not necessary for the maintenance and operation of said Department shall be placed in the general fund of the City and thereafter used for any lawful purpose.

(g) The Harbor Commission shall have authority to lease tide lands for such terms and upon such conditions as may be authorized by law; provided, however, that no lease of any tide lands within the jurisdiction of the City for a term longer than one year shall be valid unless said lease shall have been confirmed by the Council.

(h) Any municipal air ports now established or which may hereafter be established on the tide lands shall be under the control and supervision of the Harbor Commission until such time as the Council by Ordinance shall create a Department of Aviation under the Manager, at which time the Council may provide in such ordinance for the control, regulation and supervision of municipal air ports by the Department of Aviation.

(i) And all matters concerning the development of the Harbor of San Diego in which the Planning Commission of The City of San Diego shall have an interest, and which relate to the planning and zoning of The City of San Diego shall be referred by the Harbor Commission to the Planning Commission for recommendation before final action is taken thereon. In the event of a disagreement between the Harbor Commission and the Planning Commission concerning such proposed development, the matter shall be referred to the Council, whose decision on such development shall be final."

PROPOSITION IV.

Amend Section 96 of Article VII of the City Charter, so as to read as follows:

"Section 96. Progressive Payments. Any contract may provide for progressive payments if the ordinance or resolution authorizing the work so prescribes, but no progressive payment can be provided for or made at any time which, with prior payments, shall exceed in amount at that time ninety per cent of the value of the work done and materials used and no contract shall authorize or permit the payment of more than ninety per cent of the contract price before five days after the expiration period of filing liens, and the acceptance thereof by the Head of the Department concerned, and the Manager."