

ORDINANCE NUMBER O- 20620 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 08 2016

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO, FOR THEIR APPROVAL OR REJECTION AT THE MUNICIPAL SPECIAL ELECTION, CONSOLIDATED WITH THE CALIFORNIA STATE PRIMARY ELECTION TO BE HELD ON JUNE 7, 2016, ONE PROPOSITION AMENDING THE CITY CHARTER BY AMENDING ARTICLE V, BY AMENDING SECTION 39; AMENDING ARTICLE VII, BY REPEALING SECTION 77 AND ADDING A NEW SECTION 77; BY REPEALING SECTION 80 AND ADDING A NEW SECTION 80; BY REPEALING SECTIONS 81, 82 AND 83; BY ADDING A NEW SECTION 82; BY AMENDING SECTION 84; BY AMENDING SECTION 86; BY AMENDING SECTIONS 87, 88 AND 89; BY REPEALING SECTION 91 AND ADDING A NEW SECTION 91; BY ADDING A NEW SECTION 91.1; AND BY REPEALING SECTION 112, ALL RELATING TO THE FINANCIAL OPERATIONS OF THE CITY, SPECIFICALLY WITH RESPECT TO THE CERTIFICATION OF FUNDS, AUTHORIZATION AND PAYMENT OF CLAIMS, MANAGEMENT OF FUNDS, DISPOSITION OF PROCEEDS FROM THE SALE OF REAL PROPERTY, ESTABLISHMENT OF RESERVES AND FINANCIAL REPORTING OF REAL PROPERTY.

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

WHEREAS, by Ordinance No. O-20603, introduced and adopted on February 8, 2016, the Council has called a Municipal Special Election to be consolidated with the California State

Primary Election to be held June 7, 2016, for the purpose of submitting to the qualified voters of the City one or more ballot propositions; and

WHEREAS, the Council now desires to submit to the voters at the Municipal Special Election one proposition amending the Charter to update certain provisions relating to the financial operations of the City; and

WHEREAS, Charter provisions relating to the certification of funds by the Chief Financial Officer, formerly the Auditor and Comptroller, are in different locations in the Charter and amendments will consolidate language; and

WHEREAS, Charter provisions relating to the disposition of the proceeds of the sale of City-owned real property are considered to be outdated and do not allow such proceeds to be used to finance the cost of permanent public improvements; and

WHEREAS, amendments to these provisions will allow proceeds from the sale of City-owned real property to be used to finance the cost of permanent public improvements; and

WHEREAS, Charter provisions relating to appropriations and budgetary allotments are considered to be outdated and amendments would repeal those sections; and

WHEREAS, Charter provisions relating to the authorization and payment of claims are also considered to be outdated; amendments would consolidate multiple Charter sections and simplify the process for authorization and payment of claims; and

WHEREAS, Charter provisions related to drawing money from the treasury in accordance with appropriations refer to other provisions that have been removed from the Charter, and amendments would remove such references to repealed provisions; and

WHEREAS, Charter requirements that the City operate on a cash basis are considered to be contradictory and unclear, and amendments are designed to clarify the requirements; and

WHEREAS, the Charter does not require the City to establish cash reserves and proposed amendments will add such a requirement; and

WHEREAS, Charter provisions requiring the appraisal and depreciation of City-owned real property are redundant and are recommended for removal; and

WHEREAS, certain Charter sections use the title Auditor and Comptroller when the current title is Chief Financial Officer and Manager where the appropriate designation is Mayor; and

WHEREAS, these amendments were proposed initially by City staff involved with the process; and

WHEREAS, the proposed Charter amendments were heard and reviewed by the City Council's Charter Review Committee, and the Council, through this Ordinance, now seeks to place the proposed amendments on the June 7, 2016 Municipal Special Election ballot; and

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

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

Section 1. That one proposition amending the City Charter by amending Article V, by amending section 39; and by amending Article VII, by repealing section 77 and adding a new

section 77, by repealing section 80 and adding a new section 80, by repealing sections 81, 82, and 83 and adding a new section 82, by amending section 84, by amending section 86, by amending sections 87, 88, and 89, by repealing section 91 and adding a new section 91, by adding a new section 91.1; and by repealing section 112, all related to the financial operations of the City; is hereby submitted to the qualified voters in the City of San Diego at the Municipal Special Election to be held on June 7, 2016, and consolidated with the California State Primary Election to be held on the same date, with the proposition to read as follows:

PROPOSITION

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

SECTION 39: CHIEF FINANCIAL OFFICER

The Chief Financial Officer shall be appointed by the ~~City Manager~~ 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 ~~City Manager~~ Mayor and the Council. Subject to the direction and supervision of the ~~City Manager~~ 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 ~~City Manager~~ 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 ~~there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof~~ 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 ~~City Manager~~ 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 ~~City Manager~~ Mayor such information as shall be required by the ~~City Manager~~ 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.

ARTICLE VII

FINANCE

~~SECTION 77: CAPITAL OUTLAY FUND~~

~~There is hereby created a fund in the City Treasury, to be known as the Capital Outlay Fund. Into this fund each year there shall be placed all moneys derived from taxation required or needed for capital outlay expenditures and all proceeds received from the sale of city owned real property.~~

~~The moneys in the Capital Outlay Fund shall be used exclusively for the acquisition, construction and completion 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. This fund may also be used for the acquisition, construction and completion of real property, water and sewer mains and extensions, and other improvements of a permanent character and also the replacement or reconstruction of the same, but not the repair or maintenance thereof, and shall not be used for any other purpose or transferred from said fund, except with the consent of two-thirds of the qualified electors of said City, voting at a general or special election.~~

~~No moneys in said fund shall be transferred at the end of a fiscal year, but shall remain therein as trust moneys for the purposes above outlined, and the said fund shall be used and maintained, if possible, as a cash reserve to enable the City to meet public emergencies or acquire needed permanent public improvements without the issuance of bonds.~~

~~Each year the Council may appropriate from said fund in the Annual Appropriation Ordinances, except for use of the Harbor Department, sufficient moneys to care for the~~

needs of the various departments of the City for capital outlay expenditures of a permanent character.

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.

SECTION 80: ~~MONEY REQUIRED TO BE IN TREASURY~~

~~No contract, agreement, or other obligation, involving the expenditure of money out of appropriations made by the Council in any one fiscal year shall be entered into, nor shall any order for such expenditure be valid unless the Auditor and Comptroller shall first certify to the Council that the money required for such contract, agreement or obligation for such year is in the treasury to the credit of the appropriation from which it is to be drawn and that it is otherwise unencumbered. The certificate of the Auditor and Comptroller shall be filed and made a matter of record in his office and the sum so~~

~~certified as being in the treasury shall not thereafter be considered unencumbered until the City is discharged from the contract, agreement or obligation. All unencumbered moneys actually in the treasury to the credit of the appropriation from which a contract, agreement or obligation is to be paid and all moneys applicable to its payment which before the maturity thereof are anticipated to come into the treasury to the credit of such appropriation shall, for the purpose of such certificate, be deemed in the treasury to the credit of the appropriation from which the contract, agreement or obligation is to be paid.~~

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.

SECTION 81: ALLOTMENTS

~~The Manager shall be responsible for establishing internal budgetary allotments based on the allocations contained in the annual appropriation ordinance for each department of the City.~~

**SECTION 82: ~~EXAMINATION AND INVESTIGATION OF CLAIMS BY THE
AUDITOR AND COMPTROLLER~~**

~~The Auditor and Comptroller shall examine all payrolls, bills, and other claims and demands, except claims for damages against the City, and shall issue no warrant or check warrant for payment unless he finds that the claim is in proper form, correctly computed, and duly approved; that it is legally due and payable; that an appropriation has been made therefor which has not been exhausted; and that there is money in the treasury to make payment. He may investigate a claim and for that purpose may summon before him any officer, agent or employee of the City, any claimant or other person, and examine him upon oath or affirmation relative thereto, and if he finds a claim to be fraudulent, erroneous or otherwise invalid, he shall not issue a warrant or check warrant therefor. If the Auditor and Comptroller issue a warrant or check warrant on the treasury authorizing payment of any claim in contravention of the provisions of this Section, he and his sureties shall be jointly and severally liable to the City for the amount of such warrant or check warrant if paid. All payrolls, bills and other claims and demands under the provisions of this section may be paid by warrants or check warrants as authorized by the provisions of Section 53911 of the Government Code of the State of California.~~

