BORROWER'S OFFICER'S CERTIFICATE

September 24, 2020

Reference is made to that certain WIFIA Loan Agreement, dated as of September 24, 2020 (the "**WIFIA Loan Agreement**"), by and among City of San Diego (the "**Borrower**") and the United States Environmental Protection Agency (the "**EPA**"), acting by and through the Administrator of the EPA (the "**WIFIA Lender**"). Capitalized terms used in this certificate and not defined shall have the respective meanings ascribed to such terms in the WIFIA Loan Agreement.

Each of the undersigned, Rolando Charvel and Shauna Lorance, as Borrower's Authorized Representative, does hereby certify on behalf of the Borrower and not in his personal capacity, as of the date hereof:

(a) pursuant to Section 11(a)(ii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, to the extent not previously delivered to the WIFIA Lender, the Borrower has delivered to the WIFIA Lender complete and fully executed copies of each MIPA Document, together with any amendments, waivers or modifications thereto, in each case that has been entered into on or prior to the Effective Date, and each such agreement is in full force and effect, and all conditions contained in such documents to the closing of the transactions contemplated thereby have been fulfilled or effectively waived by the WIFIA Lender in its sole discretion;

(b) pursuant to Section 11(a)(vi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit A** is an incumbency certificate that lists all persons, together with their positions and specimen signatures, who are duly authorized by the Borrower to execute the Related Documents to which the Borrower is or will be a party, and who have been appointed the Borrower's Authorized Representative in accordance with Section 26 (*Borrower's Authorized Representative*) of the WIFIA Loan Agreement;

(c) the aggregate of all funds committed to the development and construction of the Project as set forth in the Base Case Financial Model provided by the Borrower to the WIFIA Lender on April 20, 2020 and in the Project Budget to pay Total Project Costs are sufficient to carry out the Project, pay all Total Project Costs anticipated for the Project and achieve Substantial Completion by the Projected Substantial Completion Date;

(d) pursuant to Section 11(a)(viii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the Borrower has delivered to the WIFIA Lender complete and fully executed copies of each Existing Principal Project Contract (as listed in Part A of **Schedule 12(n)** (*Principal Project Contracts*) to the WIFIA Loan Agreement, and each such Existing Principal Project Contract is in full force and effect and has not been amended, amended and restated, modified or supplemented;

(e) the Borrower has obtained all Governmental Approvals necessary to commence construction of the Project and each such Governmental Approval is final, non-appealable and in full force and effect (and is not subject to any notice of violation, breach or revocation);

(f) pursuant to Section 11(a)(x) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit B** is the Base Case Financial Model, which Base Case Financial Model (i) demonstrates that projected System Revenues are sufficient to meet the Loan Amortization Schedule, (ii) demonstrates compliance with the Rate Covenant for each Borrower Fiscal Year through the Final Maturity Date, (iii) reflects principal amortization and interest payment schedules acceptable to the WIFIA Lender and (iv) demonstrates that the Borrower has developed, and identified adequate revenues to implement, a plan for operating, maintaining and repairing the Project over its useful life;

(g) the Borrower (i) is authorized, pursuant to Sections 5450 and 5451 of the California Government Code and the WIFIA Ordinance, to pledge, assign, and grant the Liens on the Collateral purported to be pledged, assigned, and granted pursuant to the MIPA Documents, without the need for notice to any Person, physical delivery, recordation, filing or further act, (ii) recorded or filed, or caused to be recorded or filed, for record in such manner and in such places as are required all other documents and instruments, and taken or caused to be taken all other actions, as are necessary or desirable to establish and enforce the Lien on the Collateral (for the benefit of the WIFIA Lender and the other Secured Parties) to the extent contemplated by the MIPA Documents or required pursuant to applicable law, and (iii) paid, or caused to be paid, all taxes and filing fees that are due and payable in connection with the execution, delivery or recordation of any MIPA Documents or any instruments, certificates or financing statements in connection with the foregoing;

(h) pursuant to Section 11(a)(xiii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the Borrower is in compliance with NEPA all any applicable federal, state or local environmental laws and review and approval requirements with respect to the Project;

(i) pursuant to Section 11(a)(xv) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, (i) the Borrower's Federal Employer Identification Number is 95-6000776, (ii) the Borrower's Data Universal Numbering System Number is 826399206, and (iii) the Borrower has registered with, and obtained confirmation of active registration status from, the federal System for Award Management (www.SAM.gov), and attached hereto as **Exhibit C** is evidence of such active registration status;

(j) pursuant to Section 11(a)(xvi) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit D** are true, correct and complete copies of (i) certificates of insurance or (ii) documents pertaining to the Borrower's self-insurance program, in each case that demonstrate satisfaction of the insurance requirements of Section 14(f) (*Affirmative Covenants*) of the WIFIA Loan Agreement;

(k) pursuant to Section 11(a)(xvii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit E** is a copy of the Borrower's Organizational Documents, as in effect on the Effective Date, which Organizational Documents are in full force and effect and have not been amended since the date of the last amendment thereto shown on the certificate. Other than the WIFIA Ordinance, there are no additional resolutions or other documents authorizing the Borrower to execute and deliver, and to perform its respective obligations under, the WIFIA Loan Documents to which it is a party,

and there are no further instruments or documents necessary, appropriate or advisable to consummate and implement the transactions contemplated by the MIPA Documents and the WIFIA Loan Documents;

(l) the Borrower has duly passed the WIFIA Ordinance, which (i) confirms the terms and conditions of the WIFIA Note and authorizes the execution of the WIFIA Loan Agreement and (ii) is and shall remain in full force and effect;

(m) pursuant to Section 11(a)(xx) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, attached hereto as **Exhibit F** are complete and fully executed copies of each performance security instrument delivered to or by the Borrower pursuant to any Principal Project Contract as of the Effective Date, each of which performance security instruments is (i) in compliance with the requirements for such performance security instrument pursuant to the applicable Principal Project Contract and (ii) is in full force and effect;

(n) the representations and warranties of the Borrower set forth in the WIFIA Loan Agreement and in each other Related Document to which the Borrower is a party are true and correct on and as of the date hereof, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties were true and correct as of such earlier date;

(o) (i) the maximum principal amount of the WIFIA Loan, together with the amount of any other credit assistance provided under the Act to the Borrower, does not exceed forty-nine percent (49%) of reasonably anticipated Eligible Project Costs and (ii) as required pursuant to § 3908(b)(9) of the Act, the total federal assistance provided to the Project, including the maximum principal amount of the WIFIA Loan, does not exceed eighty percent (80%) of Total Project Costs; and

(p) pursuant to Section 11(a)(xxiii) (*Conditions Precedent – Conditions Precedent to Effectiveness*) of the WIFIA Loan Agreement, the Borrower has developed an operations and maintenance plan with respect to the Project that identifies sufficient revenues to operate, maintain and repair the Project during its useful life.

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

CITY OF SAN DIEGO

By: _____
Name: Rolando Charvel
Title: Chief Financial Officer

By: _____
Name: Shauna Lorance
Title: Director, Public Utilities Department

IN WITNESS WHEREOF, the undersigned has executed this certificate as of the date first mentioned above.

CITY OF SAN DIEGO

By: _____
Name: Rolando Charvel
Title: Chief Financial Officer

By: _____
Name: Shauna Lorance
Title: Director, Public Utilities Department

EXHIBIT A

INCUMBENCY CERTIFICATE

[Attached.]

EXHIBIT A TO BORROWER'S OFFICER'S CERTIFICATE

INCUMBENCY CERTIFICATE

The undersigned certifies that she is the City Clerk of City of San Diego, a municipal corporation organized and existing under a charter duly adopted pursuant to the provisions of the Constitution of the State of California (the "**Borrower**"), and as such she is authorized to execute this certificate and further certifies that the following persons have been elected or appointed, are qualified, and are now acting as officers or authorized persons of the Borrower in the capacity or capacities indicated below, and that the signatures set forth opposite their respective names are their true and genuine signatures. She further certifies that, in accordance with Section 26 of that certain WIFIA Loan Agreement, dated as of the date hereof, between the Borrower and the United States Environmental Protection Agency, acting by and through the Administrator (the "**WIFIA Loan Agreement**"), any of the officers listed below is authorized to sign agreements and give written instructions with regard to any matters pertaining to the WIFIA Loan Documents and/or the MIPA Documents as the Borrower's Authorized Representative (each as defined in the WIFIA Loan Agreement), except that the execution of the WIFIA Loan Agreement and the WIFIA Note (as defined in the WIFIA Loan Agreement) shall be restricted to the Authorized Signatories listed below.

Authorized Signatories

Name	Title	Signature
Rolando Charvel	Chief Financial Officer	

Administrative Signatories

Lakshmi Kommi	Director, Debt Management Department	_____
Shauna Lorance	Director, Public Utilities Department	_____
Lisa Celaya	Assistant Director (Business Support Branch), Public Utilities Department	_____
John Stufflebean	Assistant Director (Pure Water & Technical Support Branch), Public Utilities Department	_____
Charles Modica	Deputy Director (Finance Division), Public Utilities Department	_____

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Authorized Signatories

Name	Title	Signature
Rolando Charvel	Chief Financial Officer	_____

Administrative Signatories

Lakshmi Kommi	Director, Debt Management Department	Lakshmi Kommi
Shauna Lorance	Director, Public Utilities Department	_____
Lisa Celaya	Assistant Director (Business Support Branch), Public Utilities Department	_____
John Stufflebean	Assistant Director (Pure Water & Technical Support Branch), Public Utilities Department	_____
Charles Modica	Deputy Director (Finance Division), Public Utilities Department	_____

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Name	Title	Signature
Rolando Charvel	Chief Financial Officer	_____

Administrative Signatories

Lakshmi Kommi	Director, Debt Management Department	_____
Shauna Lorance	Director, Public Utilities Department	Lorance
Lisa Celaya	Assistant Director (Business Support Branch), Public Utilities Department	_____
John Stufflebean	Assistant Director (Pure Water & Technical Support Branch), Public Utilities Department	_____
Charles Modica	Deputy Director (Finance Division), Public Utilities Department	_____

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Rolando Charvel	Chief Financial Officer	_____

Administrative Signatories

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Shauna Lorance	Director, Public Utilities Department	_____
Lisa Celaya	Assistant Director (Business Support Branch), Public Utilities Department	_____
John Stufflebean	Assistant Director (Pure Water & Technical Support Branch), Public Utilities Department	_____
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Administrative Signatories

Lakshmi Kommi	Director, Debt Management Department	_____
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Lisa Celaya	Assistant Director (Business Support Branch), Public Utilities Department	_____
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Authorized Signatories

Name	Title	Signature
Rolando Charvel	Chief Financial Officer	_____

Administrative Signatories

Lakshmi Kommi	Director, Debt Management Department	_____
Shauna Lorance	Director, Public Utilities Department	_____
Lisa Celaya	Assistant Director (Business Support Branch), Public Utilities Department	_____
John Stufflebean	Assistant Director (Pure Water & Technical Support Branch), Public Utilities Department	_____
Charles Modica	Deputy Director (Finance Division), Public Utilities Department	_____

Ally Berenter	Program Manager, Office of the Mayor	_____
Jeffrey Peelle	Assistant Director, Department of Finance	_____
Michael Pelayo	Principal Accountant, Department of Finance	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this th day of , 2020.

CITY OF SAN DIEGO

By: _____
Name: Elizabeth S. Maland
Title: City Clerk

Ally Berenter	Program Manager, Office of the Mayor	_____
Jeffrey Peelle	Assistant Director, Department of Finance	_____
Michael Pelayo	Principal Accountant, Department of Finance	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this th day of , 2020.

CITY OF SAN DIEGO

By: _____
Name: Elizabeth S. Maland
Title: City Clerk

Ally Berenter	Program Manager, Office of the Mayor	_____
Jeffrey Peelle	Assistant Director, Department of Finance	_____
Michael Pelayo	Principal Accountant, Department of Finance	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this th day of , 2020.

CITY OF SAN DIEGO

By: _____
Name: Elizabeth S. Maland
Title: City Clerk

Ally Berenter	Program Manager, Office of the Mayor	_____
Jeffrey Peelle	Assistant Director, Department of Finance	_____
Michael Pelayo	Principal Accountant, Department of Finance	_____

IN WITNESS WHEREOF, the undersigned has executed this certificate as of this 24th day of September, 2020.

CITY OF SAN DIEGO

By: _____

Name: Elizabeth S. Maland

Title: City Clerk

EXHIBIT B

BASE CASE FINANCIAL MODEL

[Attached electronically.]

EXHIBIT C

SAM REGISTRATION

[Attached.]

Carmel WongLog Out

Enter your specific search term.

ALERT: SAM.gov will be down for scheduled maintenance Saturday, 08/15/2020 from 8:00 AM to 10:00 PM

Entity List

- SAN DIEGO, CITY OF (826399206)

Registration Details for Complete Record

Entity Name: SAN DIEGO, CITY OF

DUNS Number:	826399206
CAGE:	1SXR3

Address:
9192 Topaz Way
San Diego, CA 92123-1119
UNITED STATES

Purpose of Registration:	Federal Assistance Awards
Registration Status:	Active
Expiration Date:	09/16/2020
Address Update Required:	No

UPDATE ENTITY VIEW DEACTIVATE

Registration Details for Incomplete Record

Your entity registration is Active. Please select Update Entity from Registration Details for Complete Record if you want to update or renew it.

EXHIBIT D

INSURANCE CERTIFICATES

[Attached.]

CITY OF SAN DIEGO

WIFIA LOAN AGREEMENT

CERTIFICATE REGARDING INSURANCE

The undersigned does hereby state and certify as follows:

(i) I am the duly appointed Program Manager for the City of San Diego and, as such, I am familiar with the facts and insurance herein certified and am authorized to certify the same;

(ii) that pursuant to the provisions of section 14(f)(i) of the WIFIA Loan Agreement, the City will procure and maintain or cause to be maintained insurance on the Water System (as such term is defined in the Agreement) with responsible insurers, or provide self insurance reserves, in such amounts and against such risks (including accident to or destruction of the Water System) as are usually covered in connection with the water systems similar to the Water System

(iii) that as of, and throughout, the current Fiscal Year, the City is in compliance with the insurance requirement described in section 14(f)(i) of the WIFIA Loan Agreement.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of August, 2020.

CITY OF SAN DIEGO

By Matt Bartholow

Matt Bartholow
Program Manager

CERTIFICATE NO. | ISSUE DATE

GL2-807 AI

CERTIFICATE OF COVERAGE

08/24/2020

Public Risk Innovation, Solutions and Management

C/O ALLIANT INSURANCE SERVICES, INC.
PO BOX 6450
NEWPORT BEACH, CA 92658-6450

PHONE (949) 756-0271 / FAX (619) 699-0901
LICENSE #0C36861

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BELOW. THIS CERTIFICATE OF COVERAGE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED and/or requesting a WAIVER OF SUBROGATION, the Memorandums of Coverage must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

COVERAGE AFFORDED BY: **A- Public Risk Innovation, Solutions and Management & QBE Specialty Insurance Company**

Member:
CITY OF SAN DIEGO
ATTN: CLAUDIA CASTILLO DEL MURO
1200 THIRD AVE., STE. 1000 (MS51-B)
SAN DIEGO, CA 92101-4107

COVERAGE AFFORDED BY: **B**

COVERAGE AFFORDED BY: **C**

COVERAGE AFFORDED BY: **D**

Coverages

THIS IS TO CERTIFY THAT THE MEMORANDUMS OF COVERAGE LISTED BELOW HAVE BEEN ISSUED TO THE MEMBER NAMED ABOVE FOR THE PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE COVERAGE AFFORDED BY THE MEMORANDUMS DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH MEMORANDUMS. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF COVERAGE	MEMORANDUM/ POLICY #	COVERAGE EFFECTIVE DATE	COVERAGE EXPIRATION DATE	LIABILITY LIMITS
A	[X] Excess General Liability	PRISM PE 20 GL2-15/ QCX01001-04	07/01/2020	07/01/2021	$25,000,000 Difference between $25,000,000 and Member's Self-Insured Retention of $3,000,000 and/or applicable additional member and pooled layers of coverage Completed Operations Aggregate Applies Program Aggregate Applies

Description of Operations/Locations/Vehicles/Special Items:

SEE ATTACHMENT A.

Certificate Holder

UNITED STATE ENVIRONMENTAL PROTECTION AGENCY
WIFIA DIRECTOR
WJC-W 6201A
1200 PENNSYLVANIA AVE NW
WASHINGTON, DC 20460

Cancellation

SHOULD ANY OF THE ABOVE DESCRIBED MEMORANDUMS OF COVERAGES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE MEMORANDUMS OF COVERAGE PROVISIONS.

AUTHORIZED REPRESENTATIVE

Gina Dean

Public Risk Innovation, Solutions and Management

ENDORSEMENT NO. 5

PUBLIC RISK INNOVATION, SOLUTIONS, AND MANAGEMENT (PRISM) GENERAL LIABILITY 2

ADDITIONAL COVERED PARTY AMENDATORY ENDORSEMENT

It is agreed that the "Covered Party, Covered Persons or Entities" section of the Memorandum is amended to include the person or organization named below, but only with respect to liability arising out of premises owned by or rented to the Member, or operations performed by or on behalf of the Member or such person or organization so designated.

Coverage provided under this endorsement is limited to the minimum limits required by contract.

Additional Covered Party:
United States Environmental Protection Agency, an agency of the United States of America, acting by and through the administrator of the Environmental Protection Agency, as WIFIA Lender, WJC 6201A, 1200 Pennsylvania Avenue NW, Washington, DC 20460

As Respects:
WIFIA loan agreement between City of San Diego and United States Environmental Protection Agency for the WIFIA loan in a principal amount not to exceed $614,000,000 to be used to pay a portion of the eligible project costs in relations to the water system portion of Pure Water San Diego Program Phase I North City Project (WIFIA – N17125CA).

Additional Excess General Liability limits of $25,000,000 provided in Optional Excess Liability program.

This coverage shall be primary and no other insurance shall contribute pursuant to endorsement number U-13.

It is further agreed that nothing herein shall act to increase PRISM's limit of liability.

This endorsement is part of the Memorandum and takes effect on the effective date of the Memorandum unless another effective date is shown below. All other terms and conditions remain unchanged.

Effective Date: **Memorandum No.:** PRISM-PE 19 GL2-15

Issued to: City of San Diego

Issue Date: June 29, 2020

Gina Dean

Authorized Representative
Public Risk Innovation, Solutions, and Management (PRISM)

PUBLIC RISK INNOVATION, SOLUTIONS AND MANAGEMENT

CITY OF SAN DIEGO

GENERAL LIABILITY 2 PROGRAM

CERTIFICATE NO. GL2-807

ATTACHMENT "A"

08/24/20

UNITED STATE ENVIRONMENTAL PROTECTION AGENCY
WIFIA DIRECTOR
WJC-W 6201A
1200 PENNSYLVANIA AVE NW
WASHINGTON, DC 20460

AS RESPECTS WIFIA LOAN AGREEMENT BETWEEN CITY OF SAN DIEGO AND UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THE WIFIA LOAN IN A PRINCIPAL AMOUNT NOT TO EXCEED $614,000,000 TO BE USED TO PAY A PORTION OF THE ELIGIBLE PROJECT COSTS IN RELATIONS TO THE WATER SYSTEM PORTION OF PURE WATER SAN DIEGO PROGRAM PHASE 1 NORTH CITY PROJECT (WIFIA-N17125CA).

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AN AGENCY OF THE UNITED STATE OF AMERICA, ACTING BY AND THROUGH THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, AS WIFIA LENDER, WJC 6201A, 1200 PENNSYLVANIA AVE NW, WASHINGTON, DC 20460 IS INCLUDED AS AN ADDITIONAL COVERED PARTY, BUT ONLY INSOFAR AS THE OPERATIONS UNDER THIS CONTRACT ARE CONCERNED.

ADDITIONAL EXCESS GENERAL LIABILITY LIMITS OF $25,000,000 PROVIDED IN OPTIONAL EXCESS LIABILITY PROGRAM.

THIS COVERAGE SHALL BE PRIMARY AND NO OTHER INSURANCE SHALL CONTRIBUTE PURSUANT TO ENDORSEMENT NUMBER U-9.

ENDORSEMENT NO. U-12

PUBLIC RISK INNOVATION, SOLUTIONS AND MANAGEMENT
GENERAL LIABILITY 2

AMENDATORY ENDORSEMENT-PRIMARY/NON-CONTRIBUTORY

It is understood and agreed that Condition 6. OTHER COVERAGE and Endorsement U-10 of the Memorandum to which it is attached, is deleted in its entirety and replaced by the following:

6. OTHER COVERAGE

If collectible insurance with an insurer is available to the **covered party** covering a loss also covered hereunder (whether on a primary, excess or contingent basis), the coverage hereunder shall be in excess of, and shall not contribute with, such insurance; provided that this clause does not apply with respect to excess insurance purchased specifically to be in excess of this Memorandum, or to insurance or reinsurance which is intended to provide the remainder of the limit of liability stated in the Declarations of this Memorandum when the coverage afforded under this Memorandum provides less than 100 percent of the limit set forth in the Declarations. However, if the **covered party** has entered into a written agreement, prior to any loss event, in which it is agreed that this coverage shall be primary and/or non-contributory with respect to an additional **covered party** as specified in Endorsement U-1 of this Memorandum, then this coverage shall respond as primary and/or non-contributory, but shall be limited to the lesser of the limits stated on the Certificate of Coverage or the minimum limits required by the written agreement.

If other valid and collectible coverage through any insurer or other pooling arrangement affords primary coverage for the Member for a loss also covered by the Member's self-insured retention and this Memorandum, such other valid and collectible coverage shall apply in lieu of the Member's self-insured retention.

Notwithstanding the foregoing paragraph, if coverage for a claim or suit is available under this Memorandum and a memorandum of coverage issued in connection with PRISM's Medical Malpractice Program, this Memorandum shall afford primary coverage only where the gravamen of the claim or **suit** involves liability covered hereunder. PRISM staff will preliminarily assess the gravamen of the claim or **suit** and refer it to the committee responsible for the coverage believed to be applicable under this paragraph. Where that committee disputes PRISM's assessment of the gravamen of the claim or **suit** and rejects primary coverage, PRISM will thereafter refer the claim or suit to the committee responsible for the other applicable coverage. If that committee also rejects the primary coverage responsibility, the Executive Committee will determine which of PRISM's coverages is primary under this paragraph.

If the Member disputes the acceptance of primary coverage by a committee of PRISM responsible for the coverage, the Member may appeal that decision to the Executive Committee. Appeal must be requested within 60 days of the coverage acceptance by PRISM.

If the Member is not satisfied with the outcome of the Executive Committee appeal or the determination by the Executive Committee as to which of PRISM's coverages is primary

where no committee agreed to accept primary responsibility, the Member may invoke Section (d) and (e) of Article 31 of PRISM's Joint Powers Agreement and proceed to arbitration and, if necessary, litigation. For purposes of this paragraph, the Member must request to invoke Article 31 dispute resolution process within 60 days of the Executive Committee's determination as to which of PRISM's coverages is primary.

Where a memorandum of coverage issued in connection with PRISM's Medical Malpractice Program is determined to afford primary coverage pursuant to this section, the exhaustion of PRISM's limit of liability under the Medical Malpractice Program will satisfy the covered party's self-insured retention under this Memorandum.

Coverage for the additional **covered party** under this endorsement is limited to the written contract or agreement as specified on the Certificate of Coverage and Endorsement U-1 of this Memorandum.

It is further agreed that nothing herein shall act to increase PRISM's limit of liability.

This endorsement is part of the Memorandum and takes effect on the effective date of the Memorandum unless another effective date is shown below. All other terms and conditions remain unchanged.

Effective Date: **Memorandum No.:** PRISM 20 GL20-00

Issued to: ALL MEMBERS

Issued Date: June 25, 2020

Gina Dean

Authorized Representative
Public Risk Innovation, Solutions and Management

EXHIBIT E

ORGANIZATIONAL DOCUMENTS

[Attached.]

CURRENT

CITY OF SAN DIEGO

CITY CHARTER

ARTICLE I
CORPORATE POWERS

Section 1: Incorporation and Corporate Powers

The municipal corporation now existing and known as "The City of San Diego" shall continue to be a municipal corporation under the same name, with the boundaries as now established or as may hereafter be legally established. Such municipal corporation shall have perpetual succession, may use a corporate seal; may sue and defend in all courts and places, and in all matters and proceedings whatever; may own and acquire property within or without its boundaries for either governmental or proprietary, or any municipal purpose, either by succession, annexation, purchase, devise, lease, gift or condemnation, and may sell, lease, convey, exchange, manage and dispose of the same as the interests of said City may require; receive bequests, donations and gifts of all kinds of property within and without The City of San Diego in fee simple or in trust for charitable or other purposes, and do all acts necessary to carry out the purposes of such gifts, bequests and donations; may own and operate public utility systems, including the joint or sole operation and ownership of utilities for the purchase, development, and supply of water and electrical power for the use of the City and its inhabitants and others; and generally shall have all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever now or hereafter authorized to be granted to municipal corporations by the Constitution and laws of the State of California.

Section 2: Powers under Constitution and General Laws

The City of San Diego, in addition to any of the powers now held by or that may hereafter be granted to it under the Constitution or Laws of this State, shall have the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter; provided, however, that nothing herein shall be construed to prevent or restrict the City from exercising, or consenting to, and the City is hereby authorized to exercise any and all rights, powers and privileges heretofore or hereafter granted or prescribed by General Laws of the State.

Section 2.1: Prohibition on Construction, Operation or Maintenance of Facilities Related to Offshore Drilling

Neither the City Council nor any officer or employee of the City shall take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any pipeline within the City for the transmission of any crude oil or natural gas taken or removed from any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego; nor shall the City Council or any officer or employee of the City take any action, or permit any action to be taken, which directly or indirectly authorizes or permits the construction, operation or maintenance of any commercial or industrial facility within the City, including but not necessarily limited to crude oil or natural gas storage facilities, which operated directly or indirectly in support of any offshore crude oil or natural gas drilling or pumping operations within 100 nautical miles of the coastline of the County of San Diego.
(Addition voted 11-4-1986; effective 12-8-1986.)

Section 3: Extent of Municipal Jurisdiction

The municipal jurisdiction of The City of San Diego shall extend to the limits and boundaries of said City and over the tidelands and waters of the Bay of San Diego, and into the Pacific Ocean to the extent of one Marine League. In addition thereto The City of San Diego shall have the right and power to prepare and adopt such rules and regulations as it may deem necessary for the regulation, use, and government of the water system of The City of San Diego, both within and without the territorial limits of said City, and such rules and regulations having been adopted by Ordinance, shall have the force and effect of law.

ARTICLE II

NOMINATIONS AND ELECTIONS

Section 4: Districts Established

For the purpose of electing members of the Council, the City shall be divided into nine Council districts as nearly equal in population as practicable. The boundaries of such districts shall be subject to alteration and change under the provisions of this Charter.

