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REPORT TO THE HONORABLE MEMBERS OF THE RULES COMMITTEE

**ETHICAL REFORMS TO PROMOTE OVERSIGHT, TRANSPARENCY, AND
ACCOUNTABILITY – OFFICE OF THE CITY AUDITOR**

INTRODUCTION

In September 2023, the Office of the City Attorney issued a memorandum (City Att’y MS 2023-8 (Sept. 20, 2023)) describing proposed ethical reforms intended to strengthen the City’s governance, build the public’s trust, encourage collegiality, and increase transparency.

In accordance with City Council Policy 000-21, the Office submits this Report to the Rules Committee, outlining proposed Charter amendments relating to the City Auditor or the Audit Committee for the Committee’s and the City Council’s consideration. Proposed Charter amendments to sections 10, 11.1, 39.1, 39.2, 111, 300, 301, 302, and 303 are attached to this Report for the Committee’s consideration.

The first of these reforms proposes amendments to the San Diego Charter (Charter) concerning the City Auditor and Audit Committee. As recognized previously, only an elected City Auditor can truly be independent of undue influence and accountable to San Diego taxpayers and their interests. Alternatively, this Office proposes Charter amendments that would remove Councilmembers from the Audit Committee and limit Audit Committee membership to qualified public members who are selected by an independent body and are free from conflict and political allegiances.

PROPOSED CHARTER AMENDMENTS

**I. OPTION ONE – CHARTER AMENDMENTS FOR AN ELECTED CITY
AUDITOR**

Currently, under Charter section 39.2, the City Council appoints the City Auditor. The City Auditor reports to the Audit Committee, which is comprised of Councilmembers and Council-appointed public members. The Audit Committee is responsible for directing and reviewing the City Auditor’s work, setting the City Auditor’s salary and compensation, and recommending the allocation of funds for the City Auditor’s office. The current appointment and oversight structure, however, compromises the City Auditor’s independence and impedes the City Auditor’s watchdog role.¹

¹ For example, the City Auditor has never audited a member of the City Council or their respective offices.

This Office has recommended a ballot measure to amend the Charter so that the City Auditor is elected by and accountable to the voters of San Diego and not to the City Council or the Audit Committee, which is appointed by the City Council and includes City Councilmembers. City Att’y Report 2022-1 at 5-6 (Feb. 15, 2022). We raise the issue again as it is the best means to secure the greatest degree of independence for the City Auditor. *See* IBA Report 06-35, at 7 (Aug. 30, 2006) (“requiring the Auditor General to be elected would secure the greatest degree of independence”). Numerous cities, including Los Angeles, Oakland, Berkeley, and Long Beach, have elected auditors who are accountable to the people and not their respective city councils or audit committees. San Diegans deserve a City Auditor with the same level of independence.

The proposed Charter amendments call for an elected City Auditor to commence in 2028 with the first election to be held on the same date as the election for Mayor and City Attorney. The City Auditor would be elected in the manner prescribed by Charter section 10 and would be limited to two four-year terms in office. Additionally, to be eligible to run for City Auditor, an individual must be a certified public accountant or certified internal auditor in good standing and must have been employed as such for at least five years immediately prior to submitting a nominating petition.

The proposed amendments also call for the repeal of the Audit Committee since the City Auditor would now report directly to City voters. The City Auditor would be required to consult with the Mayor and City Council on the preparation of an annual audit plan, but the final decision on which audits to pursue would rest solely with the City Auditor. The City Council would also be required to allocate sufficient funds annually to permit the City Auditor to carry out their responsibilities, thus eliminating the City Auditor’s need to annually request sufficient resources to accomplish their Charter responsibilities.

Additional amendments would set the City Auditor’s salary to that equal to the salary paid to Superior Court judges which could not be decreased during a term of office. The City Auditor would also be added to the City elected officials listed in various Charter sections and would be subject to the provisions of Article XVI of the Charter.

II. OPTION TWO – CHARTER AMENDMENT TO RECONFIGURE THE COMPOSITION OF THE AUDIT COMMITTEE

Alternatively, the City Council could support a ballot measure revising Charter section 39.1 to reconfigure the composition of the Audit Committee. To instill public confidence, Audit Committee members should be entirely objective, and their conduct must be beyond reproach. Amending Charter section 39.1 as proposed would remedy actual or perceived conflicts inherent in the current make-up of the Audit Committee.

This Office proposes a ballot measure to amend Charter section 39.1 and revise the composition of the Audit Committee to three public members appointed by a screening committee consisting of two outside financial experts and a retired judge. The two outside financial experts shall be the Chief Financial Officer of the County of San Diego and the Chief Financial Officer of a municipal corporation in the County of San Diego, or their designees. In addition to possessing independence, experience, and technical expertise, Audit Committee members must be free of any actual and perceived conflicts of interest. The screening committee shall reassess a public

member's eligibility to serve before reappointment to a second term. Lastly, the proposed amendment prohibits Audit Committee members from making financial contributions to candidates for City office, and may not participate in campaigns supporting or opposing candidates for City office. Similar campaign prohibitions are already in place for members of the Ethics Commission. *See* San Diego Municipal Code § 26.0406(c)-(d).