SECTION 83: ~~PAYMENT OF CLAIMS AGAINST THE CITY~~

~~No claim against the City shall be paid except by means of a check warrant authorized under the provisions of Section 53911 of the Government Code or a warrant on the treasury issued by the Auditor and Comptroller. The Auditor and Comptroller shall issue no warrant or check warrant for the payment of a claim unless the claim be evidenced by~~

~~voucher approved by the head of the Department or office for which the indebtedness was incurred, and each such officer and his surety shall be liable to the City for all loss or damage sustained by reason of his negligence or corrupt approval of any claim. No demand shall be allowed, approved, audited, or paid unless it shall specify each item of the claim and the date thereof; provided, however, that warrants or check warrants for salaries of officers and employees shall be allowed by the Auditor and Comptroller and paid regularly from the treasury without the necessity of any demand therefor or approval thereof as in this section prescribed for other claims.~~

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.

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, ~~and preliminary appropriation ordinance,~~ or of the annual appropriation changed as authorized by Section 73 ~~and subsection (h) of Section 69~~ 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. ~~but a~~ 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, ~~and a~~ Any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

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 ~~Auditor and Comptroller~~ Chief Financial Officer ~~weekly~~ 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 ~~general~~ 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.

SECTION 87: UNIFORM ACCOUNTS

The ~~Auditor and Comptroller~~ 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.

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 the ~~Auditor and Comptroller~~ Chief Financial Officer of all moneys received by him during the preceding accounting period.

**SECTION 89: MONTHLY STATEMENTS BY THE AUDITOR AND
 ~~COMPTROLLER~~ CHIEF FINANCIAL OFFICER**

The ~~Auditor and Comptroller~~ 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.

~~SECTION 91: GENERAL RESERVE FUND~~

~~The Council shall create and maintain a permanent revolving fund, to be known as the General Reserve Fund, for the purpose of keeping the payment of the running expenses of the City on a cash basis. Said fund shall be maintained in an amount sufficient to meet all legal demands against the treasury for the first four months or other necessary period of each fiscal year prior to the collection of taxes. This fund may be expended only in the event of a public emergency when it shall be determined by the affirmative vote of at least two-thirds of the members elected to the Council that such expenditures are necessary in order to insure the safety and lives and property of the City or its inhabitants.~~

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.

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.

~~SECTION 112: APPRAISAL OF CITY ASSETS~~

~~The Auditor and Comptroller shall show in his records the cost or value of all real estate, buildings, structures, furniture and fixtures, equipment and property of any kind owned by the City, and may require every officer or Commission to assist him in procuring the data required therefor. Proper depreciation shall be made of all property of any kind which is used by the City for utility purposes. A proper balance sheet under classified heads shall be presented to the Manager for inclusion in the annual budget and shall be published in the annual report of the Auditor and Comptroller. This balance sheet shall show all convertible and other assets and all liabilities of the City.~~

END OF PROPOSITION

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

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

PROPOSITION __. CHARTER AMENDMENTS REGARDING FINANCIAL OPERATIONS OF THE CITY OF SAN DIEGO. Shall the City Charter be amended to update the City's financial operations, including amendments regarding the certification of funds, the authorization and payment of claims, the management of funds, the disposition of proceeds of the sale of City-owned real property and the establishment of reserves?	YES	
	NO	

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

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

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

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

deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice of the specific dates that the examination period will run.

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

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

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Brant Will
Deputy City Attorney

BCW:SBS:jdf
03/04/16
Or.Dept:Charter Review Committee
Doc. No.: 1237856

Passed by the Council of The City of San Diego on MAR 08 2016, by the following vote:

Council Members	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 08 2016

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

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on MAR 08 2016, said ordinance being of the kind and character authorized for passage on its introduction by Section 295 of the Charter.

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

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 20620