In any redistricting plan adopted by the Redistricting Commission pursuant to Section 5.1 or ordinance adopted by the Council establishing, changing or altering the boundaries of any Council district, the redistricting plan or ordinance may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in the redistricting plan or ordinance.
(Amendment voted 03-10-1953; effective 04-20-1953.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-06-1990; effective 02-19-1991.)
(Amendment voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 5: Redistricting

In the event that any voting precinct established is located partly within two or more Council districts, the precinct shall be allocated to the Council district in which a majority of the voters within the precinct resides, and the district boundaries shall be changed accordingly.

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

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

In any redistricting, the districts shall be comprised of contiguous territory and made as equal in population as shown by the census reports, and as geographically compact as possible, and the districts formed shall, as far as possible, be bounded by natural boundaries, by street lines and/or by City boundary lines.
(Amendment voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 5.1: Redistricting Commission

The members of the City Council shall be elected by districts.

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

Commencing in the year following the year in which the Federal Decennial Census is taken at the beginning of each decade, the Redistricting Commission shall adopt plans that redistrict the City into nine Council districts designated by numbers 1 to 9, inclusive. Those districts shall be used for all elections of Council members, including their recall, and for filling any vacancy in the office of member of the Council (and until new districts are established).

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

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

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

The Redistricting Commission shall be composed of nine members who shall be appointed by a panel of three retired judges who served in any of the following courts: the Superior Court of the State of California, an appellate court of the State of California, or a U.S. District Court located within California. Names of the retired judges willing to serve will be submitted to the City Clerk and drawn at random by the City Clerk, using procedures for judicial nominees and appointees as set forth in the San Diego Municipal Code. The City Clerk shall also draw at random the name of one additional retired judge to be designated as an alternate, who will be appointed to serve on the panel if another member is unable or unwilling to serve. The term "Appointing Authority," as used herein below, shall refer to the panel of retired judges acting to appoint the Redistricting Commission pursuant to the provisions of this paragraph.

The City Clerk shall solicit nominations for appointment to the Redistricting Commission in accordance with this Section and shall distribute to the news media the announcement of a sixty-day nomination period (which shall commence on May 1 of every year in which a Federal Decennial Census is taken) and the guidelines for selection of Commission members.

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

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

After receiving Commission member applications from the City Clerk, the three members of the Appointing Authority shall hold a public meeting to appoint the nine Commission members and two alternates. The public meeting shall be held as promptly as possible to ensure the appointments are timely made. The Appointing Authority shall appoint the

members constituting the Commission no later than November 1 of every year in which a Federal Decennial Census is taken.

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

The Appointing Authority shall appoint members who will give the Redistricting Commission geographic, social and ethnic diversity, and who, in the Appointing Authority's judgement, have a high degree of competency to carry out the responsibilities of the Commission. The appointees shall include individuals with a demonstrated capacity to serve with impartiality in a nonpartisan role.

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

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

The Appointing Authority shall also appoint two alternate Commission members from the same applicant pool, who will be available to serve if a Commission member cannot serve or resigns. The alternates shall have a duty to remain informed of Commission business so they are prepared to serve if called upon to do so.

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

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

5.1.

Within thirty days after the Commission members are appointed, the Commission shall hold its first meeting at a time and place designated by the City Clerk.

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

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

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

Aye votes by six members of the Commission shall be required for the appointment of its chief of staff, the election of its chair, and the adoption of the Final Redistricting Plan. A majority vote of the Commission shall be required for all other actions. A majority of the entire Commission shall constitute a quorum for the transaction of business or exercise of any power of the Commission.

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

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

During the thirty day period after such filing, the Commission shall hold at least five public hearings in various geographic areas of the City before it adopts a final plan. The Final Redistricting Plan shall be effective thirty days after adoption by the Commission and shall be subject to the right of referendum in the same manner as are ordinances of

the City Council. If rejected by referendum, the same Commission shall be empaneled to create a new plan pursuant to the criteria set forth in Sections 5 and 5.1.

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

If any part of these amendments to Sections 4, 5, or 5.1 of the Charter or their application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.
(Addition voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 6: Qualified Electors

The qualifications of an elector at any election held in the City under the provisions of this Charter shall be the same as those prescribed by the general law of the State for the qualification of electors at General State Elections. No person shall be eligible to vote at such City election until he has conformed to the general State law governing the registration of voters.

Section 7: Elective Officers Residency Requirement

An elective officer of the City shall be a resident and elector of the City.

In addition, every Council-member shall be an actual resident and elector of the district from which the Council-member is nominated. The office of a Councilmember shall be vacated if he or she moves from the district from which the Councilmember was elected. Redistricting that occurs during a Councilmember's term shall not operate to create a vacancy. The Council shall establish by ordinance minimum length of residency requirements for candidacy to elective office, whether by appointment or election.
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 11-06-1979; effective 12-17-1979.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 8: Election Code

Within ninety (90) days after this amendment has been ratified by the State Legislature the Council shall adopt an election code ordinance, providing an adequate and complete procedure to govern municipal elections, including the nomination of candidates for all elective offices. All elections provided for by this charter, whether for choice of officers or submission of questions to the voters, shall be conducted in the manner prescribed by said election code ordinance.
(Amendment voted 04-22-1941; effective 05-08-1941.)
Prior Language

Section 9: Nominations

Nominations of candidates for all elective offices shall be made in the manner prescribed by the election code ordinance provided for in Section 8 of this article.
(Amendment voted 04-22-1941; effective 05-08-1941.)
Prior Language

Section 10: Elections

Elective officers of the City shall be nominated and elected by all of the electors of the City except that City Council members shall be nominated and elected by the electors of the district for which elective office they are a candidate.

Commencing with the year 1996, the municipal primary elections to the office of Council member for Districts 1, 3, 5, and 7 shall be held on same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that year. Commencing with the year 2012, the election to the office of Council member for District 9 shall be held on the same date as the election to the office of Council member for Districts 1, 3, 5, and 7.

Commencing with the year 1998, the municipal primary elections to the offices of Council member for Districts 2, 4, 6, and 8 shall be held on same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that year.

Commencing with the next municipal primary and general elections following the redistricting occurring after the 2010 national decennial census, and every four years thereafter, the municipal primary and general elections to the office of Council District 9 shall be held.

Commencing with the year 1984 the elections to the offices of Mayor and City Attorney shall be held every four (4) years. The municipal primary election for the offices of

Mayor and City Attorney shall be held on the same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that year. All other municipal elections which may be held under this Charter shall be known as special municipal elections.

All elective officers of the City shall be nominated at the municipal primary election. The two candidates receiving the highest number of votes for a particular elective office at the primary shall be the candidates, and only candidates, for such office and the names of only those two candidates shall be printed upon the ballots to be used at the general municipal election. In the event only one candidate has qualified for the ballot in the municipal primary election for a particular elective office, the sole qualified candidate receiving votes in the municipal primary election shall be deemed to be, and declared by the Council to be, elected to such office after the primary election results are certified.

At the general municipal election held for the purpose of electing Council members, the electors of each Council district shall select from among the candidates chosen at the primary election in that district one candidate for the office of the Council member whose term expires the succeeding December. At the general municipal election held for the purpose of electing any other elective officer, there shall be chosen by all of the electors of the whole City from among the candidates chosen at the primary one candidate to succeed any other elective officer whose term expires in December succeeding the election.

After the result of an election for any office is declared, or when an appointment is made, the City Clerk, under his or her hand and official seal, shall issue a certificate therefor, and shall deliver the same immediately to the person elected or appointed, and such person must within ten days after receiving such certificate file his official bond, if one be required for his office, and take and subscribe to the oath of office required of him by this Charter, which oath must be filed with the City Clerk.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 06-05-1956; effective 01-10-1957.)
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 11-08-1988; effective 04-03-1989.)
(Amendment voted 11-03-1992; effective 12-18-1992.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
(Amendment voted 06-03-2014; effective 07-24-2014.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

ARTICLE III

LEGISLATIVE POWER

Section 11: Legislative Power

All legislative powers of the City shall be vested, subject to the terms of this Charter and of the Constitution of the State of California, in the Council, except such legislative powers as are reserved to the people by the Charter and the Constitution of the State.

Section 11.1: Legislative Power — Nondelegable

The same prohibition against delegation of the legislative power which is imposed on the State Legislature by Article XI, Section 11a of the Constitution of the State of California shall apply to the City Council of The City of San Diego, so that its members shall not delegate legislative power or responsibility which they were elected to exercise in the adoption of any ordinance or resolution which raises or spends public monies, including but not limited to the City's annual budget ordinance or any part thereof, and the annual ordinance setting compensation for City employees, or any ordinance or resolution setting public policy.

The City Council shall annually adopt an ordinance establishing salaries for all City employees. The City Council shall adopt this ordinance not later than May 30 of each year after considering all relevant evidence including but not limited to the needs of the citizens of the City of San Diego for municipal services, the ability of the citizens to pay for those services, local economic conditions and other relevant factors as the Council deems appropriate. The City Council shall give priority in the funding of municipal services to the need of the citizens for police protection in considering adoption of this salary ordinance and the annual budget ordinance.

The prohibition imposed by this section against unlawful delegation of the legislative responsibility to set compensation for city employees shall extend to any scheme or formula which seeks to fix the compensation of City of San Diego employees at the level of compensation paid to employees of any other public agency whose governing board is not elected by and not accountable to the people of the City of San Diego. This prohibition shall also extend to any scheme or formula which seeks to fix, establish, or adjust the compensation of City of San Diego employees at the level of the largest cities in California or the State of California.
(Addition voted 06-03-1980; effective 07-16-1980.)
(Amendment voted 11-04-1980; effective 12-31-1980.)

(Amendment voted 06-03-1986; effective 09-08-1986.)
Prior Language

Section 11.2: Legislative Power — Memorandum of Understanding

Notwithstanding any provisions of this Charter to the contrary, nothing in the Charter shall be construed to preclude the Council from entering into a multiple year memorandum of understanding with any recognized City employee organization concerning wages, hours and other terms and conditions of employment if, in the prudent exercise of legislative discretion as provided in this Charter, the Council determines it is in the best interests of the City to do so; and further provided that said exercise of legislative discretion is expressed affirmatively by a two-thirds vote of the entire Council. *(Addition voted 06-03-1986; effective 09-08-1986.)*

Section 12: The Council

(a) The Council shall be the legislative body of the City and each of its members shall have the right to vote upon all questions before it.

(b) Council members shall hold office for the term of four (4) years from and after 10 a.m. on the tenth day of December next succeeding their election and until their successors are elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day that is not a weekend or a holiday.

(c) Notwithstanding any other provision of this Charter, no person shall serve more than two consecutive four-year terms as a Council member from any particular district. If for any reason a person serves a partial term as Councilmember from a particular district in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision.

(d) Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district they were elected to serve for the remainder of their current term. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not represented and from those districts represented by incumbent Council members whose terms expire as of the general election in that year. If, as a result of any redistricting, more than a simple majority of the City Council as redistricted shall be elected at either the municipal primary or general election next following any such redistricting, the City Council prior to any such election shall designate one or more new districts for which the initial council term shall be two years in order to retain staggered terms for Council members.

(e) It is the duty of the Council-members to attend all Council meetings. The Council shall vacate the seat of any Councilmember who is absent from eight (8) consecutive meetings or fifty percent (50%) of any scheduled meetings within a month unless the absence thereof is excused by resolution of the Council.

(f) Council-members shall devote full time to the duties of their office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties.

(g) Council-members shall not be eligible during the term for which they were appointed or elected to hold any other office or employment with the City, except as a member of any Board, Commission or Committee thereof, of which they are constituted such a member by general law or by this Charter.

(h) Whenever a vacancy exists in the office of a Councilmember, the chief of staff for the departing Councilmember shall manage the office of the Councilmember under the authority of the Council President, until a replacement is appointed or elected pursuant to the procedures for filling vacancies provided by this Charter.

(Amendment voted 11-08-1949; effective 12-20-1949.)
(Amendment voted 06-05-1956; effective 01-10-1957.)
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 11-05-1974; effective 12-01-1975.)
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 11-06-1979; effective 12-17-1979.)
(Amendment voted 11-08-1988; effective 04-03-1989.)
(Amendment voted 11-06-1990; effective 02-19-1991.)
(Amendment voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 11-03-1992; effective 12-18-1992.)
(Amendment voted 06-07-1994; effective 08-18-1994.)
(Section 12(a) was superseded by section 270 from 01-01-2006 through 07-30-2010.)
(Amendment voted 06-08-2010; effective 07-30-2010; see section 270.)
(Amendment voted 06-03-2014; effective 07-24-2014.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 12.1: Councilmanic Salaries

On or before February 15 of every even year, the Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing the salary of

members of the Council for the period commencing July 1 of that even year and ending two years thereafter. The Council may adopt the salaries by ordinance as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. The ordinance shall be subject to the referendum provisions of this Charter and upon the filing of a sufficient petition, the ordinance shall not become effective and shall be repealed by the Council or shall forthwith be submitted to a vote of the people at the next general statewide election.
(Addition voted 11-06-1973; effective 12-07-1973.)

Section 13: Meetings of the Council

(Amendment voted 11-06-1962; effective 01-21-1963.)
(Section 13 was superseded by section 270 from 01-01-2006 through 07-30-2010.)
(Repeal voted 06-08-2010; effective 07-30-2010; see section 270.)

Prior Language

Section 14: Council Rules

The Council shall be the judge of the election and qualification of its members, and in such cases, shall have power to subpoena witnesses and compel the production of all pertinent books, records and papers; but the decision of the Council in any such case shall be subject to review by the courts. The Council shall determine its own rules and order of business. It shall have power to compel the attendance of absent members, and may punish its members for disorderly behavior after notification of the charge and opportunity to be heard in defense.

Section 15: Quorum

A majority of the members elected to the Council shall constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. Except as otherwise provided herein the affirmative vote of a majority of the members elected to the Council shall be necessary to adopt any ordinance, resolution, order or vote; except that a vote to adjourn, or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his own official conduct or in which his own personal interests are involved.

Section 16: Introduction and Passage of Ordinances and Resolutions

(Amendment voted 03-10-1953; effective 04-20-1953.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1969; effective 01-29-1970.)

(Amendment voted 11-04-1975; effective 12-01-1975.)
(Section 16 was superseded by sections 275, 280, 285 and 290 from 01-01-2006 through 07-30-2010.)
(Repeal voted 06-08-2010; effective 07-30-2010; see sections 275, 280, 285 and 290.)
Prior Language

Section 17: When Ordinances and Resolutions Take Effect. Emergency Measures

(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Section 17 was superseded by section 295 from 01-01-2006 through 07-30-2010.)
(Repeal voted 06-08-2010; effective 07-30-2010; see section 295.)
Prior Language

Section 18: Authentication and Publication of Ordinances and Resolutions

Upon its final passage each ordinance or resolution shall be authenticated by the signatures of the Mayor and the City Clerk and shall be recorded in a book kept for that purpose. Within fifteen days after final passage the title and number of each ordinance or resolution of a general nature, together with a digest thereof prepared by the City Attorney, shall be published at least once in such manner as may be provided by this Charter or by ordinance. The publication shall be accompanied by the notice that the full text of the ordinance or resolution is available for perusal in the office of the City Clerk.
(Amendment voted 11-05-1974; effective 12-01-1975.)
(Amendment voted 11-07-1978; effective 01-12-1979.)
Prior Language

Section 19: Effect of Other Ordinances

All ordinances and resolutions in force at the time this Charter takes effect, not inconsistent with its provisions, shall continue in force until amended or repealed.

Section 20: Codification of Ordinances

The Council may by ordinance codify all of the ordinances of a general nature of the City into a Municipal Code. When so codified such Municipal Code and all sections thereof shall be admissible in all courts as prima facie evidence of the due passage and publication of the ordinances as codified.
(Amendment voted 03-10-1953; effective 04-20-1953.)
Prior Language

Section 21: Courts

(Repeal voted 03-10-1953; effective 04-20-1953.)
Prior Language

Section 22: Interference by Individual Members of Council with Administrative Service Prohibited

(Amendment voted 09-17-1963; effective 02-11-1964.)
(Section 22 was superseded by sections 270(g) and 270(h) from 01-01-2006 through 07-30-2010.)
(Repeal voted 06-08-2010; effective 07-30-2010; see sections 270(g) and 270(h).)
Prior Language

Section 23: Initiative, Referendum and Recall

The right to recall municipal officers and the powers of the initiative and referendum are hereby reserved to the people of the City. Ordinances may be initiated; and referendum may be exercised on any ordinance passed by the Council except an ordinance which by the provisions of this Charter takes effect immediately upon its passage; and any elective officer may be recalled from office. The Council shall include in the election code ordinance required to be adopted by Section 8, Article II, of this charter, an expeditious and complete procedure for the exercise by the people of the initiative, referendum and recall, including forms of petitions; provided that the number of signatures necessary on petitions for the initiation of an ordinance for the consideration of the Council shall be three percent of the registered voters of the City at the last general City election; that for the direct submission of a measure to the people it shall require a petition signed by ten per cent of the registered voters of the City at the last general City election; that for a referendum upon an ordinance passed by the Council it shall require a petition signed by five per cent of the registered voters of the City at the last general election; and that for the recall of an elected officer who is elected by all of the electors of the City, it shall require a petition signed by fifteen per cent of the registered voters of the City at the last general City election; and that for the recall of a Council member other than the Mayor it shall require a petition signed by fifteen percent of the registered voters of the Councilmanic District at the last general City election.

Initiative measures and referendum measures that qualify for the ballot after the people's petition process, and in compliance with provisions of this Charter and the City's Election Code Ordinance, shall be submitted to the electorate at a Municipal Special Election consolidated with the next City-wide Municipal General Election ballot on which the measures legally can be placed, or at a City-wide Municipal Special Election held prior to that general election.

Submission of such measures to a general election ballot shall be considered to meet the Charter requirement of an expeditious procedure for the people's exercise of their constitutionally reserved powers of initiative and referendum.

All other municipal ballot measures may be submitted to the electorate at a Municipal Special Election that may be consolidated with the next City-wide Municipal Primary Election or Municipal General Election, or at any City-wide special election held for that purpose.

Charter amendment measures and the timing of their submission to the electorate are governed by California law.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 11-08-1988; effective 04-03-1989.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

ARTICLE IV

THE MAYOR

Section 24: Mayor

A Mayor shall be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The Mayor shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day that is not a weekend or a holiday. The Mayor shall devote full time to the duties of the office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties.
(Amendment voted 11-06-1956; effective 01-10-1957.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 06-02-1992; effective 07-13-1992.)
(Section 24 was superseded by section 265 from 01-01-2006 through 07-30-2010.)
(Amendment voted 06-08-2010; effective 07-30-2010; see also section 265.)
(Amendment voted 06-03-2014; effective 07-24-2014.)
Prior Language

Section 24.1: Mayor's Salary

On or before February 15 of every even year, the Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing the Mayor's salary for the period commencing July 1 of that even year and ending two years thereafter. The Council shall adopt the salary by ordinance, as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount. The ordinance shall be subject to the referendum provisions of this Charter and upon the filing of a sufficient petition, the ordinance shall not become effective and shall be repealed by the Council or shall forthwith be submitted to a vote of the people at the next general statewide election.
(Addition voted 11-06-1973; effective 12-07-1973.)

Section 25: Deputy Mayor

(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Section 25 was superseded by section 265 from 01-01-2006 through 07-30-2010.)
(Repeal voted 06-08-2010; effective 07-30-2010; see section 265.)
Prior Language

ARTICLE V

(Effective 01-01-2006, all executive authority, power, and responsibilities conferred upon the City Manager in this Article were transferred to the Mayor. See section 260.)

EXECUTIVE AND ADMINISTRATIVE SERVICE

Section 26: Administrative Code

The existing Departments, Divisions and Boards and existing Offices of the City Government are hereby continued unless changed by the provisions of this Charter or by ordinance of the Council. The Council shall by ordinance, by majority vote, adopt an administrative code providing for the detailed powers and duties of the administrative offices and departments of the City Government, based upon the provisions of this Charter. Thereafter, except as established by the provisions of this Charter, the Council may change, abolish, combine, and rearrange the departments, divisions and boards of the City Government provided for in said administrative code, but such ordinance creating, combining, abolishing or decreasing the powers of any department, division or board shall require a vote of two-thirds of the members elected to the Council. The Council may by ordinance, if authorized so to do by the general law of the State, provide that any function of the City may be performed by the County or that any function of the County may be performed by the City, provided the respective legislative bodies authorize and approve such transfer and assumption of function. There may also be established a combined City and County district for the performance of any function.
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-08-1977; effective 01-20-1978.)
Prior Language

Section 26.1: Public Services Required

It shall be the obligation and responsibility of The City of San Diego to provide public works services, water services, building inspection services, public health services, park and recreation services, library services, and such other services and programs as may be desired, under such terms and conditions as may be authorized by the Council by ordinance.
(Addition voted 09-17-1963; effective 02-11-1964.)

Section 27: The City Manager

(Amendment voted 12-19-1933; effective 01-18-1935.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Section 27 was superseded by sections 260 and 265 from 01-01-2006 through 07-30-2010.)
(Repeal voted 06-08-2010; effective 07-30-2010; see sections 265(b)(7), (8), and (9).)
Prior Language

Section 28: Duties of the Manager

It shall be the duty of the Manager to supervise the administration of the affairs of the City except as otherwise specifically provided in this Charter; to make such recommendation to the Council concerning the affairs of the City as may seem to him desirable; to keep the Council advised of the financial condition and future needs of the City; to prepare and submit to the Council the annual budget estimate and such reports as may be required by that body, including an annual report of all the Departments of the City; to see that the ordinances of the City and the laws of the State are enforced; and to perform such other duties as may be prescribed by this Charter or required of him by ordinance or resolution of the Council. Except as otherwise provided in this Charter, all other administrative powers conferred by the laws of the State upon any municipal official shall be exercised by the Manager or persons designated by him. He shall assume the position of Director of any Department under his control for which a Director has not been appointed. The Directors, or heads of the administrative Departments under the Manager shall be immediately responsible to him for the efficient administration of their respective Departments. The Manager may set aside any action taken by a Director or Department subordinate responsible to him, and may supersede him in authority in the functions of his office or employment. Where no provision has been made by ordinance authorizing a subordinate official to act as departmental head in case of a vacancy, the Manager may designate an interim acting head or perform personally the functions of the office. The Manager, as Chief Budget Officer of the City, shall be responsible for planning the activities of the City government and for adjusting such activities to the finances available. To this end he shall prepare annually a complete financial plan for the ensuing year and shall be responsible for the administration of such a plan when adopted by the Council. He shall be charged with the bringing together of estimates covering the financial needs of the City, with the checking of these estimates against the information relative to past expenditures and income, with the preparation of the budget document and supporting schedules and with the presentation of the budget to the Council. He shall have the power to employ experts, or consultants to perform work or give advice connected with the Departments of the City when such work or advice is necessary in connection therewith. If the cost of hiring said expert or consultant exceeds a sum to be established by ordinance of the City Council, no such expert or consultant shall be hired

without approval of the Council. The Council shall provide sufficient funds in the annual appropriation ordinance or by supplemental appropriation ordinances for such purposes and shall charge such additional services against the appropriation of the respective Departments.

The Manager shall execute all contracts for the Departments under his control. He shall approve all requisitions and vouchers for said Departments in person or through such assistants as he may designate for the purpose.

The Manager may prescribe such general rules and regulations as he may deem necessary or expedient for the general conduct of the administrative Departments. The Director of each Department shall in like manner prescribe such rules and regulations as may be deemed necessary and expedient for the proper conduct of each Department, not inconsistent with the general rules and regulations prescribed by the Manager.

In order to expedite the work of any department or to adequately administer an increase in the duties which may devolve on any Department or to cope with periodic or seasonal changes, the Manager, subject to Civil Service regulations, is empowered to transfer employees temporarily from one Department to perform similar duties in another Department. Likewise each Department head shall have power to transfer employees from one Division to another within his Department.

The Manager may direct any Department or Division to perform work for any other Department or Division. Such powers to transfer employees or to direct the performance of work shall not apply to the Police or Fire Departments.

During January of each year the Manager shall present to the Council an annual report of the City's affairs for the previous fiscal year.

In case of general conflagration, rioting, flood, or other emergency menacing life and property, the Manager shall marshal all the forces of the different Departments of the City for the maintenance of the general security, and shall have the power to deputize or otherwise employ such other persons as he may consider necessary for the purpose of protecting the City and its residents. The Council may, however, in any such emergencies authorize the Mayor to take command of the police, maintain order and enforce the law.

And in such authorized emergencies the Manager shall be subordinate to and shall carry out such duties as may be assigned to him by the Mayor.
(Amendment voted 11-02-1976; effective 01-12-1977.)
Prior Language

Section 29: Responsibility of Manager - Powers of Appointment and Removal

The Manager shall be responsible to the Council for the proper administration of all affairs of the City placed in his charge, and to that end, subject to the Civil Service provisions of this Charter and except as otherwise provided herein, he shall have the power to appoint and remove all officers and employees in the administrative service of the City under his control; but the Manager may authorize the head of a Department or officer responsible to him to appoint and remove subordinates in such Department or office. Appointments made by, or under the authority of, the Manager, shall be on the basis of administrative ability and of the training and experience of such appointees in the work which they are to perform. All such appointments shall be without definite term unless for temporary service not to exceed sixty days. No person directly related to the City Manager by blood or marriage shall be eligible for employment unless such relative was in the employ of the City at the time of the appointment of the City Manager.
(Amendment voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 30: Removal of Unclassified Officers and Employees

Officers and employees in the unclassified service appointed by the Manager or other appointing authority not under control of the Manager, with the exception of Deputy City Attorneys, may be removed by such appointing authority at any time.

Appropriate rules and regulations shall be promulgated to establish procedures as may be necessary by which the dismissal provided for in this article shall be processed and effectuated. Procedures relating to the termination, suspension, and layoffs of Deputy City Attorneys as provided in Section 40 shall be established in compliance with the Meyers-Milias-Brown Act.

With the exception of Deputy City Attorneys, nothing contained herein shall be construed as in any way limiting the authority and power of the Manager or such other appointing authority not under the control of the Manager to remove any such unclassified officer or employee appointed or employed by them and any order effecting said removal shall be final and conclusive.
(Amendment voted 11-08-1977; effective 01-20-1978.)
(Amendment voted 11-02-2010; effective 12-22-2010.)
Prior Language

Section 31: Political Activities

(a) No officer or employee of the City, except elected officers and unsalaried members of commissions, shall during regular hours of employment take an active part opposing or supporting any candidates in any City of San Diego political campaign or make contributions thereto in behalf of any candidates, nor shall such person seek signatures to any petition seeking to advance the candidacy

of any person for any municipal office. Nothing in this section shall be construed to prevent any officer or employee, whether Classified or Unclassified, from seeking election or appointment to public office or from being active in State or Federal political campaigns, in any bond issue campaign including municipal bond issues, or from being active in local political campaigns.