CONCLUSION

This Office is available for additional review and analysis, as requested.

MARA W. ELLIOTT, CITY ATTORNEY

By /s/ Mara W. Elliott
Mara W. Elliott
City Attorney

DJK:cm

RC-2024-1

Doc. No. 3519907

Attachment: Proposed San Diego Charter amendments to sections 10, 11.1, 39.1, 39.2, 111,
300, 301, 302, and 303

OPTION ONE – CHARTER AMENDMENTS FOR AN ELECTED CITY ATTORNEY

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. Commencing with the year 2028, the election to the office of the City Auditor shall be held on the same date as the election to the offices of the Mayor and City Attorney. 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.

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 applies to the City Council of The City of San Diego, so that its members must 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 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, except where authorized by the Charter.

The City Council must annually adopt an ordinance establishing salaries for all City employees, except the City's elective officers, not later than May 30 of each year after considering all relevant evidence, including the needs of the residents of the City of San Diego for municipal services, the ability of the residents to pay for those services, local economic conditions and other relevant factors as the City Council deems appropriate. The City Council must give priority in the funding of municipal services to the need of the residents for police protection in considering adoption of this salary ordinance and the annual budget ordinance, and must comply with any collective bargaining laws binding on the City as a public agency employer.

The prohibition imposed by this section against unlawful delegation of the legislative responsibility to set compensation for City employees extends to any scheme or formula which seeks to fix the compensation of City of San Diego employees, except City elective officers, 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, except City elective officers, at the level of the largest cities in California or the State of California.

City elective officers will receive annual salaries based on the salary paid to Superior Court judges by the State of California. The Chief Financial Officer is responsible for determining the State salary of Superior Court judges and for setting and adjusting the salaries of the City Councilmembers, Mayor, City Auditor, and City Attorney, as provided in sections 12.1, 24.1, 39.2, and 40, respectively.

~~SECTION 39.1: Audit Committee~~

~~The Audit Committee is an independent body consisting of five members. Notwithstanding any other Charter provision to the contrary, the Audit Committee members must be appointed as provided under this section. To ensure its independence, the Audit Committee must be composed~~

of two members of the City Council and three members of the public. The two Councilmembers must be appointed by the City Council, one of whom will serve as Chair of the Audit Committee. The three public members of the Audit Committee must 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 composed of the member of the City Council serving as the Chair of the Audit Committee, the Independent Budget Analyst, and two outside financial experts appointed by the other members of the screening committee and confirmed by the City Council. Each outside financial expert on the screening committee may serve until replaced by the City Council's appointment of a new financial expert to the screening committee. The City Council may waive the requirement for appointment of a public member of the Audit Committee from a pool of at least two candidates when a sitting incumbent applies, and is eligible for reappointment. Public members of the Audit Committee must possess the independence, experience, and technical expertise necessary to carry out the duties of the Audit Committee. This expertise includes knowledge of accounting, auditing, and financial reporting. The minimum professional standards for public members must 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 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. Appointments must be made so that no more than one public member's term of office expires in any one year.

The Audit Committee has 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 must evaluate applicants for the position of City Auditor and recommend to the City Council no fewer than three qualified candidates for consideration, based on the minimum qualifications set forth in section 39.2 of this Charter and other criteria determined by the Audit Committee. The Audit Committee may use staff from the Office of the Independent Budget Analyst and employ expert consultants, in accordance with City contracting rules, to assist in the process of evaluating City Auditor applicants. The Audit Committee is also responsible for directing and reviewing the work of the City Auditor, and the City Auditor must report directly to the Audit Committee. The Audit Committee recommends the annual

~~compensation of the City Auditor and annual budget of the Office of City Auditor to the City Council and conducts an annual performance review of the City Auditor. The Audit Committee also recommends to the City Council the retention of the City's outside audit firm and, when appropriate, the removal of such firm. The Audit Committee must 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 must be reported to the City Council. The City Council may specify additional responsibilities and duties of the Audit Committee by ordinance as necessary to carry into effect the provisions of this section.~~

SECTION 39.2: Office of City Auditor

~~The City Auditor must be appointed by the City Council, from those candidates identified by the Audit Committee, in accordance with the process set forth in section 39.1 of this Charter. The City Auditor must be a certified public accountant or certified internal auditor. The City Auditor is appointed for a term of five years. The City Council may reappoint the City Auditor to a second five-year term without considering other candidates, upon the City Auditor's application and a favorable recommendation from the Audit Committee. The City Auditor is limited to serving two full five-year terms or ten years in total. The City Auditor reports to and is 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 City Council. If the City Auditor vacates the office for any reason before the end of the City Auditor's term, then the principal assistant to the City Auditor will serve as interim City Auditor, if the principal assistant to the City Auditor is eligible to serve and is confirmed by the City Council. If the principal assistant is not eligible to serve or is not confirmed by the City Council, then the City Council may adopt procedures to fill the vacancy on an interim basis. An interim City Auditor may serve for that period of time necessary to complete a formal recruitment and appoint a successor City Auditor. An interim City Auditor may apply to serve as the City Auditor and, if appointed, may serve a full five-year term, with the opportunity to serve a second full five-year term, in accordance with this section.~~

