

#5502  
6/14/2022

(R-2022-551)

RESOLUTION NUMBER R- 314165

DATE OF FINAL PASSAGE JUN 22 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING AN AMENDMENT TO THE  
CITY'S 401(A) PLAN AS A RESULT OF THE UNWINDING  
OF PROPOSITION B.

WHEREAS, the City of San Diego established and maintains the City of San Diego  
401(a) Plan (401(a) Plan), which was initially adopted by the City on July 1, 2009, and amended  
and restated, effective January 1, 2016; and

WHEREAS, the 401(a) Plan is a qualified governmental defined contribution plan under  
sections 401(a) and 414(d) of the Internal Revenue Code; and

WHEREAS, on June 5, 2012, City voters approved Proposition B, a citizens' initiative to  
amend the San Diego Charter (Charter) known as "Comprehensive Pension Reform for  
San Diego" (Proposition B); and

WHEREAS, Proposition B amended Articles VII (entitled "Finance") and IX (entitled  
"The Retirement of Employees") of the Charter related to retirement benefits of City employees;  
and

WHEREAS, among other things, Proposition B added sections 140 and 150 to Article IX  
of the Charter; and

WHEREAS, the Charter amendments set forth in Proposition B became effective on  
July 20, 2012; and

WHEREAS, Charter section 140 provided that, except for sworn police officers, all  
Officers and employees who were initially hired or assumed office on or after the date the  
Charter amendment went into effect, July 20, 2012, were ineligible to participate in the City's

defined benefit pension plan, the San Diego City Employees' Retirement System (SDCERS), and would participate only in a defined contribution plan; and

WHEREAS, Charter section 150 authorized the Council of the City of San Diego (Council) to establish "by ordinance" a defined contribution plan consistent with the terms of section 150; and

WHEREAS, by San Diego Ordinance O-20196 (October 2, 2012), Council amended and restated the City of San Diego Supplemental Pension Savings Plan H (SPSP-H) to provide defined contribution plan retirement benefits for all Officers and employees initially hired or assuming office on or after July 20, 2012, as mandated by Charter section 150; and

WHEREAS, on February 5, 2021, judgment was entered in the *Quo Warranto* action, San Diego County Superior Court Case No. 37-2019-00051308-CU-MC-CTL, *The People of the State of California ex rel. San Diego Municipal Employees Association, San Diego City Firefighters Local 145, IAFF, AFL-CIO, AFSCME Local 127, AFL-CIO and Deputy City Attorneys Association of San Diego v. City of San Diego and its City Council (Quo Warranto action)*, finding the provisions of the Charter added by Proposition B invalid; and

WHEREAS, on April 9, 2021, the judgment in the *Quo Warranto* action became final when the time for filing an appeal expired; and

WHEREAS, the court in the *Quo Warranto* action also issued a writ commanding the City and Council to comply with the judgment by striking the 2012 Proposition B provisions from the Charter and conforming the San Diego Municipal Code and any other related enactments or regulations accordingly; and

WHEREAS, to comply with the judgment, in part, Council, by San Diego Ordinance O-21332 (June 24, 2021), amended the SPSP-H to remove the changes made to the document to implement Proposition B, so that Officers and employees initially hired or assuming

office on or after July 10, 2021, with the exception of police recruits in the City's Police Academy, would no longer participate in SPSP-H, but instead participate in SDCERS; and

WHEREAS, the City has now reached agreements with the San Diego Municipal Employees' Association (MEA), Local 127, American Federation of State, County and Municipal Employees, AFL-CIO (Local 127), the Deputy City Attorneys Association of San Diego (DCAA), California Teamsters Local 911 (Local 911), and San Diego City Firefighters, I.A.F.F. Local 145 (Local 145) regarding the unwinding of Proposition B for current represented employees initially hired into an eligible standard hour position on or after July 20, 2012, and before July 10, 2021; and

WHEREAS, the City also extended the terms of its agreement with MEA and Local 127, with the exception of the seven percent interest payment, to all unrepresented employees initially hired into an eligible standard hour position on or after July 20, 2012, and before July 10, 2021; and

WHEREAS, to implement the agreements it is now necessary to amend the 401(a) Plan by adding Article XIII to allow mandatory Plan Administrator-directed transfers from the SPSP-H to the 401(a) Plan, for those employees participating in SDCERS; and

WHEREAS, no other changes are being made to the terms of the 401(a) Plan at this time through this resolution and plan amendment; and

WHEREAS, it is now necessary to amend the 401(a) Plan as set forth above; NOW,  
THEREFORE,

BE IT RESOLVED, that the City Council of the City of San Diego approves the Amendment to the City of San Diego 401(a) Plan, which is on file in the Office of the City Clerk as Document number RR- **314165**.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Thomas J. Brady  
Thomas J. Brady  
Deputy City Attorney

TJB:jvg  
June 3, 2022  
Or.Dept: Human Resources  
CC No. N/A  
Doc. No.: 2997689

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of JUN 14 2022.

ELIZABETH S. MALAND  
City Clerk

By Connie Patterson  
Deputy City Clerk

Approved: 6/22/22  
(date)

Todd Gloria  
TODD GLORIA, Mayor

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

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 14 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 22 2022.

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

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

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

By Cennie Patterson, Deputy

Office of the City Clerk; San Diego, California  
Resolution Number R- **314165**