(b) Every municipal employee shall prohibit the entry into any place under his control occupied for any purpose of the municipal government, of any person for the purpose of therein making, collecting, receiving, or giving notice of any political assessment, subscription, or contribution.

(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-06-1979; effective 12-17-1979.)
Prior Language

Section 32: Right of Manager and Other Officers in Council

The Manager and such other officers of the City as may be designated by a vote of the Council may attend all meetings of the Council but shall have no vote therein. The Manager or other officer so selected shall have the right to take part in discussions or matters properly before the Council relating to his office or may participate in discussions in such Council meetings when requested so to do by a member of the Council or a committee thereof.

Section 32.1: Responsibility of Manager and Non-managerial Officers to Report to Council

The City Manager and all non-managerial officers of the City shall inform the Council of all material facts or significant developments relating to all matters under the jurisdiction of the Council as provided under this Charter except as may be otherwise controlled by the laws and regulations of the United States or the State of California. The Manager and all non-managerial officers shall also comply promptly with all lawful requests for information by the Council.
(Addition voted 06-02-1992; effective 07-13-1992.)

Section 33: Manager's Control Department
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 34: Budget Officer
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 35: Purchasing Agent

(Amendment voted 03-10-1953; effective 04-20-1953.)
(Amendment voted 11-04-1958; effective 02-19-1959.)
(Amendment voted 11-04-1975; effective 12-1-1975.)
(Repeal voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 36: City Engineer

(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 37: Personnel Director

The Personnel Director shall be appointed by the Civil Service Commission and shall have all powers and perform all duties prescribed for such Personnel Director in Section 116 of Article VIII. In addition thereto he shall exercise general supervision over the employment policy of the City, subject to the Civil Service provisions of this Charter and the directions of the Civil Service Commission. He shall keep a record of the personnel conditions in the City service and shall, upon the request of the Manager or of the Civil Service Commission, or on his own initiative, investigate problems relating to the securing of a better class of applicants for positions, and to the maintenance of efficiency among City Employees, and to any and all other matters relating to this department as may properly come before him.

The Personnel Director, with the approval of the Civil Service Commission and the Manager shall have jurisdiction to investigate working conditions of City service as they affect the health, welfare, efficiency, service and esprit de corps of the employees. He shall be accessible to any employee who shall desire to complain of any matter incident to his employment.

Section 38: City Clerk

The City Clerk shall be elected by the Council for an indefinite term and shall serve until his successor has been elected and qualified. He shall maintain all official records of the City, the custody of which is not provided for in this Charter or by ordinances of the City, including the journal of all proceedings of the Council and all its ordinances and resolutions.
(Amendment voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 38.1: Microfilming of Records.

(Addition voted 04-19-1949; effective 05-20-1949.)
(Repeal voted 11-04-1958; effective 02-19-1959.)
Prior Language

Section 39: Chief Financial Officer

The Chief Financial Officer shall be appointed by the Mayor and confirmed by the City Council for an indefinite term and shall serve until his or her successor is appointed and qualified. The Chief Financial Officer shall be the chief fiscal officer of the City. He or she shall exercise supervision over all accounts, and accounts shall be kept showing the financial transactions of all Departments of the City upon forms prescribed by the Chief Financial Officer and approved by the Mayor and the Council. Subject to the direction and supervision of the Mayor, the Chief Financial Officer shall be responsible for the preparation of the City's annual budget. He or she shall also be responsible for oversight of the City's financial management, treasury, risk management and debt management functions. He or she shall submit to the Mayor and to the Council at least monthly a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department, Division and office thereof. No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Chief Financial Officer shall certify in writing that the money required for such contract, agreement, or obligation for such year is or will be in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. He or she shall perform the duties imposed upon chief municipal fiscal officers by the laws of the State of California, and such other duties as may be imposed upon him or her by ordinances of the Council, but nothing shall prevent the Mayor from transferring to other officers matters in charge of the Chief Financial Officer which do not relate directly to the finances of the City. The Chief Financial Officer shall prepare and submit to the Mayor such information as shall be required by the Mayor for the preparation of an annual budget. The Chief Financial Officer shall appoint his or her subordinates subject to the Civil Service provisions of this Charter. The authority, power and responsibilities conferred upon the Auditor and Comptroller by this Charter shall be transferred to, assumed, and carried out by the Chief Financial Officer.
(Amendment voted 06-04-1974; effective 08-13-1974.)
(Amendment voted 06-03-2008; effective 07-08-2008.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 39.1: Audit Committee

The Audit Committee shall be an independent body consisting of five members. Notwithstanding any other Charter provision to the contrary, the Audit Committee shall be appointed as provided under this section. To ensure its independence, the Audit Committee shall be composed of two members of the City Council and three members of

the public. The two Councilmembers shall be appointed by the Council, one of whom shall serve as Chair of the Audit Committee. The three public members of the Audit Committee shall be appointed by the City Council from a pool of at least two candidates for each vacant position, to be recommended by a majority vote of a screening committee comprised of a member of the City Council, the Chief Financial Officer, the Independent Budget Analyst and two outside financial experts appointed by the other three members of the screening committee and confirmed by the City Council. Public members of the Audit Committee shall possess the independence, experience and technical expertise necessary to carry out the duties of the Audit Committee. This expertise includes but is not limited to knowledge of accounting, auditing and financial reporting. The minimum professional standards for public members shall include at least 10 years of experience as a certified public accountant or as a certified internal auditor, or 10 years of other professional financial or legal experience in audit management. The public members of the Audit Committee shall serve for terms of four years and until their successors have been appointed and qualified. Public members of the Audit Committee are limited to two full consecutive terms, with one term intervening before they become eligible for reappointment. Notwithstanding any other provision of this section, appointments shall be made so that not more than one term of office shall expire in any one year.

The Audit Committee shall have oversight responsibility regarding the City's auditing, internal controls and any other financial or business practices required of this Committee by this Charter. The Audit Committee shall be responsible for directing and reviewing the work of the City Auditor and the City Auditor shall report directly to the Audit Committee. The Audit Committee shall recommend the annual compensation of the City Auditor and annual budget of the Office of City Auditor to the Council and shall be responsible for an annual performance review of the City Auditor. The Audit Committee shall recommend to the Council the retention of the City's outside audit firm and, when appropriate, the removal of such firm. The Audit Committee shall monitor the engagement of the City's outside auditor and resolve all disputes between City management and the outside auditor with regard to the presentation of the City's annual financial reports. All such disputes shall be reported to the Council. The Council may specify additional responsibilities and duties of the Audit Committee by ordinance as necessary to carry into effect the provisions of this section.
(Addition voted 06-03-2008; effective 07-08-2008.)

Section 39.2: Office of City Auditor

The City Auditor shall be appointed by the City Manager, in consultation with the Audit Committee, and confirmed by the Council. The City Auditor shall be a certified public accountant or certified internal auditor. The City Auditor shall serve for a term of ten years. The City Auditor shall report to and be accountable to the Audit Committee. Upon the recommendation of the Audit Committee, the City Auditor may be removed for cause by a vote of two-thirds of the members of the Council. The City Auditor shall be

the appointing authority of all City personnel authorized in the department through the normal annual budget and appropriation process of the City, and subject to the Civil Service provisions of this Charter.

The City Auditor shall prepare annually an Audit Plan and conduct audits in accordance therewith and perform such other duties as may be required by ordinance or as provided by the Constitution and general laws of the State. The City Auditor shall follow Government Auditing Standards. The City Auditor shall have access to, and authority to examine any and all records, documents, systems and files of the City and/or other property of any City department, office or agency, whether created by the Charter or otherwise. It is the duty of any officer, employee or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with the City Auditor, and to make full disclosure of all pertinent information. The City Auditor may investigate any material claim of financial fraud, waste or impropriety within any City Department and for that purpose may summon any officer, agent or employee of the City, any claimant or other person, and examine him or her upon oath or affirmation relative thereto. All City contracts with consultants, vendors or agencies will be prepared with an adequate audit clause to allow the City Auditor access to the entity's records needed to verify compliance with the terms specified in the contract. Results of all audits and reports shall be made available to the public in accordance with the requirements of the California Public Records Act.
(Addition voted 06-03-2008; effective 07-08-2008.)

Section 39.3: Independent Budget Analyst.

Notwithstanding any other provision of this Charter, the City Council shall have the right to establish by ordinance an Office of Independent Budget Analyst to be managed and controlled by the Independent Budget Analyst. The Office of the Independent Budget Analyst shall provide budgetary and policy analysis for the City Council. The Council shall appoint the Independent Budget Analyst, who shall serve at the pleasure of the Council and may be removed from office by the Council at any time. Any person serving as the Independent Budget Analyst shall have the professional qualifications of a college degree in finance, economics, business, or other relevant field of study or relevant professional certification. In addition, such appointee shall have experience in the area of municipal finance or substantially similar equivalent experience. The Independent Budget Analyst shall be the appointing authority of all City personnel authorized in the department through the normal annual budget and appropriation process of the City, and subject to the Civil Service provisions of this Charter.
(Addition voted 06-03-2008; effective 07-08-2008.)

Section 40: City Attorney

A City Attorney shall be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The City Attorney shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day that is not a weekend or a holiday.

No person shall serve more than two (2) consecutive four-year terms as City Attorney. If for any reason a person serves a partial term as City Attorney in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision.

The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties, except in the case of the Ethics Commission, which shall have its own legal counsel independent of the City Attorney. The attorney and his or her deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office. The City Attorney must be licensed to practice law in the State of California and must have been so licensed for at least ten years at the time he or she submits nominating petitions.

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

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

To ensure that Deputy City Attorneys conduct their legal work with the highest level of integrity, honesty, and professionalism, good cause for purposes of termination or suspension includes, but is not limited to, failure to comply with the California Rules of Professional Conduct.

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

The City Attorney shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, documents, or evidence necessary to be used in any suit, or required for the purpose of the office.

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

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

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

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

The salary of the City Attorney shall be fixed by the Council and set forth in the annual appropriation ordinance, provided that the salary of the City Attorney may not be decreased during a term of office, but in no event shall said salary be less than $15,000.00 per year.

Whenever a vacancy exists in the office of the City Attorney, an Assistant City Attorney, previously designated by the City Attorney to fulfill duties in the event of a vacancy and whose name has been recorded with the City Clerk as the Interim City Attorney in the event of a vacancy, shall fulfill the duties of the City Attorney as the Interim City Attorney until a replacement can be appointed or elected as provided by this Charter. The Interim City Attorney shall have the full authority of the Office.
(Amendment voted 04-20-1943; effective 05-04-1943.)
(Amendment voted 04-15-1947; effective 05-01-1947.)
(Amendment voted 11-04-1958; effective 02-19-1959.)
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 06-02-1992; effective 07-13-1992.)
(Amendment voted 11-02-2004; effective 01-21-2005.)
(Amendment voted 11-02-2010; effective 12-22-2010.)
(Amendment voted 06-03-2014; effective 07-24-2014.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 40.1: Concurrent Jurisdiction of City Attorney with District Attorney.

The City Attorney shall have concurrent jurisdiction with the District Attorney of the County of San Diego to prosecute persons charged with or guilty of the violation of the state laws occurring within the city limits of The City of San Diego for offenses constituting misdemeanors.
(Addition voted 03-10-1953; effective 04-20-1953.)

Section 41: Commissions

The Mayor shall appoint, subject to the confirmation of the Council, members of all commissions established pursuant to this section. Whenever the Mayor does not appoint a member within forty-five (45) days after a vacancy occurs, the Council shall make such appointment. The commissioners shall be limited to two (2) full consecutive terms, with one (1) term intervening before they become eligible for reappointment; and this provision shall apply to anyone who has served two (2) full consecutive terms by January 1972. The terms of commissioners may extend beyond the elective term of the appointing Mayor. The Mayor shall fill, subject to the confirmation of the Council, any vacancy and such appointment shall be for the unexpired term of the office being filled. The City Council may remove a member of the Civil Service Commission for cause by

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

(a) Funds Commission. This Commission shall have supervision and control over all trust, perpetuity, and investment funds of the City and such pension funds as shall be placed in its custody, and shall administer them subject to the laws of the State and ordinances of the Council. The membership of this Commission shall be appointed by the Mayor and confirmed by the Council and shall be one bank official, two unclassified citizens, and the City Attorney and City Treasurer, ex officio. They shall serve without compensation for terms of four (4) years and until their successors are elected and qualified. Notwithstanding any other provision of this section, appointments shall be made so that not more than one (1) term of office shall expire in any year.

(b) Civil Service Commission. There shall be a Civil Service Commission consisting of five members who shall be electors of the City. Not more than three members of the Commission shall be of the same sex. The Mayor, with the approval of the Council, shall appoint the members of the Commission. The members of the Commission shall be appointed to serve for five years and until their successors have been appointed and qualified. Notwithstanding any other provision of this section, appointments shall be made so that not more than one (1) term of office shall expire in any year. The Mayor, with the approval of the Council, shall fill any vacancy.

Members of the Civil Service Commission shall not hold any other office in City Government.

(c) City Planning Commission. The City Planning Commission shall be organized as provided by the laws of the State and have such powers and perform such duties as are prescribed by such laws. The duties of the Commission shall also include advising upon public buildings, bridges, retaining walls, approaches, park and harbor structures, the improvement of Pueblo lands and such other improvements as the Council may by ordinance determine. The Commission shall consist of seven (7) members appointed by the Mayor, subject to the confirmation of the Council. The City Engineer, and the City Attorney, or their designated representatives, shall be members ex officio, but neither of said officers shall have a vote. The members of this Commission shall serve without compensation for terms of four years and until their successors are elected and appointed and qualified.

Notwithstanding any other provisions of this section, appointments to this Commission shall be made so that not more than three (3) members are appointed in any one year. To accomplish this, initial appointments to this Commission, after the effective date of this amendment, shall be made so as to provide that the terms of office of two (2) members shall be for four (4) years; two (2) members for three (3) years; two (2) members for two years; and one (1) member for one (1) year.

(d) Ethics Commission. For so long as an Ethics Commission remains established by ordinance of the Council, the Executive Director of the Commission shall be appointed by the Commission, subject to confirmation by the Council, and shall thereafter serve at the direction and pleasure of the Commission. The Commission may, in accordance with complaint and investigation procedures approved by ordinance of the Council, subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records, or other items material to the performance of the Commission's duties or exercise of its powers. The Ethics Commission shall be authorized to retain its own legal counsel, independent of the City Attorney, for legal support and guidance in carrying out its responsibilities and duties..

(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 03-05-2002; effective 04-24-2002.)
(Amendment voted 11-02-2004; effective 01-21-2005.)
Prior Language

Section 41.1: Salary Setting Commission

There is hereby created a Salary Setting Commission consisting of seven members who shall be appointed by the Civil Service Commission for a term of four years. The first members shall be appointed for a term commencing January 1, 1974. Initially, the Commissioners shall be appointed in a manner so that three are appointed for two-year terms and four are appointed for four-year terms. The Salary Setting Commission shall recommend to the Council the enactment of an ordinance establishing salaries for the Mayor and Council as provided by this Charter. The Council shall provide the funds necessary to enable the Commission to perform its duties. The Civil Service Commission in its appointments shall take into consideration sex, race and geographical area so that the membership of such Commission shall reflect the entire community.
(Addition voted 11-06-1973; effective 12-07-1973.)

Section 42: Membership Selection

The appointing authority in selecting appointees to commissions, boards, committees or panels shall take into consideration sex, race and geographical area so the membership of such commissions, boards, committees or panels shall reflect the entire community.
(Amendment voted 04-15-1947; effective 05-01-1947.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Repeal voted 11-04-1969; effective 01-29-1970.)
(Addition voted 11-6-1973; effective 12-7-1973.)
Prior Language

Section 43: Advisory Boards and Committees

(a) The City Council may by ordinance create and establish advisory boards. Such boards shall be advisory to the Mayor, Council or City Manager as may be designated by ordinance. All members of such boards shall be appointed by the Mayor with Council confirmation, and the terms of office of such members may extend beyond the elective term of the appointing Mayor. The members of such boards shall serve without compensation and it shall be their duty to consult and advise with the Mayor, Council or City Manager, as the case may be, but not to direct the conduct of any Department or Division. Members of such advisory boards shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed.

(b) The Mayor, City Council or City Manager may create and establish citizens' committees. Such committees shall be created and established only for the purpose of advising on questions with clearly defined objectives, and shall be temporary in nature, and shall be dissolved upon the completion of the objectives for which they were created. Committee members shall serve without compensation.

(c) Whenever under the provisions of this Charter or ordinance the Mayor is vested with authority to appoint the members of boards or committees and does not take such action within forty-five (45) days after the board or committee has been established or a vacancy occurs, then the Council shall make such appointments. The Council may remove committee and board members by vote of a majority of the members of the Council.

(d) Community Review Board on Police Practices. Notwithstanding any other provision of this Charter, the Mayor and City Council shall have the exclusive authority to create and establish a community review board on police practices to review and evaluate citizens' complaints against members of the San Diego Police Department and the San Diego Police Department's administration of discipline arising from such complaints. The Mayor and City Council shall establish such rules and regulations as may be necessary for this board to carry

out its functions; provided, however, that such rules and regulations shall be consistent with the laws of the State of California concerning citizens' complaints against peace officers. Nothing in such rules and regulations shall interfere with the board's authority to independently refer a completed citizen complaint investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency. The board shall review all deaths occurring while a person is in the custody of the San Diego Police Department and all police officer-related shootings. The board shall submit semiannual reports to the Mayor and City Council concerning its evaluation of the San Diego Police Department's investigation of citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law.

(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 11-08-1988; effective 04-03-1989.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 43.1: Commissions, Boards, Committees - Appointments

(Addition voted 09-17-1963: effective 02-11-1964.)
(Repeal voted 11-04-1969; effective 01-29-1970.)
Prior Language

Section 44: Directors of Departments

(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 45: City Treasurer

The Manager shall appoint the Treasurer. He or she shall perform duties imposed upon City Treasurers by general law, the City Charter, or ordinances of the Council. The office of the Treasurer shall consist of the Treasurer and such subordinate officers and employees as shall be authorized by ordinance.

The Treasurer shall receive, have the custody of, and disburse City moneys upon the warrant or check-warrant of the Chief Financial Officer under the provisions of section 53911 of the Government Code of the State of California. He or she shall keep such books and records as are necessary for the recording of all receipts and expenditures, together with a record of money in City depositories. Every Department officer, or institution which receives money directly from the public, shall deposit the same daily with the Treasurer, unless otherwise authorized by ordinance. The Treasurer shall demand and receive from the County Tax Collector moneys collected by him or her for

use of the City. And it shall be the duty of such County official to deposit such money monthly with the City Treasurer.

The Treasurer shall determine pursuant to the general law of the state, the selection of depositories for City funds. All interest collected on City funds shall be accounted for monthly by the Treasurer.

Whenever any person is indebted to the City in any manner and the means of collection of such debt is not otherwise provided for by law or ordinance, the Treasurer shall be authorized to demand and receive the same. When any claim shall not be collectible by other methods, he or she shall report the same to the City Manager and the City Attorney for prosecution. When payment of a claim or any judgment thereon is made, he or she shall receive and receipt therefor in the name of the City.

The Treasurer shall issue notices for and collect special assessments previous to certification to the County Auditor, charges for permits for private use of public streets, and such other miscellaneous taxes, fees, assessments, licenses and privilege charges as may from time to time be assigned to him or her. He or she shall maintain a continuous inspection of the records and accounts of such taxes, licenses and privilege charges in order to effectuate their collection.

The Treasurer shall issue all permits and licenses except departmental permits and licenses which are by ordinance assigned to the particular Departments. Such permits and licenses shall be issued either directly by the Treasurer or upon specific authorization of the appropriate Department as may be required by ordinances, but all revenues derived therefrom shall be deposited with the Treasurer.
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 06-03-2008; effective 07-08-2008.)
Prior Language

Section 46: Department of Public Works. Street Superintendent
(Amendment voted 04-21-1953; effective 05-29-1953.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 47: Division of Streets
(Repeal voted 04-21-1953; effective 05-29-1953.)
Prior Language

Section 48: Division of Sewers
(Repeal voted 04-21-1953; effective 05-29-1953.)
Prior Language

Section 49: Division of Refuse Collection and Disposal

(Repeal voted 04-21-1953; effective 05-29-1953.)

Prior Language

Section 50: Division of Public Buildings

(Repeal voted 04-21-1953; effective 05-29-1953.)

Prior Language

Section 51: Division of Shops

(Repeal voted 04-21-1953; effective 05-29-1953.)

Prior Language

Section 52: Division of Pueblo Lands and Unimproved City Property

(Repeal voted 04-21-1953; effective 05-29-1953.)

Prior Language

Section 53: Water Utility

There shall be included in the administrative organization of the City a separate utility to be known as the Water Utility. The financial information and records on which the accounts are to be kept shall be established and maintained by the City, in accordance with methods set forth in Section 109 of the City Charter.

All revenues of the Water Utility shall be deposited in a Water Utility Fund. The Manager shall include in the annual budget the estimated expenditure and reserve requirements of the Water Utility Fund. The City Council using such estimates as a basis shall include in the annual appropriation ordinance for the Water Utility Fund provision for operating and maintenance costs; replacements, betterments, and expansion of facilities; payments necessary for obtaining water from the Colorado River; any other contractual obligations; reserves for future expansion of water utility plant; reserves for future water purchases. In addition thereto, the Council shall levy annually a tax sufficient to provide for the redemption of municipal bonds heretofore or hereafter issued for water purposes; together with a sum sufficient to pay the interest thereon. The amount of money necessary to be raised each year for the redemption of water bonds and the payment of interest thereon and for the retirement of any other funded or contractual indebtedness incurred by purchase or otherwise for the development, conservation or distribution of water shall be charged annually against the Water Utility on the accounts of the City. Only after providing the requirements for Water Utility purposes as set forth above may the City Council in the annual appropriation ordinance provide for the transfer to the General Fund of the City any excess revenues accruing to the Water Utility Fund. Such revenue transferred to the General Fund shall be available thereafter for use for any legal City purpose. All such surplus funds so transferred shall be credited on the accounts of the City as a reimbursement credit for the monies paid by the City each year

for the redemption of Water Bonds and the payment of interest thereon, costs of services and facilities furnished to the water Utility by other City departments and funds, and an amount equal to the estimated loss in taxation which would be paid to the City by the Water Utility if it were not municipally owned, together with a reasonable profit on the City's investment in the water system.

The Council shall have power to employ special counsel for the purpose of advising and representing the City in all matters, proceedings and things relating to or concerning the development, impounding and distribution of water.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 03-11-1947; effective 03-24-1947.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 54: Harbor Department
(Amendment voted 03-23-1937; effective 04-14-1937.)
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 06-08-1954; effective 01-10-1955.)
(Amendment voted 06-07-1960; effective 01-09-1961.)
(Amendment voted 06-05-1962; effective 06-29-1962.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 55: Park and Recreation

The City Manager shall have the control and management of parks, parkways, plazas, beaches, cemeteries, street trees, landscaping of City-owned property, golf courses, playgrounds, recreation centers, recreation camps and recreation activities held on any City playgrounds, parks, beaches and piers, which may be owned, controlled or operated by the City. The City Council shall by ordinance adopt regulations for the proper use and protection of said park property, cemeteries, playgrounds and recreation facilities, and provide penalties for violations thereof. The Manager is charged with the enforcement of such regulations.

All real property owned in fee by the City heretofore or hereafter formally dedicated in perpetuity by ordinance of the Council or by statute of the State Legislature for park, recreation or cemetery purposes shall not be used for any but park, recreation or cemetery purposes without such changed use or purpose having been first authorized or later ratified by a vote of two-thirds of the qualified electors of the City voting at an election for such purpose. However, real property which has been heretofore or which may hereafter be set aside without the formality of an ordinance or statute dedicating such lands for park, recreation or cemetery purposes may be used for any public purpose deemed necessary by the Council.

Whenever the City Manager recommends it, and the City Council finds that the public interest demands it, the City Council may, without a vote of the people, authorize the opening and maintenance of streets and highways over, through and across City fee-owned land which has heretofore or hereafter been formally dedicated in perpetuity by ordinance or statute for park, recreation and cemetery purposes.

The City Council may, without a vote of the people, authorize a lease of the property occupied by San Diego High School to the San Diego Unified School District for educational, cultural, recreational, and civic programs and activities, provided that the property is used for a public high school. The property occupied by San Diego High School means the area used by the San Diego Unified School District for San Diego High School as of the date this amendment is effective, and further described in the legal description on file with the City Clerk as Document No. OO-20721.

The City Manager shall also have charge of the management, control, preservation, regulation, improvement and embellishment of all public burial grounds and cemeteries belonging to the City, and the sale of lots therein. At least twenty percent of the net proceeds from the sale of all cemetery lots shall be deposited with the City Treasurer and be kept in a fund to be known as the Cemetery Perpetuity Fund. This fund shall be administered by the Funds Commission and shall be invested in such income-producing securities as the Funds Commission may decide. The principal of the perpetuity fund (subject to such accretion or diminution as may result from investing the same) shall not be available for meeting expenses for maintenance or upkeep of the cemeteries in any manner whatsoever. All income derived from the investment of the moneys in said perpetuity fund, together with the balance of the sale price of said lots not placed in the perpetuity fund, shall be expended in the maintenance and upkeep of the cemeteries and the perpetual care and upkeep of all graves and lots in said cemeteries; provided, however, that if in any one year such income is more than needed for the purpose of such maintenance, upkeep and perpetual care the Council may direct that the excess over and above that needed as above provided may be used for any other municipal purpose. If the income from said investments of said perpetuity fund and the balance of the sale price of said lots each year are not sufficient to maintain the cemeteries and to provide perpetual care and upkeep of all graves and lots in said cemeteries the Council shall annually appropriate from other revenues an amount sufficient to enable the City to provide perpetual care and upkeep of all graves and lots in the cemeteries.

(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 03-11-1947; effective 03-24-1947.)
(Amendment voted 04-21-1953; effective 05-29-1953.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 55.1: Mission Bay Park - Restrictions upon Commercial Development

Notwithstanding any other provision of this Charter to the contrary, the total land and water area of all leases in Mission Bay Park shall not exceed twenty-five percent (25%) of the total dedicated land area or six and one-half percent (6.5%) of the total dedicated water area respectively of the park without such lease being authorized or later ratified by vote of 2/3's of the qualified electors of the City voting at an election for such purpose. *(Amendment voted 11-03-1987; effective 12-17-1987.*

Section 55.2: Mission Bay Park and Regional Parks Improvement Funds

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

(1) *Capital Improvement* means physical assets, constructed or purchased, or the restoration of some aspect of a physical or natural asset that will increase its useful life by one year or more or which constitutes an environmental improvement of a natural asset.

(2) *Mission Bay Baseline Chart* shall be defined as the Mission Bay dredging plans on file with the City Clerk as Document No. OO-19776. It shall serve as the baseline for depths for navigable waters within Mission Bay. Depths may be increased or decreased for specific areas within Mission Bay only if, after review of these areas by the San Diego Fire Department or the *Mission Bay Park Improvement Fund Oversight Committee*, it is found that either the original depth no longer supports or ensures safe navigation, is inconsistent with the *Mission Bay Park Master Plan*, or needs to be modified in order to create sustainable shorelines. Any changes must be adopted by ordinance of the City Council and shall act as amendments to the original dredging plans.

(3) *Mission Bay Park* means the area described in the Mission Bay Park Record of Survey 16891, filed on February 28, 2001, in the Office of the County Recorder as File No. 2001-0113422, and any City-owned property heretofore or hereafter dedicated for park purposes that is contiguous to *Mission Bay Park* and has been determined by ordinance of the City Council to be part of *Mission Bay Park* for purposes of this Charter section 55.2.

(4) *Mission Bay Park Improvement Zone* means those areas encompassed within the boundaries of *Mission Bay Park*, Oceanfront Walk from the Mission Bay jetty to Crystal Pier and the adjoining seawall, coastal parks and ocean beaches contiguous thereto, Rose Creek from its terminus in Mission Bay to the southern end of the Santa Fe Road flood control channel, Tecolote Creek from its terminus in Mission Bay to the western end of the Tecolote Creek flood control channel and the San Diego River as it passes through the boundaries of *Mission Bay Park* as described herein. The

boundaries of the San Diego River, Rose Creek and Tecolote Creek shall be the width of those waterways to the nearest property line.

(5) *Mission Bay Park Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *Mission Bay Park Improvement Zone*.

(6) *Mission Bay Park Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.

(7) *Mission Bay Park Lease Revenues* means all revenues collected by the City of San Diego from commercial and non-profit sources within *Mission Bay Park*, including but not limited to all monetary consideration received under leases of city owned property within *Mission Bay Park*, as well as revenue collected from contracts for concessions or any other revenues collected for the use of city owned property within *Mission Bay Park*. The term does not include revenue from the Mission Bay Golf Course, unless privately leased; mooring fees; any revenues from taxes including but not limited to Transient Occupancy Taxes, sales taxes, possessory interest taxes, property taxes; or permit fees such as park and recreation fees or special event fees to the extent those fees are levied to recover actual costs incurred by the City of San Diego.

(8) *Mission Bay Park Master Plan* means the Master Plan adopted by the City Council for Mission Bay Park in 1994, the Natural Resources Management Plan, and any amendments or updates that are subsequently adopted by the City Council or any such similar replacement plan that may be subsequently adopted by the City Council. For purposes of this Section, the definition shall also include adopted plans for areas located within the *Mission Bay Park Improvement Zone*.

(9) *San Diego Regional Parks* means those parks that serve regional residents and/or visitor populations as determined by ordinance of the City Council. *San Diego Regional Parks* shall initially include Chollas Lake Park, Balboa Park, Mission Trails Regional Park, Otay River Valley Park, Presidio Park, San Diego River Park, open space parks, and coastal beaches along with coastal parks contiguous thereto. For the purposes of this Section, this definition shall specifically exclude the *Mission Bay Park Improvement Zone*.

(10) *San Diego Regional Parks Improvement Fund* means a separate interest bearing monetary fund maintained by the City of San Diego to receive and spend the *Mission Bay Park Lease Revenues* identified herein for the benefit of the *San Diego Regional Parks*.

(11) *San Diego Regional Parks Improvement Fund Oversight Committee* means the committee determined by ordinance of the City Council to carry out the oversight responsibilities described herein.

(b) Subject to the City of San Diego's State law obligations as a trustee of tidelands within *Mission Bay Park*, *Mission Bay Park Lease Revenues* up to the threshold amount in each fiscal year shall be deposited into the San Diego General Fund and may be used for any municipal purpose, including but not limited to, police, fire, streets, sewers, water delivery, roads, bridges, and operation of parks. All *Mission Bay Park Lease Revenues* in excess of the threshold amount shall be allocated in the City of San Diego budget to two distinct funds. Thirty-five percent (35%) of the *Mission Bay Park Lease Revenues* in excess of the threshold amount, or three million five hundred thousand dollars ($3,500,000) whichever is greater, shall be allocated to the *San Diego Regional Parks Improvement Fund* that solely benefits the *San Diego Regional Parks* and sixty-five percent (65%) of the *Mission Bay Park Lease Revenues* over the threshold amount, or the remainder of those revenues if less than 65% is available after the allocation to the *San Diego Regional Parks Improvement Fund*, shall be allocated to the *Mission Bay Park Improvement Fund* that solely benefits the *Mission Bay Park Improvement Zone*. The threshold amount shall be $23 million beginning fiscal year 2010 and ending fiscal year 2014. The threshold amount shall be $20 million beginning fiscal year 2015 and shall remain $20 million thereafter.

(c) Funds in the *Mission Bay Park Improvement Fund* may be expended only in the *Mission Bay Park Improvement Zone*, to restore wetlands, wildlife habitat, and other environmental assets within the *Mission Bay Park Improvement Zone*; to preserve the beneficial uses of the *Mission Bay Park Improvement Zone* including, but not limited to, water quality, boating, swimming, fishing, and picnicking by maintaining navigable waters and eliminating navigational hazards; to restore embankments and other erosion control features; and to improve the conditions of the *Mission Bay Park Improvement Zone* for the benefit and enjoyment of residents and visitors, consistent with the *Mission Bay Park Master Plan*.

(1) To achieve these goals, all of the following identified priorities are intended to be authorized, have a funding plan adopted by City Council, and proceed to completion in the order provided below, subject to section (c)(2) below authorizing projects to proceed concurrently:

(A) Restoration of navigable waters within *Mission Bay Park* and elimination of navigational hazards. When depth conditions no longer support and ensure safe navigation, those areas that pose a danger or impede the passage of watercraft shall be dredged in accordance with the *Mission Bay Baseline Chart*.

(B) Wetland expansion and water quality improvements and the protection and expansion of eelgrass beds as identified in the *Mission Bay Park Master Plan*.

(C) Restoration of shoreline treatments within the *Mission Bay Park Improvement Zone* including restoration of beach sand and stabilization of erosion control features.

(D) Expansion of endangered or threatened species preserves and upland habitats on North Fiesta Island and along the levee of the San Diego River floodway as identified in the *Mission Bay Park Master Plan*.

(E) Deferred maintenance projects that are also *Capital Improvements* within the *Mission Bay Park Improvement Zone* as may be recommended by the *Mission Bay Park Improvement Fund Oversight Committee* and approved by the City Council such as, but not limited to, completion of bicycle and pedestrian paths and bridges as identified in the *Mission Bay Park Master Plan*, installation of sustainable lighting in the *Mission Bay Park Improvement Zone*, installation of signage and landscaping at points of entry to *Mission Bay Park* and the South Shores, the repair, resurfacing and restriping of parking lots within the *Mission Bay Park Improvement Zone,* the repair of playgrounds and comfort stations, and the restoration of the seawall and bulkhead on Oceanfront Walk to a condition no less than the quality of restoration previously performed in 1998 from Thomas Street to Pacific Beach Drive or to conditions as may be required by historic standards.

(2) After a priority project identified in (c)(1)(A-E) above has been authorized and has a funding plan adopted for it by City Council, funds may be committed to and expended on a subsequent project of a lesser priority and construction of a subsequent project may proceed concurrently with a greater priority project provided construction of a lesser priority project does not preclude completion of a greater priority project. The City Council shall be required to make findings that completion of a greater priority project will

not be precluded by expending funds on a lesser priority project before approving said expenditure.

(3) Once the projects identified in (c)(1)(A-E) have completed, additional projects shall be prioritized and funded only for *Capital Improvements* as identified in the *Mission Bay Park Master Plan*, recommended by the *Mission Bay Park Improvement Fund Oversight Committee*, and approved by the City Council.

(4) To the extent items (c)(1)(A-E) require additional funding or are later in need of additional *Capital Improvements*, then those items shall again have priority over other *Capital Improvements* only if approved by the City Council.

(5) Except as may be specifically authorized above in this subsection, funds in the *Mission Bay Park Improvement Fund* may not be expended for commercial enterprises or improvements of leasehold interests; for any costs associated with utilities, including, but not limited to, water and sewage; or for roads, vehicle bridges, or vehicular ramps; or on costs that cannot be capitalized; or on daily, weekly, monthly, or annual upkeep of the *Mission Bay Park Improvement Zone* and there shall be no expenditure for contracted labor or services or for city employee salaries, pensions or benefits unless those expenses can be capitalized, and only then at the then-standard rates used by the City of San Diego for all other capital improvement projects.

(d) Funds in the *San Diego Regional Parks Improvement Fund* may be expended only for non-commercial public *Capital Improvements* for the *San Diego Regional Parks* and only for park uses. Funds in the *San Diego Regional Parks Improvement Fund* may not be expended for commercial enterprises or improvements of leasehold interests; for any costs associated with utilities, including, but not limited to, water and sewage; or for roads, vehicle bridges, or vehicular ramps; or on daily, weekly, monthly, or annual upkeep of the *San Diego Regional Parks*.

Priority for *Capital Improvements* hereunder shall be recommended by the *San Diego Regional Parks Improvement Fund Oversight Committee*, in accordance with the master plans for each of the *San Diego Regional Parks*, and approved by the City Council.

(e) The *Mission Bay Park Improvement Fund Oversight Committee* and the *San Diego Regional Parks Improvement Fund Oversight Committee* shall meet at least quarterly to audit and review the implementation of this Charter Section, to recommend priorities for expenditures and *Capital Improvements* hereunder in

accordance with the master plans for each of the *San Diego Regional Parks* or with the *Mission Bay Park Master Plan* or within the priorities identified in (c)(1)(A-E), as applicable; and to verify that the appropriate funds are collected, segregated, retained and allocated according to the intent of this Section, and spent as prioritized in this Section and consistent herewith.
The San Diego City Auditor, in cooperation with each committee, shall establish and oversee a mechanism to ensure public accountability by effectively reporting and communicating the extent and nature of revenues, expenses and improvements generated hereunder and compliance with the requirements outlined herein. This shall include, at a minimum, an annual audit report to the Mayor, City Council and public. Each report shall, at a minimum, contain a complete accounting of all revenues received, the amount and nature of all expenditures, a report as to whether in each committee's view the expenditures have been consistent with the priorities and provisions hereof, whether the City of San Diego has complied with sections (c), (d), (f), (g) and (h). In the event that either committee finds that there has been a violation of this Charter Section by the City of San Diego, it should set forth the alleged violation in a written communication to the City Manager and members of the San Diego City Council. If the alleged violation is not resolved to the satisfaction of the aggrieved committee within 30 days, the San Diego City Council shall docket an action item for a public meeting of the San Diego City Council within 60 days. If evidence presented to the San Diego City Council by the aggrieved committee establishes a violation of this Section, the San Diego City Council shall forthwith cure the violation including but not limited to the restoration of inappropriately expended funds.

(f) The City of San Diego shall take all steps necessary to ensure the collection and retention of all *Mission Bay Park Lease Revenues* for purposes described herein and to utilize those revenues only for the purposes described herein and consistent with the priorities and intentions described herein. The City of San Diego may issue bonds, notes or other obligations to expedite the *Capital Improvements* contemplated herein, utilizing the revenue stream from *Mission Bay Park Lease Revenues* designated herein.

(g) The annual budgets allocated for park operations and maintenance in the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks* shall not be reduced at a greater rate or increased at a lesser rate relative to the overall annual budget of park and recreation as a result of monies available hereunder.

(h) The City of San Diego is encouraged to seek other sources of funding for the purposes of improving the *Mission Bay Park Improvement Zone* and the *San Diego Regional Parks*, including but not limited to grant funding from other governmental agencies, private individuals, or foundations. In the event the City

of San Diego receives any such additional funds, they shall be in addition to, and shall not offset or reduce funds dedicated to the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks Fund* under this Section.

(i) Nothing contained herein shall prevent the City of San Diego from spending funds in excess of the *Mission Bay Park Improvement Fund* or *San Diego Regional Parks* Fund for the purposes of improving the *Mission Bay Park Improvement Zone* or the *San Diego Regional Parks*.

(j) This Section shall take effect and be in force on July 1, 2009, and will expire on June 30, 2069. Before the expiration of this Section, the City Council shall place on the ballot no later than the last regularly scheduled election prior to June 30, 2069 a measure to amend the Charter to extend the effect of this Section for an additional 30 years.

(k) In the event of a conflict between any provision of Section 55.2 and any other provision of this Charter or the Municipal Code, Section 55.2 shall govern.

(Addition voted 11-04-2008; effective 12-16-2008.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 56: Bureau of Safety

(Repeal voted 04-21-1953; effective 05-29-1953.)
Prior Language

Section 57: Police Department

The Police Department shall consist of a Chief of Police and such other officers, members and employees as the Council may from time to time prescribe by ordinance.

The Chief of Police shall be appointed by the City Manager and the appointment shall be confirmed by a majority of the Council, provided, however, that the Chief of Police may be removed by the City Manager at any time in the manner provided for in Section 30 of Article V of this Charter.

The Chief of Police, with the approval of the City Manager, shall appoint, direct and supervise the personnel, subject to Civil Service regulation, have charge of the property and equipment of the department and exercise all powers and duties provided by general laws or by ordinance of the Council. The Chief of Police shall have all power and authority necessary for the operation and control of the Police Department.
(Amendment voted 11-06-1956; effective 01-10-1957.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Section 57 is modified by contrary language in section 265(b) effective 01-01-2006.)

Prior Language

Section 58: Fire Department

The Fire Department shall consist of a Chief of the Fire Department and such other officers, members and employees as the Council may from time to time prescribe by ordinance.

The Chief of the Fire Department shall be appointed by the City Manager and the appointment shall be confirmed by a majority of the Council, provided, however, that the Chief of the Fire Department may be removed by the City Manager at any time in the manner provided for in Section 30 of Article V of this Charter. The Chief of the Fire Department shall have all power and authority necessary for the operation and control of the Fire Department and the protection of the lives and property of the people of the City from fire.

The Chief of the Fire Department, with the approval of the City Manager, shall direct and supervise the personnel. Members of the Fire Department shall be subject to all the Civil Service provisions of this Charter contained in Article VIII. This section shall not become effective until July 1, 1974.
(Amendment voted 11-06-1956; effective 01-10-1957.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-06-1973; effective 12-07-1973.)
(Section 58 is modified by contrary language in section 265(b) effective 01-01-2006.)
Prior Language

Section 59: Department of Inspection
(Amendment voted 04-17-1951; effective 05-03-1951.)
(Amendment voted 04-21-1953; effective 05-29-1953.)
(Amendment voted 06-08-1954; effective 01-10-1955.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 60: Department of Public Health
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 60.1: Plumbing Permits and Inspections Regulated by Council
(Addition voted 04-19-1949; effective 05-20-1949.)

(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 60.2: Authority to Consolidate Department of Public Health with the County of San Diego

(Addition voted 11-04-1952; effective 01-17-1953.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 61: Social Service Department

(Amendment voted 04-21-1953; effective 05-29-1953.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 62: Playground and Recreation Department

(Repeal voted 03-11-1947; effective 03-24-1947.)
Prior Language

Section 63: Library Department

(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 64: Support of Educational and Cultural Institutions

The Council shall annually make appropriations for the support of all institutions of an educational, scientific, historical and cultural character, and which have a tendency to promote the welfare of the City and its inhabitants, which are now or which may hereafter be controlled by The City of San Diego and partially or wholly operated and maintained by said City for the benefit of its inhabitants.

ARTICLE VI

BOARD OF EDUCATION

Section 65: School System

(Repeal voted 11-06-1962; effective 01-21-1963.)
Prior Language

Section 66: Board of Education

The government of the San Diego Unified School District shall be vested in a Board of Education, composed of five members who shall be nominated and elected at the regular municipal primary elections and the general municipal elections at the same time as the election of Council members. At the municipal primary election there shall be chosen by the registered voters of each Board of Education District two candidates for the office of any Board of Education member from a District whose term expires the succeeding December. At the general municipal election the registered voters of the whole San Diego Unified School District shall select from among the candidates chosen at the primary election in each district one candidate for the office of each Board of Education member whose term expires the succeeding December. Each candidate for the Board of Education shall have been a registered voter of the San Diego Unified School District and an actual resident of the election district from which he seeks to be nominated for thirty (30) days immediately preceding filing of a nominating petition. The members shall serve for a term of four years from and after 10 a.m. the first Monday after the first day of December next succeeding this election and until their successors are elected and qualified, except as herein provided. Any vacancy occurring in the Board shall be filled from the election district in which the vacancy occurs by appointment by the remaining Board members; but in the event that said remaining members fail to fill such vacancy by appointment within thirty (30) days after the vacancy occurs, they must immediately cause to be held a primary election in the district in which the vacancy occurs and a general election within the entire school district to fill such vacancy; provided, however, that any person appointed to fill such vacancy shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.

For the purpose of electing members of the Board of Education, the San Diego Unified School District shall be divided into five (5) districts as nearly equal in voter population as practicable. For the first primary and regular election held under this section, as amended, the boundaries of such election districts shall be established by the Board of

Education as such Board existed on the effective date of the amendment to this section. Thereafter, the boundaries of such election districts shall be subject to alteration and change under the provisions of this section. The Board of Education, by resolution, may change and alter the boundaries of the election districts and in the resolution may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in said resolution.
(Amendment voted 03-28-1939; effective 04-24-1939.)
(Amendment voted 04-21-1953; effective 05-29-1953.)
(Amendment voted 11-04-1958; effective 02-19-1959.)
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 11-03-1964; effective 01-21-1965.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 11-06-1979; effective 12-17-1979.)
Prior Language

Section 67: Powers and Duties

The powers and duties of the Board of Education shall be such as are now, or may hereafter be conferred upon such boards by the laws of the State of California.

ARTICLE VII

(Effective 01-01-2006, all executive authority, power, and responsibilities conferred upon the City Manager in this Article were transferred to the Mayor. See section 260.)

FINANCE

Section 68: Budget and Accounting System

A complete budget and accounting system of municipal receipts and expenditures is hereby established.
(Amendment voted 04-21-1953; effective 05-29-1953.)
Prior Language

Section 69: Annual Budget and Appropriation

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

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

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

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

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

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

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

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

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

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

(h) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor. Any item in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by the Council. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor subject to the balanced budget requirements of this section. In no event may spending proposals not previously included in either of the Mayor's proposed budget or the Council's initial budget resolution be considered as part of a veto override action. The vote of two-thirds of the Council shall be required to override any veto by the Mayor under this section.

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

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

(k) No later than June 30, the Council shall adopt an Annual Appropriation Ordinance setting forth the legal levels at which the Chief Financial Officer, as the designee of the Mayor, shall control operational and capital project spending. The preparation of the appropriation ordinance, including the form, arrangement and itemization thereof, shall be determined and prescribed by the Chief Financial

Officer and the City Attorney. The adopted budget and Salary Ordinance shall be controlling documents in the preparation of the Appropriation Ordinance. In the event that the Council fails to adopt the Appropriation Ordinance prior to the beginning of the new fiscal year the spending controls in the prior year's Appropriation Ordinance shall continue, as modified by the adopted budget.

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

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

(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Section 69 is modified by contrary language in Charter section 265(b)(14) during the operative period of Charter Article XV.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 70: Power to Fix Salaries

The Council shall have the power to fix salaries of the Mayor, the City Clerk, the City Auditor, the Independent Budget Analyst, and all other officers under the Council's jurisdiction. All members of Commissions serve without compensation except where otherwise provided by State law or this Charter. Except as otherwise provided by law, the Mayor and other departmental heads outside of the departments under control of the Mayor have power to fix salaries and wages subject to the personnel classification determined by the Civil Service Commission, of all other officers and employees within the total amount contained in the Annual Appropriation Ordinance for personal service in each of the several departments of the City. All increases and decreases of salary or wages of officers and employees must be consistent with the compensation schedules established by the annual salary ordinance, and in accordance with the Meyers-Milias-Brown Act or other legal requirements governing labor relations that are binding upon the City. No increases or decreases to the compensation schedules are effective prior to the fiscal year for which the budget is adopted. If, during any fiscal year, the Council finds and determines that because of a significant change in living costs, the salaries and wages fixed for that fiscal year are not comparable to the salaries and wages of other public or private employments for comparable services, and as a result, the best interests of the City are not being protected or are in jeopardy, the Council, upon recommendation of the Mayor or non-mayoral department heads, and if funds are available, may revise the compensation schedules to the extent necessary to protect the City's interests.
(Amendment voted 03-13-1951; effective 03-26-1951.)
(Amendment voted 11-08-1977; effective 01-20-1978.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 70.1: Reforming Base Compensation Used to Establish Pension Benefits

"Base Compensation for Calculation of Pension Benefits" or "Base Compensation" shall be defined for this Section and for Section 70.2 as the total amount of annual compensation received by an individual City officer or employee for years of service after the implementation of this section that is used by the Retirement System for the purpose of calculating an individual's benefits under a Defined Benefit Pension Plan as defined in Section 140 of this Charter.

By January 1, 2013 and to the extent allowed by law, including the legal effect of existing Memorandums of Understanding as of the effective date of this section, no Earning Codes Included in Retirement Base Compensation in any Annual Salary Ordinance shall include any pay components that may be excluded pursuant to any judicially approved legal settlement from the calculation of Base Compensation for Calculation of Pension Benefits.

This Section shall apply prospectively. Nothing in this section shall be interpreted to limit the ability of the City to offer additional compensation for City officers and employees beyond Base Compensation, provided however that such compensation shall not be included in the calculation of Base Compensation. Employees determined to be performing work outside of their job classification may have their "out of class" pay included in the calculation of Base Compensation. Furthermore, nothing herein is intended to prohibit or limit the City Council from having its representatives meet and confer with Recognized Employee Organizations or Bargaining Groups as required by applicable labor relations laws to implement this Section.
(Addition voted 06-05-2012; effective 07-20-2012.)

Section 70.2: Emergency Limitations on Base Compensation for Calculation of Pension Benefits (July 1, 2012 to June 30, 2018)

From the effective date of this Section until June 30, 2018, in the City's initial bargaining position in negotiations on any Memorandum of Understanding with recognized employee organizations or bargaining groups, the City shall propose terms that are consistent with the following requirements and shall work to achieve the following outcomes:

(a) No Base Compensation for any classification shall be set at an amount higher than the base compensation for that classification established in Ordinance No. O-19952, adopted on May 4, 2010, ("2011 Fiscal Year Salary Ordinance").

(b) The Earning Codes Included in Retirement Base Compensation, as adopted in Ordinance No. O-19952, shall not be amended to add any new types of

compensation to the Base Compensation for the Calculation of Pension Benefits during the effective period of this section.

(c) Any new job classification may only be created, during the effective period of this Section, with specific findings that the creation of the new classification is necessary to achieve efficiencies and/or salary savings by consolidation job duties or the creation of a more efficient service delivery method to the public. No base compensation for any new job classification created during the effective period of this section shall be set at an amount higher than the base compensation for that classification during the Fiscal Year in which it was established.

(d) No other forms of compensation shall be provided or increased for any applicable fiscal year that has the effect of increasing Base Compensation as defined under this Section and Section 70.1, above, of this Charter.

City bargaining representatives may be authorized to negotiate tentative agreements with employee organizations incorporating changes in employee compensation and other employee benefits provided, however, that no provision of a tentative agreement that fails to meet the conditions established in (a)-(d), above, shall become effective unless and until it is approved by a two-thirds majority of the full City Council.

From the effective date of this Section until June 30, 2018, prior to any City Council action that establishes the initial bargaining position of the City to meet and confer with recognized employee organizations or bargaining groups which include increases to salaries and benefits for any City officer or employee, in any proposed Memorandum of Understanding or other agreement, the Retirement System shall prepare and submit to the Mayor and City Council an actuarial study that identifies and discloses the impact on the City's Defined Benefit Pension Plan of any increases in proposed compensation or benefits contained in the initial Council proposal, and certifies whether the proposed action increases the average or mean Base Compensation, for any job classification. Prior to any submission of a tentative agreement with any recognized employee organization or bargaining group to the City Council for approval of a Memorandum of Understanding, the City shall refer the tentative agreement to the Retirement System's Actuary to update the actuarial study to include any additional fiscal impacts of the tentative agreement. Such analysis shall be made readily available to the public ten days prior to any final action taken by the Council.

Nothing in this section shall be interpreted to limit the ability of the City to offer additional compensation for City officers and employees during the effective period of this section, provided however that such compensation shall not have the effect of increasing the Base Compensation for Establishment of Pension Benefits for that City officer or employee without complying with the requirements of this section.

Nothing in this section shall be interpreted to limit the ability of the City to exercise authority under Charter Section 124 (Promotions). This section shall be implemented in a manner consistent with the requirements of any applicable labor relations laws. This Charter Section 70.2 shall be automatically repealed and removed from this Charter on July 1, 2018, unless extended, modified or repealed by a vote of the People.
(Addition voted 06-05-2012; effective 07-20-2012.)

Section 71: Multi-Year Capital Plan

The Mayor shall maintain a current, multi-year capital plan that identifies and prioritizes deferred capital and infrastructure needs of the City and projects the amount of available funding sources over the term of the plan.
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 11-07-1978; effective 01-12-1979.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 71a: Reappropriations at Beginning of Fiscal Year for Salaries and Maintenance and Support Expenses

(Addition voted 04-20-1943; effective 05-04-1943.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 72: Mid-Year Amendment to Annual Budget

The Council shall by ordinance set forth the terms and conditions under which the Mayor must propose mid-year amendments to the annual budget.
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 73: Transfer of Appropriations

Upon the written recommendation of the Mayor, the Council may at any time transfer all or part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated for the same Department or office; provided, however, the Council shall have no authority to transfer all or any part of the salary account during the fiscal year to any other purpose, save and except in the event of a public emergency, and then only for the purpose of insuring the safety and lives and property of the inhabitants of The City of San Diego.
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 74: Appropriation Required for City Debt

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

Any taxpayer of the City or owner of any bond thereof may bring suit against the Chief Financial Officer in the Superior Court to enforce the provisions of this section and if, upon such suit, it be found that the Council has failed to make an appropriation for the full amount estimated by the Mayor and actually required for the City debt and that the Chief Financial Officer has failed to set up the appropriation account and provide for transfers thereto as required by this section, the court shall order the establishment of such appropriation account and the necessary transfers thereto as hereinbefore provided. And such action by the court shall have the same force and effect in regard to appropriations for the City debt as though taken by the Council in the Annual Appropriation Ordinance.
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 75: Annual Tax Levy

No later than the last day of August of each year, the Council shall adopt an ordinance levying upon the assessed valuation of property in the City any lawfully imposed ad valorem property taxes. Unless otherwise provided by ordinance, the City shall use, for purposes of municipal taxation, the County of San Diego system of assessment and tax collection. If the Council fails to levy a rate of taxation at the time and in the manner provided by the Charter, the Chief Financial Officer shall calculate a rate of taxation, not exceeding the limit provided by law, in an amount required to meet maturing portions of principal and interest on the bonded indebtedness of the City and any special taxes lawfully imposed. The Chief Financial Officer shall give public notice of the rate of taxation as provided by ordinance. The Chief Financial Officer is hereby vested with all necessary legislative power to carry out the provisions of this section.
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 76: Special Taxes

Notwithstanding any provision of this Charter to the contrary, a special tax, as authorized by Article XIIIA of the California Constitution, may be levied by the Council only if the proposed levy has been approved by a two-thirds vote of the qualified electors of the City voting on the proposition; or if the special tax is to be levied upon less than the entire City, then the tax may be levied by the Council only if the proposed levy has been approved by a two-thirds vote of the qualified electors voting on the proposition in the area of the City in which the tax is to be levied.
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 76.1: Special Taxes

(Amendment voted 11-08-1983; effective 12-30-1983.)
(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 77: Proceeds of Sale of City-Owned Real Property

All proceeds received from the sale of City-owned real property shall be used exclusively for the acquisition and construction of permanent public improvements, including public buildings and such initial furnishings, equipment, supplies, inventory and stock as will establish the public improvement as a going concern. Proceeds may also be used to reimburse the General Fund for prior capital expenditures and for the financing costs, if any, associated with the acquisition and construction of such permanent public

improvements. The funds may also be used for the replacement of permanent public improvements but not the repair or maintenance thereof. The qualified electors of the City may, by a two-thirds vote, consent to the transfer and expenditure of such moneys for other purposes.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 04-20-1943; effective 05-04-1943.)
(Amendment voted 04-19-1949; effective 05-20-1949.)
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 06-07-1966; effective 06-29-1966.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 77a: Provisions for Zoological Exhibits

The Council shall levy annually, in addition to all other taxes provided for in this Charter, not less than two cents ($0.02) on each one hundred dollars ($100.00) of the assessed valuation of the real and personal property within the City, to be used exclusively for the maintenance in Balboa Park of zoological exhibits.

Whenever the Council deems it to be for the best interests of the City, the Council may enter into a contract, upon such terms and conditions as the Council may prescribe, for the maintenance in Balboa Park of zoological exhibits, with any organization formed primarily for the purposes of maintaining zoological gardens and zoological exhibits and conducting general zoological work; and may make available to such organization the proceeds of the special tax levy provided for in this section.
(Addition voted 11-06-1934; effective 01-21-1935.)
(Amendment voted 04-22-1941; effective 05-08-1941.)
Prior Language

Section 77b: Public Transportation

(Addition voted 06-07-1966; effective 06-29-1966.)
(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 77.1: Infrastructure Fund

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

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

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

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

(3) *General Fund Share* means the amount budgeted annually in the General Fund for maintenance and repair functions related to *Infrastructure*, including but not limited to streets, storm water systems, and facilities. The City Council may, by ordinance, more specifically define included functions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Addition voted 06-07-2016; effective 07-18-2016.)

Section 78: Assessment and Collection of Taxes

(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 79: Special Assessments

The Council shall have power by ordinance to provide for the payment of all or any part of the cost of any public service or of the acquisition of any land or other property for public use, or of the construction, reconstruction, operation or maintenance of any structure or work in the nature of a public facility or improvement, by levying and collecting special assessments upon property specially benefitted. The mode and manner for the acquisition of any land or other property for public use or of the construction, reconstruction, operation or maintenance of any structure or work in the nature of a public facility or improvement and the levying and collecting of special assessments therefor shall be as prescribed at that time by the general law of the State of California relative thereto; unless the Council shall by ordinance provide otherwise.

The legal and engineering work of preparing proceedings, plans and specifications, costs and estimates of any improvements under this Section shall be done and performed by the offices of the City Attorney and City Engineer respectively. However, if there shall be filed with the City Clerk for presentation to the Council a request in writing by property owners interested that such legal and engineering work be performed by attorneys and engineers outside of the City employ, the Council may so provide. As a condition precedent to the Council's granting permission for the employment of private attorneys or engineers, the property owners interested, the private attorney or the engineer, as appropriate, shall agree to hold the City free and harmless of and from any and all liability or cost or expense if for any reason the project is abandoned by the Council or the assessments are not levied or collected. On City-initiated projects toward which the City or other public agency contributes a portion of the costs, the Council may provide for the employment of private attorneys or engineers without requiring compliance with the foregoing condition precedent.
(Amendment voted 06-07-1966; effective 06-29-1966.)
Prior Language

Section 80: Money Required to Be in Treasury

The Council may not approve any contract, agreement or other obligation involving the expenditure of City funds unless the Chief Financial Officer first certifies that, in the judgment of the Chief Financial Officer, sufficient funds are or will be available in the City treasury to make such expenditures from revenues received during or before the fiscal year in which the obligations will become due.
(Amendment voted 06-04-1968; effective 07-22-1968.)

(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 81: Allotments

(Amendment voted 11-04-1969; effective 01-29-1970.)
(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 82: Payment of Claims Against the City

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

The Chief Financial Officer shall make no payment unless he or she has determined that it has been properly approved, is in the proper form, correctly computed, legally due and payable, that an appropriation for such payment is available and that there is money in the treasury to make such payment. Payments for salaries of officers and employees shall be made regularly from the treasury without the necessity of review and approval prescribed for other payments. Claims against the City shall be paid in any acceptable form of payment authorized under the provisions of the California Government Code.
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 83: Payment of Claims Against the City

(Amendment voted 06-05-1956; effective 01-10-1957.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 84: Money to Be Drawn from Treasury in Accordance with Appropriation

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the Annual Appropriation Ordinance or of the annual appropriation changed as authorized by Section 73 of this Article. At the close of each fiscal year any unencumbered balance of an appropriation except retirement funds, and such trust funds as may be established by this Charter shall revert to the fund from which appropriated and shall be subject to reappropriation. Appropriations may be made by the Council, to be paid out of the revenues of the current year, in furtherance of improvements or other objects or works which will not be completed within the year. Any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 85: Daily Deposits of Money

All moneys received from taxes, licenses, fees, fines, penalties and forfeitures and all moneys which may be collected or received by any officer of the City in his official capacity, or from any Department of the City for the performance of any official duty and all moneys accruing to the City from any source and all moneys directed by law or by this Charter to be paid or deposited in the treasury, shall be paid into the treasury daily.

Section 86: Disposition of Public Moneys

All City officials and employees empowered to collect money for fees, permits, licenses, inspections, services, taxes or other municipal charges, shall collect the same promptly at the time they become due, turn them into the City Treasury daily, obtain a receipt therefor, and report the same to the City Chief Financial Officer daily; provided, however, that in the case of employees located in distant parts of the city or county who in the course of their duties collect money belonging to the City, which collections can be deposited in the City Treasury daily only with difficulty and undue cost to the City, such collections may be deposited in the City Treasury within one week after their receipt by the employee collecting the same. All such moneys and all fines or pecuniary penalties or forfeitures which may accrue to the City, and all funds which may remain in the possession of the City unclaimed after a period of one year from the date when due and payable, shall be credited to the appropriate fund of the City, and shall be applicable to any purpose to which the Council may appropriate them and the Council shall appropriate from this fund whatever sum may be necessary to pay valid claims of more than one year's standing.
(Amendment voted 04-22-1941; effective 05-08-1941.)

(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 87: Uniform Accounts

The Chief Financial Officer shall prescribe uniform forms of accounts which shall be observed by all officers and Departments of the City which receive or disburse City moneys. Whenever an act shall be passed by the legislature of the State providing for uniform municipal accounts or reports, the City Council may elect to conform thereto.
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 88: Monthly Reports of Officers

At least monthly every officer authorized by law to charge any fee, commission, percentage, allowance or compensation, must make a written report to Chief Financial Officer of all moneys received by him during the preceding accounting period.
(Amendment voted 06-04-1974; effective 08-13-1974.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 89: Monthly Statements by the Chief Financial Officer

The Chief Financial Officer shall prepare for submission to the Council at least monthly, or when requested, a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department and Division thereof as of the last day of the previous accounting period.
(Amendment voted 06-04-1974; effective 08-13-1974.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 90: General Obligation Bonds

The Council is authorized to provide for the issuance of general obligation bonds in accordance with the California Constitution. General obligation bonds may be issued and sold in accordance with state law and any other local procedure adopted by ordinance.
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 90.1: Revenue Bonds

The Council may authorize the issuance of revenue bonds by a two-thirds vote of the Council provided the bonds are not secured by or payable from the general fund or any fund other than an enterprise fund and that the purpose of the bond issue is to provide for the construction, reconstruction or replacement of water facilities, wastewater facilities, or stormwater facilities. All revenue bonds may be issued and sold in accordance with state law or any procedure established by ordinance.
(Addition voted 11-02-1954; effective 01-10-1955.)
(Amendment voted 06-03-1958; effective 02-19-1959.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 90.2: Sewer

(Addition voted 06-05-1956; effective 01-10-1957.)
(Amendment voted 11-8-1960; effective 1-9-1961.)
(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 90.3: Voter Approval for Major Public Projects Conferring Significant Private Benefit

(a) The City may not enter into the agreements necessary for financing, development, and construction of a major public project that confers a significant private benefit, unless that project is submitted to a vote at a municipal election and a majority of those voting in that election approve the project.

(b) For purposes of this section 90.3:

(1) the term “major public project” means any capital improvement for which the expenditure of City funds is proposed, other than capital improvements for water, sewer or other public infrastructure, and for which the City’s total cost is in excess of an amount equal to ten percent (10%) of the

City's General Fund budget for the fiscal year in which the project is proposed to be approved by the electorate;

(2) the term "cost" means the amount paid to directly develop or construct the project, and does not include costs related to financing or interest;

(3) the term "significant private benefit" means that one or more identifiable private individuals or entities will have the exclusive use of any portion of the proposed capital improvement, pursuant to any type of agreement, for more than ten percent (10%) of the days during any calendar year that the proposed capital improvement is available for use, for the purpose of generating federal or state taxable income for such private individual or entity;

(4) the term "City funds" means funds authorized to be spent pursuant to an appropriation in the City's annual budget and derived through any type of financing mechanism, including cash, loans, revenue bonds, lease revenue bonds or certificates of participation, but not including funds generated by a financing mechanism in which the City acts solely as a conduit, and where all costs and financial risks associated with the financing, development and construction are the responsibility of individuals or entities other than the City; and

(5) the term "identifiable private individuals or entities" means those individuals or entities which can be clearly identified, prior to the development of a project, as the party or parties who will ultimately use, rent, lease, or operate the facility for their own benefit. Not included within this definition are private individuals, business interests, groups, trades, associations or any other private entity that may derive private benefit indirectly as a result of the major public project.

(c) Nothing in this section supersedes or nullifies the application of the voter approval requirements of section 90 of this Charter, governing any major public project financed by the City's issuance of general obligation bonds.

(d) Any major public project that has been submitted to a vote at a municipal election and has been approved by a majority of those voting in that election on or before the effective date of this section shall be deemed to have complied with and fulfilled the requirements of this section.

(Addition voted 11-03-1998; effective 12-04-1998.)

Section 91: General Fund to Operate on Cash Basis

The City shall maintain sufficient cash on hand, including all funds available in the General Fund or from which the General Fund may temporarily borrow, to allow for keeping the payment of the running expenses of the General Fund on a cash basis. In the event that the Chief Financial Officer determines that the General Fund will not have sufficient cash available to meet all legal demands against the General Fund prior to the receipt of necessary revenues in any fiscal year, the City may issue short term notes in accordance with Charter section 92.
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 91.1: General Fund Reserves

The City shall maintain General Fund Stability and Emergency Reserves that may be accessed in the event of a significant emergency or economic downturn, unanticipated liability, or adverse litigation that affects revenues and expenditures in the General Fund. Recommendations to appropriate from the Emergency Reserve will require a two-thirds affirmative vote of the City Council. The Council shall establish policies for use of the Stability Reserve account.
(Addition voted 06-07-2016; effective 07-18-2016.)

Section 92: Borrowing Money on Short Term Notes

Bonds or notes may be issued in anticipation of the collection of special assessments, and bonds, notes, or registered warrants on the treasury may be issued in anticipation of the collection of taxes and revenues, as authorized by the City Council by resolution and shall not be deemed the creation of debt within the meaning of Section 90 of this Article. Bonds, notes or registered warrants on the treasury issued in anticipation of the collection of the taxes of any fiscal year may be issued during each fiscal year and each such bond, note, or warrant shall specify that it is payable out of the taxes and revenues of the fiscal year in which issued, and shall not bear a higher rate of interest than the maximum rate established by Council Resolution within the legal limit, and the total amount of such bonds, notes or warrants, authorized and issued in any fiscal year shall not, in the aggregate, be more than twenty-five (25) percent of the total appropriations of the City for such year. Nothing herein contained shall be construed to authorize the incurring of an obligation against the municipality in excess of that authorized to be incurred by the Constitution of the State of California.
(Editor's note: Supplement No. 655)
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 09-21-1965; effective 02-10-1966.)
(Amendment voted 06-03-1980; effective 07-16-1980.)

(Amendment voted 11-06-1990; effective 02-19-1991.)
Prior Language

Section 93: Loans and Advances

The City Council may from time to time authorize the advance of moneys in the treasury as a temporary loan to any tax-supported fund, which loan shall be repaid from the first property taxes received thereafter; provided, however, that such temporary loans shall not exceed the current property taxes receivable. It shall be lawful from time to time to advance money in the General Fund to any bond fund or to use any money in the General Fund for any purpose for which a loan shall have been authorized and bonds actually voted but not yet issued and sold, and the City officials need not sell said bonds until it is necessary to repay the General Fund advances or to replenish such loan fund or funds. The credit of the City shall not be given or loaned to or in aid of any individual, association or corporation; except that suitable provision may be made for the aid and support of the poor.
(Amendment voted 11-06-1962; effective 01-21-1963.)
Prior Language

Section 94: Contracts

Contracts for the construction, reconstruction or repair of public buildings, streets, utilities and other public works, for the provision of goods or services, and the hiring of architects, engineers, and other consultants, shall be competitively bid pursuant to rules established by ordinance of the City Council. The City Council may establish by ordinance contract amounts below which competitive bidding is not required. Unless otherwise required by ordinance, competitive bidding is not required for work done by City forces, services provided by non-profit organizations, in an emergency, or where competitive bidding is not required by state law.

Pursuant to state law, no officers of the City, whether elected or appointed, shall be financially interested in any contract made by them in their official capacity. Any officer who willfully violates this paragraph shall be guilty of a misdemeanor and shall immediately forfeit his or her office and be thereafter forever barred and disqualified from holding any elective or appointive office in the service of the City.

All contracts entered into in violation of this Section shall be void and shall not be enforceable against said City; provided, however, that officers of this municipality may own stock in public utility service corporations and the City permitted to contract for public utility service when the rates for such service are fixed by law or by virtue of the Public Utilities Commission of the State of California; and provided further, that no officer shall be prohibited from purchasing the services of any utility whether publicly or privately owned, whether or not the rates are fixed by law or by the Public Utilities Commission of the State of California; and provided further, that in designating any bank as a depository for the funds of

said City, any officer interested as a stockholder or otherwise in such bank shall not be deemed to have an interest in such City contract within the meaning of this section, and in each of the cases enumerated herein such contracts shall be valid and enforceable obligations against the municipality.
(Amendment voted 03-13-1945; effective 04-09-1945.)
(Amendment voted 03-11-1947; effective 03-24-1947.)
(Amendment voted 03-10-1953; effective 04-20-1953.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 11-02-1976; effective 01-12-1977.)
(Amendment voted 09-20-1977; effective 11-18-1977.)
(Amendment voted 11-03-1998; effective 12-04-1998.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 94.1: Job Order Contracts

(Addition voted 11-03-1998; effective 12-04-1998.)
(Repeal voted 11-08-2016; effective 12-19-2016.)

Section 94.2: Design-build Contracts

(Addition voted 11-03-1998; effective 12-04-1998.)
(Repeal voted 11-08-2016; effective 12-19-2016.)

Section 94.3: Bond Reimbursement Program

(Addition voted 11-03-1998; effective 12-04-1998)
(Repeal voted 11-08-2016; effective 12-19-2016.)

Section 94.4: Construction Manager At Risk Contracts

(Addition voted 3-2-2004; effective 07-15-2004)
(Repeal voted 11-08-2016; effective 12-19-2016.)

Section 95: Preference in Accepting Bids
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Repeal voted 09-21-1965; effective 02-10-1966.)
Prior Language

Section 96: Progressive Payments
(Amendment voted 03-23-1937; effective 04-14-1937.)
(Repeal voted 09-17-1963; effective 02-11-1964.)

Prior Language

Section 97: No Collusion in Bidding

If at any time it shall be found that any party or parties to whom a contract has been awarded has, in presenting any bid or bids, been guilty of collusion with any party or parties in the submission of any bid or for the purpose of preventing any other bid being made, then the contracts so awarded may be declared null and void by the Council and the Council shall thereupon re-advertise for new bids for said work or the incomplete portion thereof. The Council shall debar from future bidding all persons or firms found to be in violation of this Section, or any future firm in which such person is financially interested.
(Amendment voted 11-08-2016; effective 12-19-2016.)

Section 98: Alteration in Contracts

(Amendment voted 06-07-1966; effective 06-29-1966.)
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Repeal voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 99: Continuing Contracts

The City shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year unless the qualified electors of the City, voting at an election to be held for that purpose, have indicated their assent as then required by the Constitution of the State of California, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same; provided, however, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when the qualified electors of the City, voting at an election for that purpose have indicated their assent as then required by the Constitution of the State of California, such proposition shall be deemed adopted. No contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the members elected to the Council.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 06-04-1968; effective 07-22-1968.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 99.1: Sports Stadium

For the purpose of acquiring, constructing and completing on a site in Mission Valley not to exceed 200 acres and lying westerly of Murphy Canyon Road, northerly of Highway 80 and southerly of Friars Road, and maintaining and operating thereon a coliseum, stadium, sports arena, sports pavilion or other building, or combination thereof, and facilities and appurtenances necessary or convenient therefor, for holding sports events, athletic contests, contests of skill, exhibitions and spectacles and other public meetings, the City may, in addition to other legal methods, enter into contracts, leases or other agreements not to exceed fifty years with any other public agency or agencies, and the provisions of Sections 80 and 99 of this Charter shall not be applicable thereto.
(Addition voted 11-02-1965; effective 02-10-1966.)

Section 100: No Favoritism in Public Contracts

No officer or employee of the City shall favor one bidder over another, by giving or withholding information, or shall willfully mislead any bidder in regard to the character of the material or supplies called for, or shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or shall knowingly certify to a greater amount of labor performed than has actually been performed, or to the receipt of a greater amount of material or supplies than has actually been received. Any officer or employee found guilty of violation of this Section shall forfeit his position immediately.
(Amendment voted 11-08-2016; effective 12-19-2016.)

Section 101: When Contracts and Agreements Are Invalid

All contracts, agreements or other obligations entered into, all ordinances and resolutions passed, and orders adopted, contrary to the provisions of Sections 97 and 100 of this Article may be declared null and void by the Council and thereupon no contractor whatever shall have any claim or demand against the City thereunder, nor shall the Council or any officer of the City waive or qualify the limitations fixed by such section or fasten upon the municipality any liability whatever; provided that all persons who have heretofore furnished material for and/or performed labor on the job shall be protected by the contractor's surety bonds. Any willful violation of these Sections on contracts shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall thereby forfeit his office or position. Any violation of these Sections, with the knowledge, expressed or implied of the person or corporation contracting with the City shall render the contract voidable by the Council.

Section 102: Continuance of Contracts

All contracts entered into by the City, or for its benefit, prior to the taking effect of the Charter, shall continue in full force and effect.
(Amendment voted 11-08-2016; effective 12-19-2016.)

Section 103: Franchises

The Council shall have power to grant to any person, firm or corporation, franchises, and all renewals, extensions and amendments thereof, for the use of any public property under the jurisdiction of the City. Such grants shall be made by ordinance adopted by vote of two-thirds (2/3) of the members of the Council and only after recommendations thereon have been made by the Manager and an opportunity for free and open competition and for public hearings have been given. No ordinance granting a franchise or a renewal, extension or amendment of an existing franchise shall be effective until thirty days after its passage, during which time it shall be subject to the referendum provisions of this Charter. No franchises shall be transferable except with the approval of the Council expressed by ordinance. For purposes of this section, a Council approved transfer shall be required when there is any change in the legal structure of the entity which holds the franchise, which change alters the ownership or control of the entity. Such changes include, but are not necessarily limited to, sale, lease, assignment, corporate merger, stock swap, leveraged buy-out reorganization, or any other method heretofore or hereafter devised which results in a change of ownership or control of the entity. Absent Council approval, the franchise shall not be deemed to have been transferred to the new entity. This amendment is intended to be declaratory in nature as an explanation of the existing transfer of franchise provisions as set forth above and in the various City franchises presently in existence.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 11-03-1992; effective 12-18-1992.)
Prior Language

Section 103.1: Regulation of Public Utilities

No person, firm or corporation shall establish and operate works for supplying the inhabitants of The City of San Diego with light, water, power, heat, transportation, telephone service, or other means of communication, or establish and carry on any business within said City which is designed to or does furnish services of a public utility nature to the inhabitants of said City, without the consent of said City manifested by ordinance of the Council. The Council shall have power to provide reasonable terms and conditions under which such businesses may be carried on and conducted within The City of San Diego.
(Addition voted 03-10-1953; effective 04-20-1953.)

Section 103.1a: Environmental Growth Fund

There is hereby created a fund in the City Treasury, to be known as the Environmental Growth Fund. Into this fund each year there shall be placed 25 percent of all moneys derived from the revenues accruing to the City from any franchises for the transmission and distribution of gas, electricity and steam within the City of San Diego.

The Environmental Growth Fund shall be used exclusively for the purpose of preserving and enhancing the environment of the City of San Diego in whatever manner is deemed appropriate by the City Council of The City of San Diego; provided, however, that two-thirds of the moneys paid into the Environmental Growth Fund shall be used exclusively as debt service for bonds of any nature issued for the acquisition, improvement and maintenance of open space to be used for park or recreational purposes. In connection with the issuance of any general obligation bonds for the acquisition, improvement and maintenance of open space to be used for park or recreational purposes, the Council may pledge up to two-thirds of the Environmental Growth Fund to the payment or security of such general obligation bonds and the interest thereon and may so state in any ordinance calling an election authorizing the issuance of said general obligation bonds. If there are no such bonds outstanding or if two-thirds of the moneys paid into the Environmental Growth Fund exceed the amount necessary to service any outstanding bonds issued for the above purposes in any fiscal year, then in those events, and those events only, the moneys set aside for debt service of said bonds or that portion of said moneys which is not needed for debt service of said bonds, shall be used, if at all, exclusively for the purpose of preserving and enhancing the environment of the City of San Diego in whatever manner is deemed appropriate by the City Council of The City of San Diego.
(Addition voted 06-06-1972; effective 08-03-1972.)

Section 104: Term and Plan of Purchase

Within six months after this Charter takes effect, copies of all franchises existing at the time shall be deposited with the Manager. The Council shall certify to the existence of such franchises and shall recognize them for periods not longer than the date of expiration on each. The Manager shall keep a public record of all franchises, leases or permits granted for the use of the public property of the City. The Council may fix the term of each new franchise in accordance with the laws of the State of California, provided that any franchise may be terminated by ordinance whenever the City shall determine to acquire by condemnation or otherwise the property of any utility necessary for the welfare of the City, such termination to be effective upon and not before payment of the purchase price for the property to be acquired. The method of determining the price to be paid for the property so acquired shall be that provided by law affecting the purchase of public utility properties in effect at the time of the purchase or condemnation of such public utility property.

(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 105: Right of Regulation

Plenary control over all primary and secondary uses of its streets and other public places is vested in the City. Franchises may be granted upon such terms, conditions, restrictions or limitations as may be prescribed by ordinance. Every ordinance granting a franchise shall provide that the grantee therein named, as consideration for such grant, shall pay compensation to the City in an amount and in the manner set forth in said ordinance.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 11-07-1950; effective 01-13-1951.)
Prior Language

Section 106: Revocable Permits

Permits revocable at will of the Council for such minor or temporary utility purposes and privileges as may be specified by general ordinance may be granted or revoked by the Council from time to time in accordance with the terms and conditions prescribed thereby and such permits shall not be deemed to be franchises as the term is used in this Charter. Such general ordinance, however, shall be subject to the same procedure as an ordinance granting a franchise and shall not be passed as an emergency measure.

Section 107: Official Bonds

The Council shall determine which officers of the City shall give bonds for the faithful performance of their official duties, and fix the amount of such bonds. Each officer upon entering upon his duties shall deliver to the City a surety bond executed by a reliable surety company authorized to do business in the State of California in the penal sum required, which surety bond shall include other offices of which he may be an ex-officio incumbent, and shall also cover the services of any and all assistants and deputies of said officer. The Council may, however, if it so desires, purchase from a reliable surety company authorized to do business in the State of California a blanket surety bond, which shall insure the faithful performance of the official duties of each officer named therein and fix the amount of each bond for each officer named therein. Each bond or the blanket bond if so purchased shall be approved by the Council and filed with the City Clerk. The premium of all such bonds shall be paid by the City.
(Amendment voted 04-21-1953; effective 05-29-1953.)
Prior Language

Section 108: Forfeiture of Office for Fraud

Every officer who shall willfully approve, allow, or pay any demand on the treasury not authorized by law, and found civilly liable by a court of competent jurisdiction, shall be liable to the City individually and on his or her official bond, for the amount of the demand so approved, allowed or paid, and shall forfeit such office and be forever debarred and disqualified from holding any position in the service of the City. Violation of this section may also be prosecuted as a misdemeanor.
(Amendment voted 11-08-2016; effective 12-19-2016.)

Section 109: Accounts of Municipally Owned Utilities

(Amendment voted 04-22-1941; effective 05-08-1941.)
(Repeal voted 11-03-1964; effective 01-21-1965.)
Prior Language

Section 110: Claims Against the City

Whenever it is claimed that The City of San Diego is liable to any person because of injuries suffered by such person, either to person or property, because of negligence of the City or its officers, a verified claim for damages shall be presented in writing and filed with the designated City official of The City of San Diego within one hundred (100) days after the occurrence giving rise to the claim for damages.

Whenever it is claimed that The City of San Diego is obligated to pay money to any person because of contract or by virtue of operation of law, a demand or claim for such money shall be presented in writing and filed with the Auditor and Comptroller of The City of San Diego within one hundred (100) days after the last item of the account or claim has accrued.

Each claim for damages because of tort shall specify the name and address of the claimant, the date and place of the accident and the extent of the injuries or damages received.

Each claim or demand for money due because of contract or operation of law shall specify the name and address of the claimant, a brief description of the contract or a brief recital of the facts giving rise to the obligation of the City imposed by law.

The time limit of one hundred (100) days shall not begin to run against a claimant whose claim or demand for money due is because of operation of law until such claimant shall have actual notice of the existence of such claim.

No suit shall be brought on any claim for money or damages against The City of San Diego until a demand for the same has been presented, as herein provided.

(Amendment voted 03-28-1939; effective 04-24-1939.)
(Amendment voted 04-19-1949; effective 05-20-1949.)
(Amendment voted 03-10-1953; effective 04-20-1953.)
(Amendment voted 04-21-1959; effective 05-20-1959.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-08-1977; effective 01-20-1978.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
Prior Language

Section 111: Audits of Accounts of the City and City Officers

Each year the Council shall provide that an audit shall be made of all accounts and books of all the Departments of the City. Such audit shall be made by independent auditors who are in no way connected with the City. Either the Audit Committee or the Council may at any time provide for an independent examination or audit of the accounts of any or all officers or Departments of the City government. In case of death, resignation or removal of the City Auditor, the Audit Committee shall cause an audit to be made of his or her accounts. If, as a result of any such audit, an officer be found indebted to the City, the City Auditor, or other person making such audit, shall immediately give notice thereof to the Audit Committee, the Council, the Mayor and the City Attorney, and the latter shall forthwith proceed to collect such indebtedness.
(Amendment voted 06-03-2008; effective 07-08-2008.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 112: Appraisal of City Assets

(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 11-04-1958; effective 02-19-1959.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
(Repeal voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 113: Official Advertising

(Amendment voted 04-19-1949; effective 05-20-1949.)
(Amendment voted 03-10-1953; effective 04-20-1953.)
(Amendment voted 11-08-1977; effective 01-20-1978.)
(Repeal voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 114: Bureau of Information and Publicity

The Council may establish a bureau of information and publicity under the supervision and control of the Manager, who shall designate some official in his Department or in that of the City Clerk to compile the annual report of the City giving a summary of the Council proceedings and a summary of the operations of the administrative Departments for the previous fiscal years; have charge of the editing, printing and distribution of all municipal records, reports and documents; collect and compile information and statistics concerning all Departments and offices of the City, and other municipalities; and publish as often as necessary a City Bulletin, which shall contain the transactions and proceedings of the Council, the legal advertising of the City and such other information relating to the affairs of the City as shall be determined by ordinance or as the Manager may designate. The City Bulletin shall be published in lieu of the awarding of a contract for publication of official advertising in a newspaper of the City when the Council shall determine that it is to the best advantage of the City. The City Bulletin shall be published, distributed or sold in such manner and on such terms as the Council may determine. No unofficial advertising shall be published in the City Bulletin, nor shall the City Bulletin be used to promote the candidacy of any person, or be used as a medium for any personal controversy.

ARTICLE VIII

CIVIL SERVICE

Section 115: Civil Service Commission

This Commission shall have supervision over the selection, promotion and removal of all employees of the City subject to the Civil Service provisions of this Charter.
(Amendment voted 11-06-1956; effective 01-10-1957.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Prior Language

Section 116: Personnel Director

The Civil Service Commission shall appoint a Personnel Director who shall serve as Secretary of the Commission. He shall act as Chief Examiner and superintend the examinations, subject to the direction of the Commission. He shall perform such other duties as are prescribed by this Charter, by ordinance, or by the Commission.

Section 117: Unclassified and Classified Services

Employment in the City shall be divided into the Unclassified and Classified Service.

(a) The Unclassified Service shall include:

(1) All elective City Officers

(2) Members of all boards and commissions

(3) All department heads and one principal assistant or deputy in each department

(4) One assistant to Mayor

(5) City Manager, Assistant City Manager, and Assistants to the City Manager

(6) City Clerk

(7) Chief Financial Officer, Independent Budget Analyst, and City Auditor

(8) Purchasing Officer

(9) Treasurer

(10) Not more than six Assistant City Attorneys, all Deputy City Attorneys, and four other assistants in the Office of the City Attorney.

(11) All Assistants and deputies to the Independent Budget Analyst, and all Assistants and deputies to the City Auditor

(12) The Planning Director

(13) A Confidential Secretary to the Mayor, City Council, City Manager, Police Chief, City Attorney

(14) Officers and employees of San Diego Unified School District

(15) Persons employed in positions for expert professional temporary service when such positions are exempted from the Classified Service for a specified period of temporary service by order of the Civil Service Commission

(16) Interns including, but not limited to, Administrative Interns and legal Interns, temporarily employed in regularly established training programs as defined in the job specifications of the City

(17) Managerial employees having significant responsibilities for formulating or administering departmental policies and programs. Each such position shall be exempted from the Classified Service by ordinance, upon the initiation of the appropriate appointing authority and after receiving the advisory review and comment of the Civil Service Commission and the approval of the City Council.

(b) The Classified Service shall include all positions not specifically included by this section in the Unclassified Service; provided, however, that the incumbents in the positions of the Planning Director and the Principal Assistant to the Planning Director on January 1, 1963 shall remain in the Classified Service until the respective positions are vacated by the incumbents.

(c) The City may employ any independent contractor when the City Manager determines, subject to City Council approval, City services can be provided more economically and efficiently by an independent contractor than by persons employed in the Classified Service while maintaining service quality and protecting the public interest. The City Council shall by ordinance provide for appropriate policies and procedures to implement this subsection. Such ordinance shall include minimum contract standards and other measures to protect the

quality and reliability of public services. A City department shall be provided with an opportunity and resources to develop efficiency and effectiveness improvements in their operations as part of the department's proposal. The core public safety services provided by police officers, firefighters, and lifeguards who participate in the City's Safety Retirement System shall not be subject to Managed Competition. The City Manager shall establish the Managed Competition Independent Review Board to advise the City Manager whether a City department's proposal or an independent contractor's proposal will provide the services to the City most economically and efficiently while maintaining service quality and protecting the public interest. The City Manager will appoint seven (7) members to the Board. Four (4) shall be private citizens whose appointments shall be subject to City Council confirmation. Each shall have professional experience in one or more of the following areas: finance, law, public administration, business management or the service areas under consideration by the City Manager. Three (3) shall be City staff including a City Manager staff designee, a City Council staff designee and the City Auditor and Comptroller or staff designee. Such appointees shall not have any personal or financial interests which would create conflict of interests with the duties of a Board member. Members of the Board shall be prohibited from entering into a contract or accepting employment from an organization which secures a City contract through the managed competition process for the duration of the contract. The City Council shall have the authority to accept or reject in its entirety any proposed agreement with an independent contractor submitted by the City Manager upon recommendation of the Managed Competition Independent Review Board. The City Manager shall have the sole responsibility for administering and monitoring any agreements with contractors. The City Manager shall be required to produce annual performance audits for contracted services, the cost of which must be accounted for and considered during the bidding process. In addition, the City Manager shall seek an independent audit every five (5) years to evaluate the City's experience and performance audits. During the period of time that the City operates under the Strong Mayor form of governance pursuant to Article XV, the reference herein to City Manager shall be deemed to refer to the Mayor.

(Amendment voted 03-13-1945; effective 04-09-1945.)
(Amendment voted 03-11-1947; effective 03-24-1947.)
(Amendment voted 04-17-1951; effective 05-03-1951.)
(Amendment voted 04-21-1953; effective 05-29-1953.)
(Amendment voted 06-08-1954; effective 01-10-1955.)
(Amendment voted 11-06-1956; effective 01-10-1957.)
(Amendment voted 04-16-1957; effective 05-15-1957.)
(Amendment voted 04-21-1959; effective 05-20-1959.)
(Amendment voted 06-07-1960; effective 01-09-1961.)

(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-06-1979; effective 12-17-1979.)
(Amendment voted 11-07-2006; effective 12-13-2006.)
(Amendment voted 06-03-2008; effective 07-08-2008.)
(Amendment voted 11-02-2010; effective 12-22-2010.)
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
Prior Language

Section 118: Rules

The Civil Service Commission shall recommend to the City Council all rules and amendments thereto for the government, supervision and control of the classified service. No rule or amendment thereto shall become effective until it shall have been adopted by ordinance after a public hearing thereon, with notice of such hearing first given by publication of such rule or amendment thereto in full once in the official newspaper of the City at least ten (10) days prior to said hearing and by posting of such rule or amendment thereto in full in three public places at least ten (10) days prior to the said hearing thereon. Following such public hearing the City Council may adopt the rule or amendment as recommended by the Civil Service Commission, may amend the same, or may reject the said recommendation. Any rule or amendment thereto adopted by ordinance shall have the force and effect of law.

Pending the adoption by ordinance of Civil Service rules as hereinabove provided, the present Civil Service rules shall remain in full force and effect for a period not to exceed ninety (90) days from the effective date of this section.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 11-08-1949; effective 12-20-1949.)
Prior Language

Section 119: Application Register
(Repeal voted 09-21-1965; effective 02-10-1966.)
Prior Language

Section 120: Limitations and Credits

No question in any test shall relate to race, or to political or religious opinions, affiliations or service, and no appointment, transfer, layoff, promotion, reduction, suspension or removal shall be affected or influenced by race or such opinions, affiliations or service. In all original examinations, the Civil Service Commission shall in addition to all other credits, give a credit of five per cent of the total credits specified for such examinations to all those who have attained a passing grade in the examination and

who have served in any branch of the United States Armed Forces during any war, major military action, or peacekeeping mission and who have been honorably discharged from active service. This credit is granted to each applicant only upon the first employment after discharge from service, and is not granted to applicants retired from the service on full pensions. This credit shall not be granted in any promotional examination. The spouse of any veteran who, while in such service, was physically or mentally incapacitated so as to prevent employment in any remunerative occupation, and also the surviving spouse of any veteran killed or who died while in such service, shall receive a credit of five per cent upon the first employment after such veteran's discharge or death. An additional five per cent credit, or a total of ten per cent credit shall be awarded to any veteran or the spouse of any veteran who meets the above criteria and has a service related disability of at least fifteen per cent which has been duly established by Federal law.
(Amendment voted 11-08-1949; effective 12-20-1949.)
(Amendment voted 09-20-1977; effective 11-18-1977.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
Prior Language

Section 121: Eligible Lists

The list of applicants eligible to appointment as determined by the Rules of the Civil Service shall be known as the register of eligibles and shall be open to public inspection. The names of such eligibles shall be arranged in their respective lists in the order of their standing as determined by said rules. The name of no person shall remain on the register of eligibles for more than two (2) years without a new application and, if Civil Service Rules so require, a new test.
(Amendment voted 11-08-1949; effective 12-20-1949.)
Prior Language

Section 122: Appointments

When any position in the Classified Service is to be filled, the appointing authority shall notify the Personnel Director, who shall promptly certify to such authority the names and addresses of the eligibles on the list for the class or grade to which the position belongs. The number of eligibles certified shall be determined by the Civil Service Commission and published in its Rules. The appointing authority shall appoint to such position one of the persons whose names are so certified. When no eligible list for the position exists, or when the eligible list has become exhausted, and until a new list can be created, a name may be certified from the eligible list most nearly appropriate to the position to be filled.
(Amendment voted 09-21-1965; effective 02-10-1966.)
Prior Language

Section 123: Limitations on Appointments and Transfers

No person shall be appointed or employed in the classified service of the City under any title not appropriate to the duties to be performed, and no person shall be transferred to, or be assigned to perform any duties of, a position subject to competitive test except with the approval of the Personnel Director.

Section 124: Promotions

Whenever practicable vacancies in the classified service shall be filled by promotion, and the Civil Service rules shall indicate the lines of promotion, from each lower to higher grade wherever experience derived in the lower grade tends to qualify for the higher. Any advancement in rank shall constitute promotion. Lists from which promotions are to be made shall be created as provided in the Civil Service rules and the appointment of eligibles therefrom shall be made in the same manner as the original appointments, except as otherwise provided for in this Charter.

Section 125: Service Register

There shall be prepared by the Personnel Director and maintained in the office of the Civil Service Commission a list of all persons in the service of the City showing in connection with each name the position held, the salary or wages paid, the date and character of selection or appointment, every subsequent change of status, and whether in the classified or unclassified service. Such list shall be known as the Service Register, and every appointing officer or authority shall promptly transmit to the Civil Service Commission all information requested for the establishment and maintenance of such register.

In the case of elective officers, such information shall be furnished by the City Clerk.

Section 126: Certification of Pay-rolls

The Treasurer shall not pay, nor shall the Auditor and Comptroller issue a warrant for the payment of, any salary or compensation to any person holding, or claiming to hold, a position in the classified or unclassified service unless the payroll or account of such salary or compensation shall bear the certificate of the Personnel Director that the persons named therein have been elected, appointed or employed and are performing service in accordance with the provisions of this Charter and the rules established thereunder, that their names appear upon the service register for the time for which such salary or compensation is claimed and that the salary or compensation is at the rate indicated on such register. If the Auditor and Comptroller shall willfully or negligently approve any payment or issue any warrant in violation of this section he and the sureties on his bond shall be liable to the City for the amount thereof and action may be brought therefore by

the City or any taxpayer for the use of the City without making previous request to the City to sue.
(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)

Section 127: Standards of Efficiency

The Personnel Director shall fix standards of efficiency and recommend measures for co-coordinating the work of the various Departments and for increasing individual, group, and departmental efficiency. It shall be the duty of the Personnel Director to fix a minimum standard of conduct and efficiency for each grade in the service, and whenever it shall appear from the reports of efficiency made to the Personnel Director for a period of three months that the conduct and efficiency of any officer or employee has fallen below such minimum that fact shall be reported to the authority responsible for the appointment of such officer or employee.

Section 128: Investigations

The City Council, the Civil Service Commission, the City Manager, the Personnel Director or any persons designated by any of them, may make investigations concerning the facts in respect to the operation and enforcement of the Civil Service provisions of this Charter and of the rules established thereunder, and concerning the condition of the Civil Service of the City or any branch thereof. Written charges of misconduct or inefficiency against any officer or employee in the classified service may be filed with the Personnel Director by any person. The Commission shall investigate any such charges, or cause them to be investigated, and report the findings of the investigation to the authority responsible for the appointment of the officer or employee against whom the charges have been made. Any person or persons, making an investigation authorized or required by this Section, shall have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses. Provided, however, that in the event of more than one investigation concerning the same person or the same subject matter or matters closely allied thereto, then and in that event but one hearing shall be had and the entire matter shall be disposed of in the one hearing.

Section 129: Removals, Suspension and Layoffs

Upon attaining permanent status pursuant to the Rules of the Civil Service Commission, any officer or employee of the City in the classified service may be removed from office or employment for cause by the appointing authority. Written notice of removal given to any officer or employee, or written notice left at or mailed to his or her usual place of residence, shall be sufficient to put any such removal into effect. The person so notified

may, within five days after such notice, demand a written statement of the reasons therefore and the right to be heard before the Civil Service Commission. Upon such demand the appointing authority ordering the removal shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefore, and the Commission shall fix a time and place for a public hearing. Following the public hearing, and such investigation as the Civil Service Commission may see fit to make, the Commission shall reports its findings and recommendations to the authority responsible for the removal as specified in the notice. Thereupon the authority making the removal shall make such final disposition of the matter as may be determined by the Civil Service Commission. The decision of the Civil Service Commission in any such case shall be final. A copy of the written statement of reasons given for any removal, and a copy of any written reply thereto by the officer or employee involved, together with a copy of the decision of the Civil Service Commission shall be filed as a public record in the office of the Civil Service Commission. Prior to attaining permanent status, any officer or employee in the classified service may be removed under those conditions and in the manner specified by the Civil Service Commission.

Any officer or employee of the City in the classified service may be suspended from office or employment for cause or for investigation of misconduct by the appointing authority. Written notice of suspension given to any officer or employee, or written notice left at or mailed to his or her place of residence, shall be sufficient to put any such suspension into effect. The person so notified may, within five days after such notice, demand a written statement of the reasons therefore and a right to appeal said suspension for cause. Upon such demand the officer making the suspension shall supply the person notified thereof and the Civil Service Commission with a written statement of the reasons therefore. The appellant shall be accorded all rights and privileges pursuant to law. The Civil Service Commission shall by rules or regulations, establish procedures for conducting hearings and/or investigations, and reporting findings and recommendations to the appointing authority. All findings and recommendations in any such case shall be final.

The Civil Service Commission shall promulgate rules and regulations necessary to govern layoffs for lack of funds, lack of work, or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in any office or department of the City of San Diego.
(Amendment voted 11-04-1975; effective 12-01-1975.)
(Amendment voted 06-08-1976; effective 07-22-1976.)
(Amendment voted 06-03-1980; effective 07-16-1980.)
Prior Language

Section 129.1: Removal of Striking Employees

No employee of The City of San Diego employed under the civil service provisions of this Charter shall instigate, participate in, afford leadership to a strike against The City of San Diego, or engage in any form of concerted action to withhold service from said City. In the event of any such strike or concerted action against the City, it shall be the duty of the City Manager or other appointing authority to ascertain the identity of any employee of the City under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against such employee in accordance with the applicable provisions of the Charter. Any citizen of the City may file written charges against an employee in violation of the provisions of this section. The appropriate appointing authority shall, upon receipt of such written charges, investigate without delay any such written charge, and forthwith inform said citizen of the findings and action, or proposed action, to be taken thereon.

Appointing authorities shall cause timely hearings to be held for any employees charged hereunder. If the City Manager or other appointing authority, after a hearing, determines that the charges are supported by the evidence submitted, and that the employee willfully engaged in the strike or action, said appointing authority shall dismiss the employee involved, and said person shall not be reinstated or returned to The City of San Diego employment except as a new employee who is employed in accordance with the regular employment practices of the City in effect at that time for the particular position of employment.

No officer, board or commissioner of the City elected or appointed, shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

Every employee of The City of San Diego employed under the civil service provisions of this Charter on the effective date of this section, and each person employed pursuant to the civil service provisions of this Charter on or after the effective date of this section, shall be furnished a copy and apprised of the provisions of this section and shall make under oath and file in the office of the Civil Service Commission the following declaration:

"I hereby acknowledge receipt of a copy of the provisions of Section 129.1 of the Charter of The City of San Diego and hereby declare that during the term of my employment with said City I shall neither instigate, participate in or afford leadership to a strike against said City or engage in any concerted action to withhold my services from the city."

In the event of any strike or concerted action to withhold service from The City of San Diego by an employee organization, or employees represented thereby, the City Council

is hereby prohibited from granting any improvement in wages, hours or working conditions beyond those in effect or last offered to the striking organization or employees represented thereby by the City prior to the commencement of such strike or concerted activity, and is prohibited from considering the granting of any such improvement beyond that which may have been last offered by the City prior to the strike or concerted activity until the commencement of meet and confer negotiations in the next subsequent calendar year at the time regularly scheduled for commencement under adopted City Council policy governing such negotiations.

Notwithstanding any other provision of this Charter, a dismissal imposed pursuant to this section shall not be appeal able to the Civil Service Commission.
(Addition voted 06-08-1976; effective 07-22-1976.)

Section 130: Compensation Established

The Council shall by ordinance, prior to the beginning of each fiscal year, establish a schedule of compensation for officers and employees in the Classified Service, which shall establish a minimum and maximum for any grade and provide uniform compensation for like service. It shall be the duty of the Civil Service Commission to prepare and furnish to the Council, prior to the adoption of said ordinance, a report identifying classifications of employees in the Classified Service which merit special salary consideration because of recruitment or retention problems, changes in duties or responsibilities, or other special factors the Commission deems appropriate. An increase in compensation, within the limits provided for any grade, may be granted at any time by the City Manager or other appointing authority upon the basis of efficiency and seniority record, after having first received the approval of the Civil Service Commission therefore.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 11-08-1977; effective 01-20-1978.)
Prior Language

Section 131: False Statement by Applicant

Any applicant for any office or employment in the classified service who shall knowingly make any false statement deemed material to eligibility for the position sought in connection with any test shall thereby forfeit his right to be entered upon the eligible register, and in case he has been appointed to an office or employment he shall forfeit it and may not be entitled for a period up to three years thereafter, within the discretion of and until notified by the Civil Service Commission, to take any Civil Service test or be eligible for appointment to any office or employment in the service of the City.
(Amendment voted 09-20-1977; effective 11-18-1977.)
Prior Language

Section 132: Gifts or Payments by Applicants Forbidden

No applicant for Civil Service test or for appointment to the classified service shall either directly or indirectly, give, render or pay or promise to give, render or pay any money, service or other valuable thing to any person for or on account of, or in connection with, his test, appointment, or proposed appointment, nor shall he ask for or receive any recommendation or assistance from any person in the service of the City other than a statement regarding any previous service to the City as a subordinate under such officer or employee.

Section 133: Fraud on Civil Service Provisions

No person shall willfully or corruptly make any false statement, certificate, mark, grading or report in regard to any test or any appointment held or made under the Civil Service provisions of this Charter, or in any manner commit or attempt to commit any fraud in connection with such provisions or said Civil Service rules.

Section 134: Political Influence Prohibited

No person shall use or promise to use his influence or official authority to secure any appointment or prospective appointment, to any position in the service of the City as a reward or return for personal or partisan political service.
(Amendment voted 11-06-1979; effective 12-17-1979.)
Prior Language

Section 135: Certain Political Practices Forbidden

No person about to be appointed to any position in the service of the City shall sign or execute a resignation, dated or undated, in advance of such appointment. No person in the service of the City shall discharge, suspend, lay-off, reduce in grade or in any manner change the official rank or compensation of any person in such service, or promise or threaten to do so, for withholding or neglecting to make any contribution of money or service or any valuable thing for any political purpose. No person in the administrative service of the City shall use his official authority to influence or coerce the political action of any person or body, or to interfere with any nomination or election to public office.

Section 136: Violations and Penalties

It shall be the duty of the Personnel Director to supervise the execution of the foregoing Civil Service provisions of this Charter and of the rules made thereunder, and it shall be the duty of all persons in the service of the City to comply with such rules and to aid in their enforcement. Any person who, by himself or with others, willfully or corruptly deceives or obstructs any person in respect to his right to take part in any test for

admission to the (un)classified service of the City; or willfully and corruptly marks, grades or reports upon the test or proper standing of any person tested for appointment in the classified service, or aids in so doing; or willfully or corruptly makes any false representation as to the results of such tests concerning persons so tested; or furnishes special or secret information for the purpose of either improving or injuring the prospects or chances of a person tested or to be tested, or to be appointed, employed, or promoted; or impersonates any person, or permits or aids in any impersonation in connection with any test, application, registration or appointment, or request to be tested or registered; or who makes known or assists in making known to any applicant for test, in advance thereof, any question to be asked on such test; or willfully or through culpable negligence violates any of the Civil Service provisions of the Charter, or any of the rules made in pursuance thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for a term not exceeding six months. If any such person be an applicant for competitive test he shall be excluded therefrom; if he be an eligible his name shall be removed from the register of eligibles; and if he be an officer or employee of the City he shall immediately forfeit his office or employment.

Section 137: Power of Taxpayers to Enforce Rules

Any taxpayer in the City may maintain an action to recover for the City any sum of money paid in violation of the Civil Service provisions, or to enjoin the Personnel Director from attaching his certificate to a payroll on account for services rendered in violation of this Article or the rules made thereunder; and the rules made under the foregoing provisions shall for this and all other purposes have the force of law.

Section 138: Certain Candidates for Elective Office and Appointments Prohibited

No person holding an elective office of the City shall, during the term for which elected, be appointed to any office or position in the service of the City except as otherwise provided by this Charter.

Section 139: Further Powers

The City Council, whenever requested by the Commission, may by ordinance confer upon the Commission such other or further rights, duties and privileges as may be necessary adequately to enforce and carry out the principles of Civil Service not in conflict with this Charter.

Section 140: Present Employees Retained

(Repeal voted 09-21-1965; effective 02-10-1966.)
Prior Language

Section 140a: Status of Present Employees

(Addition voted 11-08-1949; effective 12-20-1949.)
(Repeal voted 09-21-1965; effective 02-10-1966.)
Prior Language

ARTICLE IX

(Effective 01-01-2006, all executive authority, power, and responsibilities conferred upon the City Manager in this Article were transferred to the Mayor. See section 260.)

THE RETIREMENT OF EMPLOYEES

Section 140: Establishment of Separate Retirement Pension Systems; Definitions

As of the election at which this Section becomes operative, the electorate of the City of San Diego has found and declared that the fiscal best interests of the City are served by reforming the retirement system authorized by this Charter to be established for City employees.

"Defined Benefit Pension Plan" or "Defined Benefit Pension System" is a system or plan to provide a specified allowance to a city retiree or a retiree's spouse after retirement that is based on a set formula based on factors such as age, years of service, and elements of compensation as established in this Article.

The Defined Benefit Pension Plan in place prior to said election, established by the City Council pursuant to Sections 141 through 149 of this Charter, may remain in place until, for any reason, there remain no participants in the Defined Benefit Plan. The City Council may by ordinance utilize any lawful means for terminating the Defined Benefit Plan. Any closure of the Defined Benefit Plan shall be designed and implemented to protect the employees' vested rights in the Defined Benefit Plan, generate cost savings for taxpayers, and ensure compliance with applicable laws and regulations, including tax regulations.

At such time as there remain no participants in the Defined Benefit Pension Plan, the City shall take such actions as are necessary and appropriate to promptly wind down and terminate the Defined Benefit Pension Plan.

Notwithstanding the foregoing, and except as expressly provided in this Article IX, all Officers and employees, with the exception of sworn police officers, who are initially hired or assume office on or after the effective date of this Section shall participate only in such Defined Contribution Plans as authorized by Sections 150 and 151 of this Charter.

The provisions of Sections 141 through 149 shall apply only to the Defined Benefit Plan, and those City employees eligible to participate in the Defined Benefit Plan. The

provisions of Sections 150 and 151 shall apply only to the Defined Contribution Plan, and those City employees eligible to participate in the Defined Contribution Plan, except as expressly stated.

Notwithstanding the foregoing, and except as provided in this Article IX, the City Council is hereby authorized and empowered by ordinance to enroll sworn police officers hired after the effective date of this section in either the Defined Benefit Plan or the Defined Contribution Plan. This section shall be implemented in a manner consistent with the requirements of applicable labor relations laws.
(Addition voted 06-05-2012; effective 07-20-2012.)

Prior Language

Section 141: City Employees' Retirement System

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those policemen and firemen who were members of a pension system on June 30, 1946. No employee shall be retired before reaching the age of sixty-two years and before completing ten years of service for which payment has been made, except such employees may be given the option to retire at the age of fifty-five years after twenty years of service for which payment has been made with a proportionately reduced allowance. Policemen, firemen and full time lifeguards, however, who have had ten years of service for which payment has been made may be retired at the age of fifty-five years, except such policemen, firemen and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of service for which payment has been made with a proportionately reduced allowance.

The Council may also in said ordinance provide:

(a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary retirement from active service.

(b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.

(c) Retirement with benefits of an employee who, after ten years of service for which payment has been made, has become disabled to the extent of not being capable of performing assigned duties, or who is separated from City service without fault or delinquency.

(d) For health insurance benefits for retired employees.

(Editor's note: Supplement No. 655)
(Amendment voted 03-13-1945; effective 04-09-1945.)
(Amendment voted 04-19-1949; effective 05-20-1949.)
(Amendment voted 03-13-1951; effective 03-26-1951.)
(Amendment voted 06-08-1954; effective 01-10-1955.)
(Amendment voted 11-06-1990; effective 02-19-1991.)
(Amendment voted 11-08-1994; effective 01-30-1995.)
(Amendment voted 11-05-1996; effective 02-10-1997.)
Prior Language

Section 141.1: Reform of Sworn Police Officer Defined Benefit Pension Plan

Notwithstanding any other provision of this Charter, or any ordinance or other action taken pursuant hereto, the maximum amount of retirement benefit payable to a sworn police officer, who is hired after the effective date of this section and who is a participant under the Defined Benefit Pension Plan, shall be an amount equivalent to 80% at age 55 of the average of the participant's highest consecutive 36 months of Base Compensation as defined by Section 70.1. The maximum set by this provision shall decrease by 3% (three percentage points) for each year that such participant retires before age 55.
(Addition voted 06-05-2012; effective 07-20-2012.)

Section 141.2: Full and Fair Employee Contributions for The Defined Benefit Pension Plan

For officers and employees who have the legal right to remain in the established Defined Benefit Pension Plan, the City shall contribute annually an amount substantially equal to that required of the employee for a normal retirement allowance, as certified by the Actuary established in Charter Section 142, but shall not contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employee. The City shall not pay, cap the employee contribution rate, or otherwise compensate for any portion of a contribution to the Retirement System by a City Officer or employee.

To the fullest extent permissible by law, in calculating annual contributions for the City and City employees, the Retirement Board shall divide equally between those two parties all costs except those costs explicitly and exclusively reserved to the City in this Section and Section 143. Contributions shall also be governed by Section 143 of this Article. In the event of a conflict between this Section and Section 143, this Section shall prevail. This section is not intended to interfere with vested defined rights of any retiree receiving benefits from the Defined Benefit Retirement System or of any employee enrolled in the Defined Benefit Retirement System as of the effective date of this section.

Nothing contained in this Section shall preclude the City from entering into a settlement of *City of San Diego v. San Diego City Employees' Retirement System* Case No. #37-2010-00091207-CU-WM-CTL_to define responsibilities of the City and employees for unfunded liabilities of the Retirement System even if the settlement includes terms that might otherwise conflict with the above restrictions, as long as the settlement is approved by the court as a good faith settlement and approved by a two-thirds vote of the City Council.
(Addition voted 06-05-2012; effective 07-20-2012.)

Section 141.3: Elimination of Pension Benefit for Felony Convictions

On or before July 1, 2013 and subject to meet and confer requirements with recognized employee organizations or bargaining groups, the City Council shall adopt an ordinance to implement this section that eliminates, to the extent permitted by law, the Defined Benefit Pension Plan for any individual City Officer or employee who is convicted of a felony, as defined in California Government Code Section 1770(h), as amended, related to their employment, duties, or obligations as a City officer or employee. The City Council shall have the authority to reinstate benefits upon a finding that the felony conviction was overturned on appeal.
(Addition voted 06-05-2012; effective 07-20-2012.)

Section 141.4: Transparency and Public Disclosure of City Pension Payouts

Within 30 days of the start of each calendar year, the City shall post online a listing of the total amount paid to each individual city retiree for the preceding calendar year from assets held by or managed by the Retirement System. The City shall redact the name of each individual, but shall provide the final classification held by each individual and the number of creditable years of service worked by the individual. This section shall be implemented in a manner that protects the privacy rights of officers and employees to the extent required by law and consistent with applicable labor relations laws.
(Addition voted 06-05-2012; effective 07-20-2012.)

Section 142: Employment of Actuary

The Board of Administration hereinafter provided, shall secure from a competent actuary a report of the cost of establishing a general retirement system for all employees of The City of San Diego. Said actuary shall be one who has had actual experience in the establishing of retirement systems for public employees, and his position shall be considered one requiring expert or technical training within the meaning of subdivision (k) of Section 118 of Article VIII of this Charter.

Section 143: Contributions

The retirement system herein provided for shall be conducted on the contributory plan, the City contributing jointly with the employees affected thereunder. Employees shall contribute according to the actuarial tables adopted by the Board of Administration for normal retirement allowances, except that employees shall, with the approval of the Board, have the option to contribute more than required for normal allowances, and thereby be entitled to receive the proportionate amount of increased allowances paid for by such additional contributions. The City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employees. The mortality, service, experience or other table calculated by the actuary and the valuation determined by him and approved by the board shall be conclusive and final, and any retirement system established under this article shall be based thereon. Funding obligations of the City shall be determined by the Board on an annual basis and in no circumstances, except for court approved settlement agreements, shall the City and the Board enter into multi-year contracts or agreements delaying full funding of City obligations to the system. When setting and establishing amortization schedules for the funding of the unfunded accrued actuarial liability, the Board shall place the cost of the past service liability associated with a new retirement benefit increase on no greater than a fixed, straight-line, five year amortization schedule. Effective July 1, 2008, the Board shall place the cost associated with net accumulated actuarial losses on no greater than a fifteen year amortization schedule and the Board shall place the benefit associated with net accumulated actuarial gains on no less than a five year amortization schedule. Notwithstanding the above, the Board shall retain plenary authority and fiduciary responsibility for investment of moneys and administration of the system as provided for in article XVI, section 17 of the California Constitution. The setting and establishing of amortization schedules by the Board pursuant this section is not intended and shall not be interpreted to preclude the City from issuing pension obligation bonds or other similar instruments containing repayment terms exceeding fifteen years.
(Amendment voted 03-13-1945; effective 04-09-1945.)
(Amendment voted 06-08-1954; effective 01-10-1955.)
(Amendment voted 11-02-2004; effective 01-21-2005.)
Prior Language

Section 143.1: Approval of Retirement System Benefit

(a) No ordinance amending the retirement system which affects the benefits of any employee under such retirement system shall be adopted without the approval of a majority vote of the members of said system. No ordinance amending the retirement system which increases the benefits of any employee, legislative officer or elected official under such retirement system, with the exception of Cost of Living Adjustments, shall be adopted without the approval of a majority

of those qualified electors voting on the matter. No ordinance amending the retirement system which affects the vested defined benefits of any retiree of such retirement system shall be adopted without the approval of a majority vote of the affected retirees of said retirement system. To the extent allowed by law, the requirement for a majority vote of employees and the requirement for a majority vote of retirees for adoption of an ordinance as described in this section shall sunset and be deemed unenforceable as of the effective date of this section. Unless required under a pre-existing Memorandum of Understanding as of the effective date of this article, any City employee hired after September 1, 2012 shall not have a right to vote in any vote required under this Section.

(b) Prior to any proposed amendment of the retirement system which increases benefits of any employee, legislative officer or elected official under such retirement system being placed on the ballot, the retirement system shall prepare an actuarial study of the cost due to the benefit changes proposed based upon the amortization schedules established by Charter Section 143. A summary of the actuarial study shall be published in the ballot pamphlet.

(c) Nothing in subsection (a) of this section shall prevent City officials from negotiating tentative agreements with employee organizations incorporating benefit changes to the extent permitted by state law, provided, however that no amendment of the retirement system which increases benefits, with the exception of the Cost of Living Adjustments, of any employee, legislative officer or elected official under such retirement system, shall become binding or effective until approved by a majority of those qualified electors voting on the matter, and shall not have any force or effect if rejected by said voters. The City Council shall have no authority to enter into final or binding agreements regarding retirement system benefit increases until and unless those increases to retirement system benefits are approved by a majority of those qualified electors voting on the matter.

(d) The requirement for voter approval of retirement system benefit increases shall become operative on January 1, 2007, for all proposed increases in retirement system benefits tentatively agreed upon by the City on or after that date. This requirement shall remain in effect for a period of fifteen (15) years from that date, at which time this requirement shall be automatically repealed and removed from the Charter.

(Addition voted 06-08-1954; effective 01-10-1955.)
(Amendment voted 11-06-1990; effective 02-19-1991.)
(Amendment voted 11-07-2006; effective 12-13-2006.)
(Amendment voted 06-05-2012; effective 07-20-2012.)
Prior Language

Section 144: Board of Administration

Effective April 1, 2005, the system shall be managed by a newly constituted Board of Administration which shall consist of 13 members. Seven members shall constitute a quorum of the Board and the concurring vote of seven members shall be required for the Board to take any action. Prior to April 1, 2005, in anticipation of the effective date, and thereafter, members shall be selected to serve as follows:

(a) Seven (7) members shall be appointed by the Mayor and confirmed by the Council. No person who is a City employee, participant in the Retirement System, or City union representative may be eligible for appointment in this category. Such appointees shall have the professional qualifications of a college degree in finance, economics, law, business, or other relevant field of study or a relevant professional certification. In addition, such appointees shall have a minimum of fifteen (15) years experience in pension administration, pension actuarial practice, investment management, real estate, banking, or accounting. Members of the Board serving in this category shall serve staggered terms of four (4) years each (inaugural appointments shall have three (3) members serving two year terms) and members in this category shall be limited to a maximum of eight (8) consecutive years in office and an interval of four (4) years must pass before such persons can be reappointed. Such appointees shall not have any other personal interests which would create a conflict of interest with the duties of a Board member and trustee.

(b) One (1) police safety member of the Retirement System elected by the active police safety members to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.

(c) One (1) fire safety member of the Retirement System elected by the active fire safety members to serve a four (4) year term.

(d) Two (2) general members of the Retirement System elected by active general members of the Retirement System to serve a four (4) year term.

(e) One (1) retired member of the Retirement System elected by the retired members of the Retirement System to serve a four (4) year term, except that the inaugural member elected in 2005 to fill the seat in this category shall serve a two (2) year term.

(f) One (1) City management employee in the administrative service appointed by the City Manager to serve at the pleasure of the City Manager selected from the

following: City Manager, City Treasurer, Deputy or Assistant City Manager, or person in a similar position who reports to the City Manager.

The Board of Administration may establish such rules and regulations as it may deem proper; shall elect one of its members president and appoint a secretary and may appoint such other employees as may be necessary. Such appointments, except the actuary, shall be made under the provisions of Article VIII of this Charter.

The Board of Administration shall be the sole authority and judge under such general ordinances as may be adopted by the Council as to the conditions under which persons may be admitted to benefits of any sort under the retirement system; and shall have exclusive control of the administration and investment of such fund or funds as may be established; and shall be permitted to invest in any bonds or securities which are authorized by General Law for savings banks; and, further, shall be permitted to invest in such additional classes or types of investments as are approved by resolution of the Council of the City of San Diego; provided, however, that individual investments within the classes or types approved by the Council must be approved by independent investment counsel; and, provided, further, the board may place such funds in the hands of the Funds Commission for investment. Provided, however, that the Auditor and Comptroller shall refuse to allow any warrant drawn for payment of a retirement allowance if, in the opinion of the Auditor and Comptroller, such retirement allowance has been granted in contravention of this Article or any ordinances passed under the authority granted herein.
(Amendment voted 03-13-1951; effective 03-26-1951.)
(Amendment voted 11-08-1960; effective 01-09-1961.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
(Amendment voted 06-04-1974; effective 08-13-1974.)
(Amendment voted 11-2-2004; effective 04-01-2005)

(Effective 07-08-2008, the authority, power, and responsibilities conferred upon the Auditor and Comptroller by this Charter were transferred to the Chief Financial Officer. See section 39.)
Prior Language

Section 145: Retirement Fund

All moneys contributed by employees of the City or appropriated by the Council or received from any other source under the terms of this Article, shall be placed in a special fund in the City Treasury to be known as the City Employees' Retirement Fund, which said fund is hereby created. Such fund shall be a Trust Fund to be held and used only for the purpose of carrying out the provisions of this Article. No payments shall be made therefrom except upon the order of the Board of Administration. This fund may be

placed by the Board under the Funds Commission for investment; but shall not be merged with other funds of the City.

Section 146: Additional Provisions

The Council is hereby fully empowered by a majority vote of the members to enact any and all ordinances necessary, in addition to the ordinance authorized in Section 141 of this Article, to carry into effect the provisions of this Article; and any and all ordinances so enacted shall have equal force and effect with this Article and shall be construed to be a part hereof as fully as if drawn herein.

Section 147: Former Pensioners Entitled to Benefits of this Article

All persons who were receiving pensions prior to the adoption of this Charter shall be entitled to all the provisions of this Article.

Section 148: Declaration of Intent

It is the intent and purpose of this Article, where not in conflict with the terms of the present existing City Employees' Retirement System, to continue said system in force and effect as existing at the time this Charter is adopted.

Section 148.1: Authority to Consolidate City Employees' Retirement System with State of California Retirement System And/or U.s. Government Social Security

Notwithstanding any of the provisions of this Article IX to the contrary, the Council may, with the approval of a majority of all active members of the City Employees' Retirement System, enter into a contract with the State of California wherein said employees shall be entitled to become members of and enjoy all of the benefits of the State Retirement System for state employees, and/or with the U. S. Government for the conferring of Social Security benefits upon such municipal employees; provided, however, that in any such contract provision shall be made for protecting and safeguarding any and all vested rights of the active and retired members of the City Employees' Retirement System as it exists under this Charter.
(Addition voted 04-21-1953; effective 05-29-1953.)

Section 149: Contracting Public Agencies

Subject to approval by the City Council, a public agency may participate in the City Employees Retirement Trust Fund. After a finding by the City Council that the public agency is eligible for participation in the Trust Fund and approval by the City Council of a contract between the Board of Administration and the public agency, as provided by ordinance, the Board may administer the benefits adopted by the public agency for its

employees. The public agency shall establish its own benefits and vesting schedule. All monies contributed by the public agency and its employees or appropriated by the public agency or received from any other source under the terms of this Article shall be placed in the Trust Fund to be held and used only for the purpose of paying benefits and necessary expenses of administration related to the public agency's participation. The public agency and its employees shall be responsible for all costs associated with participation in the Fund and the administration of the public agency's benefits. The Board may establish such rules and regulations as it may deem proper, within the terms of applicable Charter sections and ordinances, for the administration of the public agency's contract and benefits.
(Addition voted 03-05-2002; effective 04-24-2002.)
Prior Language

Section 150: Creation of a Defined Contribution Plan

In order to implement the requirements of Section 140, the City Council is hereby authorized to establish by ordinance a Defined Contribution Plan consistent with this Article. This Plan shall meet the legal requirements established under the United States Internal Revenue Code in order to allow the City to retain its Social Security Safe Harbor Status, under the Internal Revenue Code, as amended, unless the City enrolls in the Social Security System under the restrictions established hereunder. Any ordinance adopted under this section shall take effect immediately if the City Council finds that the Ordinance must take immediate effect to meet a legal deadline for compliance with this Charter or any other law or regulation.

The City shall not contribute in excess of 9.2% of an Officer's or employee's compensation, as required by the Internal Revenue Code as amended, to defined contribution retirement accounts for that individual officer or employee. For a Uniformed Public Safety Officer, the City may contribute up to 11% of that Officer's or employee's compensation to his or her defined contribution retirement account. The City may elect to re-enroll in the Social Security System, provided that the City's total cost for retirement benefits do not exceed 9.2% for each Officer's or employee's compensation, or 11% for Uniformed Public Safety Officers.

To the extent allowed by law, the City may offer plans that allow employees to convert their defined contribution retirement account into an annuity or other City Council approved investment instrument as of their date of retirement. No conversion under this section shall require the City to contribute additional funds to convert the defined contribution retirement account to another approved investment instrument.

Years of service accrued by an Officer or employee participating in the Defined Contribution Plan shall not be credited towards vesting or calculation of years of service in the City's Defined Benefit Plan.

Subject to compliance with applicable laws and regulations, for any individual City employee where the City can demonstrate that cost savings can be achieved, the City shall create a mechanism by which an employee currently enrolled in the Defined Benefit Pension Plan pursuant to Sections 141 through 149 may switch on a prospective basis to the Defined Contribution Plan created in this Section.

The implementation of this section shall be subject to the requirements of applicable law including, but not limited to, applicable labor relations laws and the requirements of the Internal Revenue Code, as amended.

For the purposes of Section 150 and 151, "Uniformed Public Safety Officer" shall have the same meaning as "Safety Member" as defined in Section 24.0103 in the Municipal Code as of January 1, 2011.
(Addition voted 06-05-2012; effective 07-20-2012.)

Section 151: Disability and Death Benefits for Defined Contribution Plan Members

For officers and employees enrolled in the Defined Contribution Plan, the City may provide for disability benefits to support an employee who has become physically or mentally disabled by reason of bodily injury or illness caused actions related to the discharge of their duties. Any benefits authorized hereunder may be in addition to any state or federal benefits required by law applicable to a Charter City.

For Uniformed Public Safety Officers, the City shall provide death and disability benefits for officers who are killed or injured in the line of duty. The City may provide greater death or disability benefits than those required by law applicable to Charter Cities.
(Addition voted 06-05-2012; effective 07-20-2012.)

ARTICLE X

TRANSFER OF POLICE AND FIRE DEPARTMENT EMPLOYEES INTO THE RETIREMENT SYSTEM

Notwithstanding any language in Article IX of this Charter to the contrary the City Council shall, upon the taking effect of this amendment, by ordinance provide for the transfer into the City Employees' Retirement System of all members of the Police and Fire Departments of the City of San Diego who were regularly employed and members of their respective Pension systems on June 30, 1946; provided, however, that in any such ordinance said Council shall provide as follows:

(1) A minimum retirement allowance of $200.00 per month when a member has completed the required number of years of service as provided in this Charter, and who at the effective date of the ordinance is receiving a monthly salary of at least $400.00.

(2) For retirement of members of the Police Department who entered the service of the department on or prior to the 8th day of May, 1941, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Police Department who entered the service of the department subsequent to the 8th day of May, 1941, after completion of 25 years of service in the aggregate.

(3) For retirement of members of the Fire Department who entered the service of the Department on or prior to January 1, 1936, and who have served for 20 years or more in the aggregate as a member or employee in any rank or capacity in said department, regardless of age, and for the retirement of members of the Fire Department who entered the service of the department subsequent to the 1st day of January, 1936, after completion of 25 years of service in the aggregate.

(4) Each member of either the Fire or Police Department who is entitled to retire after 20 years of aggregate service with the City shall receive a pension credit of 2 ½% t of his final compensation for each year completed at the effective date of said ordinance, but in no case shall such credit exceed 50 % of such final compensation. For each year completed after the effective date of said ordinance the member shall be credited with 1/60th of his final compensation. The pension credits specified above will not be allowable until after such member shall have reached the age of 50 years. No member of either department who is entitled to retire after 20 years as above and who has had 20 years of service in the aggregate shall receive less than the following: $200.00 per month as retirement allowance, together with such

additional amount per month as will represent the actuarial equivalent of that portion of the contributions of such member contributed after his 20th year of service but before his attainment of age 50.

(5) Members of the Fire and Police Departments who are not eligible for retirement until the completion of 25 years of service in the aggregate shall receive a pension credit of 2 % of their final compensation for each year completed at the effective date of said ordinance, provided that such credit shall not exceed 50 % of such final compensation, and in addition thereto shall be entitled to credits of 1/60th of their final compensation for each year completed after the effective date of the ordinance. The pension credits specified in this paragraph will not be allowable until after such member shall have reached the age of 55 and has completed 20 years of aggregate service in the department, provided, however, that such member may be permitted to retire at the age of 50 years after 20 years of aggregate service in the department with a reduced allowance, as provided in Article IX and the ordinance passed pursuant thereto. Except as to those members who are forced to retire because of disability or who die, 'Final Compensation' within the meaning of paragraphs 4 and 5 hereof shall be the highest average compensation received during any five consecutive years of service, limited, however, to the following monthly maximums for members who retire: During the first year after the ordinance is adopted, $400.00; during the second year, $500.00; during the third year, $600.00; during the fourth year, $700.00; during the fifth year, $800.00; and after the end of the fifth year there shall be no ceiling considered in determining the amount of the final compensation. As to those members who are compelled to retire because of disability or who die after the ordinance becomes effective 'Final Compensation' shall be defined as above, but with the following monthly maximums: For death or disability occurring during the first year, after the ordinance is adopted, $500.00; during the second year, $600.00; during the third year, $700.00; during the fourth year, $800.00; during the fifth year, $900.00; and after the end of the fifth year no ceiling shall be considered in determining the amount of the final compensation.

(6) No member of either the Fire or Police Departments transferred pursuant to the provisions of this Article of the Charter shall be required to contribute in excess of 8% of his total salary; and each member so transferred shall be classed as a safety member of a special class and shall be entitled to all of the service credit earned by such member in the Police and Fire Retirement System up to the date of transfer without further contributions from said member because of absences prior thereto while serving in the armed forces of the United States.

Immediately upon the taking effect of the ordinance making the transfer of members into the City Employees' Retirement System, all of the provisions of Article IX not inconsistent with the hereinabove provided, together with any ordinance passed pursuant

thereto, shall be applicable to such transferred members, and the Police and Fire Retirement System heretofore created in 1947 is abolished, and except as prescribed by this amendment all benefits therein authorized are canceled.

All moneys in the Police and Fire Retirement Fund at the date of the taking effect of the ordinance transferring said members are hereby transferred to the City Employees' Retirement Fund.

Nothing herein contained shall be construed in any way so as to affect the vested rights of members of the Police and Fire Departments who have been heretofore retired by virtue of any retirement or pension system of The City of San Diego.
(Amendment voted 04-19-1955; effective 05-05-1955.)
Note: Sections 149-192, relative to Police Relief and Pension Fund and Fire Relief and Pension Fund, were amended at various times, combined in 1947, and replaced in 1955 by new Article X.
(Amendment vote 11-02-2004; effective on 04-01-2005)
Prior Language

ARTICLE XI

FIREMAN'S RELIEF AND PENSION FUND

(Repeal voted 4-15-1947; effective 5-1-1947.)

Note: Sections 149-192, relative to Police Relief and Pension Fund and Fire Relief and Pension Fund, were amended at various times, combined in 1947, and replaced in 1955 by new Article X.

Prior Language

ARTICLE XII

LABOR ON PUBLIC WORK

(Repeal voted 9-17-1963; effective 2-11-1964.)

Section 193: Prevailing Rate of Wages to Be Paid on Public Work
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 194: Time and One-half Pay
(Amendment voted 03-13-1951; effective 03-26-1951.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 195: Penalty for Failure to Pay Prevailing Rate
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 195.1: Publication of Wage Scale
(Addition voted 04-19-1949; effective 05-20-1949.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 196: Eight Hour Limit on Public Works
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 197: Alien Labor on Public Works Prohibited
(Amendment voted 04-20-1943; effective 05-04-1943.)
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 198: Records to Be Kept by Contractors
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 199: Duty to Report Violations
(Repeal voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 200: Penalty for Violation

(Repeal voted 09-17-1963; effective 02-11-1964.)

Prior Language

Section 201: Street Work, Etc., Subject to this Article

(Repeal voted 09-17-1963; effective 02-11-1964.)

Prior Language

ARTICLE XIII

CITY POLICE COURT

(Repeal voted 04-22-1941; effective 05-08-1941.)

Sections 202-210:

Note: Municipal Court established by vote of the people 4-27-1937.
Prior Language

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 211: Oath of Office

Every officer or member of a Committee, Board or of a Commission of the City shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation as provided by the Constitution or General Law of the State to be filed and kept in the office of the City Clerk.
(Amendment voted 09-17-1963; effective 02-11-1964.)
(Amendment voted 11-04-1969; effective 01-29-1970.)
Prior Language

Section 212: Continuance of Present Officers

All persons holding office at the time the provisions of this Charter or any amendments thereto shall take effect shall continue in office and in the performance of their duties until provisions shall have been made in accordance therewith for the performance of such duties or the discontinuance of such office. The terms of all elective officers who are in office at the time this Charter or any amendments thereto become effective shall terminate on the tenth day of December following the holding of such election except as otherwise provided in this Charter.

The powers conferred and the duties imposed upon any Officer, Commission, Board, Committee or Department of the City by the laws of the State and by this Charter or ordinance shall be thereafter exercised and discharged by the Officer, Board, Committee or Department designated by this Charter or by ordinances passed by the Council, unless otherwise provided herein. The members of the Legislative body of The City of San Diego in office at the time the State Legislature ratifies and approves this Charter or any amendments thereto shall take the necessary action and do everything necessary or incidental for the purpose of holding the first election at which municipal officers are elected pursuant to the terms and provisions of this Charter or any amendments thereto.
(Amendment voted 11-06-1962; effective 01-21-1963.)
(Amendment voted 06-03-2014; effective 07-24-2014.)
Prior Language

Section 213: Continuing in Force Ordinances and Contracts

All ordinances not inconsistent with any of the provisions of this Charter or any amendments thereto shall continue in force until amended or repealed, and all contracts of The City of San Diego in force at the time of the adoption of this Charter or any amendments thereto, and not inconsistent with any of the provisions thereof, shall continue in force until completed, amended or rescinded.
(Amendment voted 04-22-1941; effective 05-08-1941.)
(Amendment voted 09-17-1963; effective 02-11-1964.)
Prior Language

Section 214: Reservation of Rights

The passage of this Act shall not affect any right accruing or accrued, or any suit, prosecution, or other legal proceedings pending at the time when it shall take effect as herein provided, and no penalty or forfeiture previously incurred shall be affected thereby.

Section 215: Publicity of Records

All books, records and accounts of every office and Department of the City shall be open to inspection by any citizen at all reasonable times and under reasonable regulations established by the Council, except such records and documents the disclosure of which would tend to defeat the lawful purpose which they are intended to accomplish.

Section 216: Copies of Records

Copies or extracts, duly certified, from said books and records open for inspection, shall be given by the officer having the same in custody to any person demanding the same who shall be charged for such copies or extracts, and for certification, the charge to be fixed by the Council.

Section 216.1: Access to Government Information

(a) The people have the right to instruct their representatives, petition government for redress of grievances, and assemble freely to consult for the common good.

(b) (1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(2) A statute, court rule, or other authority, including those in effect on the effective date of this Section, shall be broadly construed if it furthers the

people's right of access, and narrowly construed if it limits the right of access. A statute, court rule or other authority adopted after the effective date of this Section that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

(3) Nothing in this Section supersedes or modifies the right of privacy guaranteed by Section 1 of the California Constitution or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

(4) Nothing in this Section supersedes or modifies any provision of this Charter or the California Constitution, including the guarantees that a person may not be deprived of life, liberty or property without due process of law, or denied equal protection of the laws.

(5) This Section does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings of public bodies that is in effect on the effective date of this Section, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

(Addition voted 11-02-2004; effective 01-21-2005.)

***Section* 217: No Payment for Office**

No officer or employee of the City shall give or promise to give to any person any portion of his or her compensation, or any money or thing of value in consideration of having been, or of being nominated, appointed, voted for or elected to any office or employment. Any officer or employee found guilty by a court of competent jurisdiction for such actions shall forfeit his or her office or position.
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 218: No Contributions for Employment

No officer or employee shall solicit or accept any donation or gratuity in money, or other thing of value, either directly or indirectly, from any subordinate or employee, or from anyone under his or her charge, or from any candidate or applicant for any position as employee or subordinate in any Department of the City. Any officer or employee found guilty by a court of competent jurisdiction for such actions shall forfeit his or her office or position.
(Amendment voted 11-08-2016; effective 12-19-2016.)

Prior Language

Section 219: Pueblo Lands

No sale of Pueblo Lands owned by The City of San Diego which are situated North of the North line of the San Diego River shall ever be valid and binding upon said City unless such sale shall have been first authorized by an ordinance duly passed by the Council and thereafter ratified by the electors of The City of San Diego at any special or general municipal election. The City Manager shall have authority to lease Pueblo Lands, provided that any lease for a term exceeding one year shall not be valid unless first authorized by ordinance of the Council. No lease shall be valid for a period of time exceeding fifteen years.

Section 220: Eminent Domain

The Council shall have power to acquire by eminent domain proceedings such property as may be needed for public use.

Section 221: Sale of Real Property

Real property owned by The City of San Diego consisting of eighty (80) contiguous acres or more, whether or not in separate parcels, shall not be sold or exchanged unless such sale or exchange shall have first been authorized by ordinance of the Council and thereafter ratified by the electors of The City of San Diego. The foregoing shall not apply to the sale or exchange of real property to a governmental agency for bona fide governmental purposes which sale or exchange was duly authorized by ordinance of the Council, nor shall it apply to properties previously authorized for disposition by the electors of The City of San Diego.
Formerly Section 221. CITY OFFICES TO BE KEPT OPEN.
(Repeal voted 09-17-1963; effective 02-11-1964.)
New Section 221. SALE OF REAL PROPERTY.
(Addition voted 11-06-1990; effective 02-19-1991.)
Prior Language

Section 222: Effect of Invalidity in Part

If any clause, sentence, paragraph, section or part of this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 223: Amendment of Charter

This Charter may be amended in accordance with the provisions of Section Eight, Article Eleven, of the Constitution of the State of California, or any amendment thereof or provision substituted therefor in the State Constitution.

Section 224: Gender

Wherever in this Charter the masculine gender is used, the same shall be deemed amended to include the feminine gender.
Section 224. Repeal of Inconsistent Acts
(Repeal voted 11-3-1964; effective 1-21-1965.)
Section 224. Gender
(Addition voted 11-6-1973; effective 12-7-1973.)
Prior Language

Section 225: Mandatory Disclosure of Business Interests

No right, title or interest in the City's real or personal property, nor any right, title or interest arising out of a contract, or lease, may be granted or bargained pursuant to the City's general municipal powers or otherwise, nor any franchise, right or privilege may be granted pursuant to Section 103 or 103.1 of this Charter, unless the person applying or bargaining therefor makes a full and complete disclosure of the name and identity of any and all persons directly or indirectly involved in the application or proposed transaction and the precise nature of all interests of all persons therein.

Any transfer of rights, privileges or obligations arising from a franchise, right or privilege granted under Charter Section 103 or 103.1, or any transfer of any right, title or interest in the City's real or personal property, or any right, title or interest arising out of a contract, or lease, which may be granted or bargained pursuant to the City's general municipal powers or otherwise, shall also require a full and complete disclosure as set forth above.

Failure to fully disclose all of the information enumerated above shall be grounds for denial of any application or proposed transaction or transfer and may result in forfeiture of any and all rights and privileges that have been granted heretofore.

For purposes of this Charter section, the term "person" means any natural person, joint venture, joint stock company, partnership, association, firm, club, company, corporation, business trust, organization or entity.
(Addition voted 06-02-1992; effective 07-13-1992.)

Section 226: Super Majority Vote Requirements

(a) Notwithstanding any other provisions of this Charter, any amendment to this Charter, ballot proposal, initiative, statute, law or regulation of any type, whether proposed to be adopted by the electorate, the City Council, or any other body acting pursuant to this Charter or the Municipal Code, that requires a vote of the electorate in excess of a simple majority for any matter, must itself be approved by a vote of the electorate in the same proportion as proposed, in order to be adopted, valid or otherwise effective.

(b) This section may be adopted by a simple majority vote, and shall be applicable to any amendment of this Charter, ballot proposal, initiative, statute, law or regulation of any type, as set forth in Subsection (a), proposed to be adopted at the municipal election by which this Charter Section 226 is approved by the electorate, or otherwise adopted on or after the date of that municipal election, and shall not be applicable to any matter adopted or approved prior to the date of such municipal election.
(Addition voted 03-05-2002; effective 04-24-2002.)

(Section 226 was ordered reformed by the court November 2004, to read as follows:

(a) Notwithstanding any other provision of this Charter, any ballot proposal, initiative, statute, law or regulation of any type, except amendments of this Charter whether proposed to be adopted by the electorate, the City Council, or any other body acting pursuant to this Charter or the Municipal Code, that requires a vote of the electorate in excess of a simple majority for any matter, must itself be approved by a vote of the electorate in the same proportion as proposed, in order to be adopted, valid or otherwise effective.

(b) This section may be adopted by a simple majority vote.

See, Howard Jarvis Taxpayers Assn. v. City of San Diego, 120 Cal. App. 4th 374 (2004).)

ARTICLE XV

Strong Mayor
Form of Governance

(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-08-2010; effective 07-30-2010.)

Section 250: Purpose and Intent

The purpose of this Article is to implement a form of governance commonly known as a Strong Mayor form of government.
(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
Prior Language

Section 255: Operative Date; Sunset of Article; Future Action by Voters

(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-03-2008; effective 07-08-2008.)
(Repeal voted 06-08-2010; effective 07-30-2010.)
Prior Language

Section 260: Integration of Article with Charter

All executive authority, power, and responsibilities conferred upon the City Manager in Article V, Article VII, and Article IX shall be transferred to, assumed, and carried out by the Mayor.
(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
Prior Language

Section 265: The Mayor

(a) The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for purpose of serving civil process, for the signing of all legal instruments and documents, and by the Governor for military purposes.

(b) In addition to exercising the authority, power, and responsibilities formally conferred upon the City Manager as described in section 260, the Mayor shall have the following additional rights, powers, and duties:

(1) To be the chief executive officer of the City;

(2) To execute and enforce all laws, ordinances, and policies of the City, including the right to promulgate and issue administrative regulations that give controlling direction to the administrative service of the City. Nothing in this section shall be interpreted or applied to add or subtract from powers conferred upon the City Attorney in Charter sections 40 and 40.1;

(3) To recommend to the Council such measures and ordinances as he or she may deem necessary or expedient, and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable;

(4) To attend and be heard at any regular or special open session meeting of the Council, but not the right to vote at such meetings;

(5) To approve or veto actions passed by the Council in open session, pursuant to sections 280 and 290;

(6) To attend and be heard at any closed session meeting of the Council, but not the right to vote at such meetings. When present, the Mayor shall preside over closed session. When the Mayor does not attend closed session, the Presiding Officer of the Council shall chair the closed session meeting;

(7) Sole authority to appoint the City Manager, subject to Council confirmation;

(8) Sole authority to direct and exercise control over the City Manager in managing those affairs of the City under the purview of the Mayor as expressly permitted in the Charter;

(9) Sole authority to dismiss the City Manager without recourse;

(10) Notwithstanding contrary language in Charter sections 30, 57 or 58, authority to dismiss the Chief of Police or the Chief of the Fire Department, subject only to a right for these city officials to appeal to the City Council to overturn the Mayor's decision. Any such appeal must be filed with the City Clerk within 10 calendar days of receiving the notice of dismissal or termination from the Mayor. The City Clerk shall thereafter

cause the appeal to be docketed at a regular open meeting of the City Council no later than 30 days after the appeal is filed with the Clerk;

(11) As provided for in Charter sections 41 and 43, the authority to appoint members of City boards, commissions, and committees, subject to Council confirmation;

(12) Sole authority to appoint City representatives to boards, commissions, committees and governmental agencies, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor;

(13) To cooperate fully with the Council and the Office of Independent Budget Analyst, including but not limited to, supplying requested information concerning the budget process and fiscal condition of the City to the Council and the Office of Independent Budget Analyst; and

(14) To propose a budget to Council and make it available for public review, no later than April 15.

(c) On or before the 15th day of January of each year, the Mayor shall communicate by message to the City Council a statement of the conditions and affairs of the City, and make recommendations on such matters as he or she may deem expedient and proper. In time of public danger or emergency, the Mayor shall take command of the police, maintain order, and enforce the law.

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

(e) When an appointment or election is pending to fill a vacancy in the office of Mayor, the presiding officer of the Council shall serve as Interim Mayor and shall be vested with the authority to supervise the staff in the office of the Mayor, to direct and exercise control over the affairs of the City under the purview of the Mayor and to exercise other power and authority vested in the office of the Mayor when the exercise of such power and authority is required by law. This limited authority includes circumstances where the expeditious approval of a legislative action is necessary to meet a legal requirement imposed by a court or another governmental agency. Such limited authority does not include the exercise of the power of veto or any other discretionary privilege which is enjoyed by a person appointed or elected to the office of Mayor. The presiding officer, while acting

under this section pending the filling of a mayoral vacancy, shall not lose his or her rights as a Member of the Council. While serving as Interim Mayor, the presiding officer of the Council shall not chair Council committee meetings or Council meetings. Other duties of the presiding officer of the Council serving as Interim Mayor shall be performed as provided by the rules of Council established pursuant to this Charter; however, changes may not be made to Council committee structure or assignments while the presiding officer of the Council serves as Interim Mayor.

(f) The time provided by the Charter for the Mayor to sign resolutions and ordinances shall not apply during a mayoral vacancy. Resolutions and ordinances passed by the City Council shall take effect as they would if the Mayor had no veto power.

(g) The Interim Mayor shall not have authority to appoint members to commissions, boards and committees defined in the Charter. The Charter's 45-day waiting period to take action on such appointments will be suspended, however, and the Council will have the authority to appoint and confirm members to such City boards, commissions, and committees during the interim period, subject to other governing laws regarding noticing and posting of vacancies. The Interim Mayor and Council are not authorized to make appointments to any boards, commissions, or committees when prohibited by state law.

(h) While serving as Interim Mayor, the presiding officer of the Council may continue to represent the City as a representative, alternate or liaison to any outside boards, commissions, committees, and governmental agencies to which he or she has been appointed and serve in a leadership capacity, if applicable.

(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-03-2008; effective 07-08-2008.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
(Amendment voted 06-03-2014; effective 07-24-2014.)
(Amendment voted 11-08-2016; effective 12-19-2016.)
Prior Language

Section 270: The Council

(a) The Council shall be composed of nine councilmembers elected by district. The Council shall be the legislative body of the City.

(b) Each councilmember shall have the right to vote upon all questions before the Council.

(c) No resolution, ordinance, or other action of the Council shall be passed or become effective without receiving the affirmative vote of five members of the Council, unless a greater number is otherwise required by the Charter or other superseding law. All substantive actions of the Council shall be passed by adoption of an ordinance or resolution.

(d) The Council shall have the right to determine its own rules and order of business as provided for in Charter section 14, including a process for the selection of a presiding officer who shall have responsibility for chairing meetings of the Council and managing the docket process. Any such rules shall provide a process for the Mayor and independent department heads to propose matters for consideration by the Council in open session and a process for the City Attorney, Mayor, and Presiding Officer to coordinate the docketing of matters for consideration by the Council in any closed session of the Council.

(e) The Council shall have the right to establish committees of the Council and to establish advisory boards and citizen committees as provided for in Charter section 43.

(f) No member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the City Manager or other officer appointed or confirmed by the Council in the making of any appointment to, or removal from, any City office or employment, or the purchase of any supplies, or discuss directly or indirectly with any candidate for City Manager the matter of appointments to City Offices or employment, or attempt to exact any promises from such candidate relative to any such appointments.

(g) Except for the purpose of inquiry or communications in furtherance of implementing policies and decisions approved by resolution or ordinance of the Council, individual members of Council shall deal with the administrative service for which the Mayor is responsible only through the Mayor, the City Manager, or the Mayor's designees.

(h) Any City official or department head in the administrative service may be summoned to appear before the Council or any committee of the Council to provide information or answer any question.

(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-03-2008; effective 07-08-2008.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 275: Introduction and Passage of Ordinances and Resolutions

(a) Ordinances shall be introduced in the Council only in written form. An alteration necessary only to correct a typographical or clerical error or omission may be performed by the City Clerk with the written approval and concurrence of the City Attorney, so long as the alteration does not materially or substantially alter the contents, requirements, rights, responsibilities, conditions, or prescriptions contained in the original text of the ordinance. A typographical or clerical error shall include, but is not limited to, incorrect spelling, grammar, numbering, punctuation, transposed words or numbers, and duplicate words or numbers.

(b) All ordinances except annual appropriation ordinances and ordinances codifying or rearranging existing ordinances, shall be confined to one subject, and the subject or subjects of all ordinances shall be clearly expressed in the title.

(c) The following ordinances may be passed by the Council on the day of their introduction: ordinances making the annual tax levy; the annual appropriation ordinance; ordinances calling or relating to elections; ordinances recommended by the Mayor or independent department heads transferring or appropriating moneys already appropriated by the annual appropriation ordinance; ordinances establishing or changing the grade of a public highway; and emergency ordinances as defined by section 295 of this Charter. Other ordinances, however, shall be passed by the Council only after twelve calendar days have elapsed from the day of their introduction.

(d) Each ordinance shall be read in full prior to passage unless such reading is dispensed with by a vote of five members of the Council, and a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(e) The yeas and nays shall be taken upon the Council's passage of all resolutions and ordinances and entered upon the journal of the proceedings of the Council.

(f) The enacting clause of ordinances passed by the Council shall be "Be it ordained by the Council of the City of San Diego." The enacting clause of ordinances submitted by initiative shall be "Be it ordained by the People of the City of San Diego."

(Added by vote on 11-02-2004; effective 01-01-2006.)

Section 280: Approval or Veto of Council Actions by Mayor

(a) The Mayor shall have veto power over all resolutions and ordinances passed by Council with the following exceptions:

(1) The Mayor's veto power shall not extend to matters that are exclusively within the purview of Council, such as selection of the Independent Budget Analyst, the selection of a presiding officer, or the establishment of other rules or policies of governance exclusive to the Council and not affecting the administrative service of the City under the control of the Mayor.

(2) The Mayor's veto power shall not extend to those matters where the Council has acted as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented.

(3) Emergency Ordinances.

(4) The Annual Appropriations Ordinance.

(5) The Salary Ordinance, which instead shall be subject to veto in accordance with the process described in section 290.

(6) The Mayor's veto power shall not extend to the appointment, confirmation, or removal of members of the Audit Committee or the screening committee as provided for in section 39.1, or the City Auditor as provided for in section 39.2.

(b) Matters that are not subject to the Mayor's veto power shall be clearly indicated as such on the Council's agenda and within the body of the resolution or ordinance, which, pursuant to section 40, shall be signed as to form and legality by the City Attorney.

(c) The following shall apply to each resolution and ordinance that has been passed by the Council and is subject to the Mayor's veto:

(1) Each such resolution or ordinance shall, within forty-eight hours of passage, be transmitted to the Mayor by the City Clerk with appropriate notations of the action taken by the Council.

(2) The Mayor shall act upon each resolution or ordinance within ten business days of receiving the City Clerk's transmittal.

(3) The Mayor shall either approve the resolution or ordinance by signing and returning it to the City Clerk within the specified time limit, or shall veto any resolution or ordinance and return it to the City Clerk with his or her written objections within the specified time limit.

(4) Failure to return the resolution or ordinance within the specified time limit shall constitute approval and such resolution or ordinance shall take effect without the Mayor's signed approval. The City Clerk shall note this fact on the official copy of such resolution or ordinance.

(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-03-2008; effective 07-08-2008.)
Prior Language

Section 285: Enactment Over Veto

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. While the Council consists of eight members, and if at least five members of the Council vote in favor of passage after reconsideration, that resolution or ordinance shall become effective notwithstanding the Mayor's veto. If more than five votes are required by this Charter or other superseding law to pass any resolution or ordinance, such larger vote shall be required to override the Mayor's veto. When a ninth councilmember is elected and qualified, the number of votes needed to override the Mayor's veto shall increase to six votes for any action taken by the nine-member Council. If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty calendar days of such veto, that resolution or ordinance shall be deemed disapproved and have no legal effect.

(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
Prior Language

Section 290: Council Consideration of Salary Ordinance

No later than April 15 of each year, the Council shall introduce a Salary Ordinance fixing the salaries of all officers and employees of the City in accordance with Charter section 70. The Salary Ordinance shall be proposed by the Mayor for Council introduction in a form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City. Upon introduction, the Salary Ordinance shall be transmitted to the Mayor.

(a) The Mayor shall, within five business days of receipt of the Salary Ordinance introduced by Council, either approve the ordinance as introduced or veto all or any specific provision within the ordinance.

(b) The Salary Ordinance shall be returned to the Council within the five business day period either approved by the Mayor or accompanied by a statement explaining any reasons for the veto. The Council shall thereafter have ten business

days within which to override the veto and pass the Salary Ordinance as introduced or otherwise accept the changes proposed by the Mayor in the veto statement and pass the ordinance at second reading with the changes proposed by the Mayor.

(c) The Salary Ordinance passed by Council shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

(Added by vote on 11-02-2004; effective 01-01-2006.)
(Amendment voted 06-08-2010; effective 07-30-2010.)
(Amendment voted 06-07-2016; effective 07-18-2016.)
Prior Language

Section 295: When Resolutions and Ordinances Take Effect; Emergency Measures

(a) In the case of a resolution or ordinance for which the Mayor has veto power:

(1) The date of approval by the Mayor pursuant to section 280(c) shall be deemed the date of its final passage.

(2) If the time for approval or veto by the Mayor has expired and no action has been taken by the Mayor, the date of expiration of that time shall be deemed the date of its final passage.

(3) If a resolution or ordinance is adopted by Council overriding the Mayor's veto, then the date of Council's override vote shall be deemed the date of final passage.

(b) In the case of a resolution or ordinance for which the Mayor has no veto power, the date of passage by the Council shall be deemed the date of its final passage.

(c) Resolutions shall become effective immediately upon their final passage, unless otherwise stated therein.

(d) Ordinances making the annual tax levy, the annual appropriation ordinances, ordinances calling or relating to elections, and emergency measures, shall take effect at the time indicated therein. All other ordinances passed by the Council shall take effect at the time indicated therein, but not less than thirty calendar days from the date of their final passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein or the date the final canvass is issued by the County Registrar of Voters, whichever occurs later.

(e) An emergency measure is an ordinance to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least six members elected to the Council shall be required to pass any ordinance as an emergency measure. No measure making or amending a grant, renewal, or

extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an emergency by the Council except as defined in this section, and it is the intention of this Charter that the courts shall strictly construe compliance with such definition.

(Added by vote on 11-02-2004; effective 01-01-2006.)

ARTICLE XVI

Elective Officers

(Added by vote on 11-08-2016; effective 12-19-2016.)

Section 300: Vacancy in Elective Office

A vacancy in elective office occurs when any of the following events occur during the term:

(a) The death of the elective officer.

(b) An elective officer ceases to be a resident and elector of the City or a Councilmember moves from the district that the Councilmember was elected to represent. Redistricting shall not cause a vacancy in the office of a Councilmember.

(c) An adjudication by a court of competent jurisdiction declaring that the elective officer is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the elective officer will not be able to perform the duties of his or her office for the remainder of his or her term.

(d) The resignation of an elective officer, effective on the date specified in the written letter of resignation or, if there is no date specified in the letter, upon the date of receipt of the letter by the City Clerk.

(e) For a Councilmember only, unexcused absences from eight consecutive meetings or fifty percent of any scheduled meetings as provided by section 12 of this Charter.

(f) An elective officer's conduct requiring forfeiture of office, upon conviction or finding of civil liability by a court of competent jurisdiction, as provided by this Charter. An elective officer shall be deemed to have been convicted or found liable when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(g) An elective officer's conviction of a felony. An elective officer shall be deemed to have been convicted when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either

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

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

(Added by vote on 11-08-2016; effective 12-19-2016.)

Section 301: Removal for Cause

(a) Any elective officer is subject to removal for cause for dereliction of duty or malfeasance in office as provided in this section.

(1) Dereliction of duty means an adjudication that the elective officer has failed, refused, or neglected to perform the duties of the office, except when prevented by illness, injury, or other reasonable cause.

(2) Malfeasance in office means a conviction for crimes of moral turpitude or crimes involving a violation of official duties.

(b) Upon an elective officer's criminal conviction or a court's adjudication of dereliction of duty, the City Clerk shall provide notice of the conviction or adjudication to the Council and the subject elective officer.

(1) An elective officer shall be deemed to have been convicted when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(2) A court of competent jurisdiction's order of enforcement for failure to obey a writ of mandamus constitutes an adjudication of dereliction of duty.

(c) Upon notification from the City Clerk of a criminal conviction or adjudication of dereliction of duty, the Council may proceed to vote on calling a special municipal election as provided by subsection (d).

(d) Upon an affirmative vote of no less than three-fourths of the Council (currently seven of nine Councilmembers) that cause exists for removal, the Council shall call a special election in compliance with the City's election laws for the purpose of submitting to the voters a proposition to remove and replace the elective officer. By ordinance, the Council shall provide a complete procedure for special elections to remove and replace elective officers by a majority of voters, which may include reasonable limitations on calling special elections within 180 days of

a scheduled municipal or statewide election where the subject elective officer is a candidate for his or her current elective office. If there is a municipal or statewide election scheduled to be held within 180 days, the Council may consolidate the special election with that election.

(e) Nothing in this section shall be construed to interfere with the power of the people to initiate a recall of an elective officer, as provided in this Charter and the California Constitution. Removal proceedings under this section shall be suspended any time a recall petition is found to be sufficient as defined by the City's election laws.

(Added by vote on 11-08-2016; effective 12-19-2016.)

Section 302: Succession to Elective Office

(a) If a vacancy in the office of an elective officer occurs by reason of a successful recall or removal election, the Council shall adopt procedures to fill the vacancy.

(b) If a vacancy occurs in the office of an elective officer for any reason other than a successful recall or removal election, the following procedures shall apply:

(1) If the vacancy occurs with one year or less remaining in the term, the Council shall appoint a person to fill the vacant office within 30 days of the office being vacated. Any person appointed by the Council to fill a vacant office shall not be eligible to run for that office for the next succeeding term; or,

(2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within ninety days of the vacancy, unless there is a municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that election.

(3) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the vacant office.

(4) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within 90 days of the first special election, unless there is a municipal or statewide election scheduled to be held within 120 days of the proposed special run-off election date, in which case the Council may consolidate the special run-off election with that

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

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

(Added by vote on 11-08-2016; effective 12-19-2016.)

EXHIBIT F

PERFORMANCE SECURITY INSTRUMENTS

[Attached.]

BID BOND

See Instructions to Bidders, Bidder Guarantee of Good Faith (Bid Security)

KNOW ALL MEN BY THESE PRESENTS,

That AECOM Energy & Construction, Inc. as Principal, and

Federal Insurance Company as Surety, are held and firmly bound unto The City of San Diego hereinafter called "OWNER," in the sum of **10% OF THE TOTAL BID AMOUNT** for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has submitted a Bid to said OWNER to perform the WORK required under the bidding schedule(s) of the OWNER's Contract Documents entitled

North City Water Reclamation Plant Expansion - Early Site Work and Ozone/BAC Relocation

NOW THEREFORE, if said Principal is awarded a contract by said OWNER and, within the time and in the manner required in the "Notice Inviting Bids" enters into a written Agreement on the form of agreement bound with said Contract Documents, furnishes the required certificates of insurance, and furnishes the required Performance Bond and Payment Bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect. In the event suit is brought upon this bond by said OWNER and OWNER prevails, said Surety shall pay all costs incurred by said OWNER in such suit, including a reasonable attorney's fee to be fixed by the court.

SIGNED AND SEALED, this 21st day of November, 2018

AECOM Energy & Construction, Inc. (SEAL)
(Principal)

By: _____
(Signature)
Paul Cocotis, General Manager

Federal Insurance Company (SEAL)
(Surety)

By: K Davis
(Signature)
Kari Davis, Attorney-In-Fact

(SEAL AND NOTARIAL ACKNOWLEDGEMENT OF SURETY)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE §1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

On NOV 21 2018 before me, M. Gonzales, Notary Public, personally appeared Kari Davis who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature M. Gonzales

M. Gonzales, Notary Public

M. GONZALES
Notary Public - California
Los Angeles County
Commission # 2213628
My Comm. Expires Oct 5, 2021

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

On NOV 26, 2019 before me, Courtney Marie Sohn - Notary Public,
Date *Here Insert Name and Title of the Officer*

personally appeared Paul Cocotis
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

COURTNEY MARIE SOHN
Notary Public - California
Alameda County
Commission # 2178266
My Comm. Expires Jan 2, 2021

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Courtney Marie Sohn
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian of Conservator	☐ Trustee ☐ Guardian of Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

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CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company

Know All by These Presents, That **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, and **PACIFIC INDEMNITY COMPANY**, a Wisconsin corporation, do each hereby constitute and appoint Tenzer V. Cunningham, Kari Davis, Martha Gonzales, Joaquin Perez and Brenda Wong of Los Angeles, California----------

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY**, and **PACIFIC INDEMNITY COMPANY** have each executed and attested these presents and affixed their corporate seals on this **5th** day of **December, 2017.**

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President

STATE OF NEW JERSEY

County of Hunterdon ss.

On this **5th** day of **December, 2017** before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence.

Notarial Seal

KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2318865
Commission Expires July 16, 2019

Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

(1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.

(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.

(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY (the "Companies") do hereby certify that

(i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,

(ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in the U.S. Virgin Islands, and Federal is licensed in Guam, Puerto Rico, and each of the Provinces of Canada except Prince Edward Island; and

(iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this

NOV 21 2018

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com