A City Auditor shall be elected for a term of four years in the manner prescribed by section 10 of this Charter. The City Auditor must be a certified public accountant or certified internal auditor in good standing and must have been employed as such for at least five years immediately prior to submitting a nominating petition. The City Auditor 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 holiday.

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

The City Auditor serves as 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 and their deputies shall devote their full time to the duties of the office and shall not engage in any outside employment, trade, business, or profession which interferes or conflicts with those duties.

The Auditor shall consult with the Mayor and City Council regarding the selection of audit entities, but the final decision of who or what to audit remains with the City Auditor. The City Auditor must 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 may modify the audit schedule as necessary and will notify the Mayor and City Council of such modifications. City Council shall allocate funds sufficient for the City Auditor to carry out the responsibilities described herein.

The City Auditor must follow Government Auditing Standards. The City Auditor must have access to, and authority to examine any and all records, documents, systems, and files of the City and 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 must be made available to the public in accordance with the requirements of the California Public Records Act.

Effective December 10, 2028, the salary paid to the City Auditor will be equal to the salary prescribed by law and as adjusted by law for judges of the Superior Court for the State of California, provided that the salary of the City Auditor may not be decreased during a term of office.

If the City Auditor vacates the office for any reason before the end of the City Auditor's term, then the principal assistant to the City Auditor will serve as interim City Auditor, if the principal assistant to the City Auditor is eligible to serve, until a replacement can be appointed or elected as provided by this Charter. The Interim City Auditor shall have the full authority of the Office.

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~~ 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-Council~~ shall cause an audit to be made of ~~his or her~~ the City Auditor's 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.

SECTION 300: VACANCY IN ELECTIVE OFFICE

For purposes of this section, elective office includes the offices of Mayor, Councilmember, City Attorney, City Auditor, and members of the Board of Education of the San Diego Unified School District. A vacancy in elective office occurs when any of the following events occur during the term:

- (a) The death of the elective officer.
- (b) For the Mayor, ~~or City Attorney~~, or City Auditor, the elective official ceases to be a resident and elector of the City.
- (c) For a Councilmember, the Councilmember moves from the district that the Councilmember was elected to represent. Redistricting shall not cause a vacancy in the office of a Councilmember.
- (d) For a member of the Board of Education of the San Diego Unified School District, the Board member ceases to be a resident and elector of the sub-district within the school district that the member was elected to represent. Redistricting shall not cause a vacancy in the office of a member of the Board of Education.
- (e) 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.
- (f) 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, in the case of the Mayor, City Attorney, City Auditor, or a Councilmember, or, upon the date of receipt of the letter by the Board Action Officer of the San Diego Unified School District, in the case of a member of the Board of Education.
- (g) 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.

(h) 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.

(i) 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.

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

SECTION 301: REMOVAL FOR CAUSE

(a) The Mayor, City Attorney, City Auditor, Councilmembers, and members of the Board of Education of the San Diego Unified School District are 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, if the elective officer at issue is the Mayor, City Attorney, City Auditor, or a Councilmember. If the elective officer at issue is a member of the Board of Education, the

Board Action Officer of the San Diego Unified School District shall provide notice of the conviction or adjudication to the Board of Education and the subject member.

(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 elective 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 of, or adjudication of dereliction of duty by, the Mayor, City Attorney, City Auditor, or member of the Council, the Council may proceed to vote on calling a special municipal election as provided by subsection (d). Upon notification from the Board Action Officer of the San Diego Unified School District of a criminal conviction of, or adjudication of dereliction of duty by, a member of the Board of Education, the San Diego Unified School District shall follow the procedures in subsection (e).

(d) Upon an affirmative vote of no less than three-fourths of the Council (currently seven of nine Councilmembers) that cause exists for removal of the Mayor, City Attorney, City Auditor, or a Councilmember, the Council shall call a special election in compliance with the City’s election laws for the purpose of submitting to the voters a measure 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) Upon an affirmative vote of no less than three-fourths of the members of the Board of Education of the San Diego Unified School District that cause exists for removal of a Board member, the Board shall cause a special election to be held to submit to voters a measure to

remove and replace the Board member by a majority vote, using the procedures set for Board member elections in Charter section 66. The election shall be held within 180 days of the vacancy. If the Board member's removal occurs within 180 days of a scheduled municipal or statewide election, the Board may consolidate the special election with that election.

(f) 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.

SECTION 302: SUCCESSION TO ELECTIVE OFFICE

(a) If a vacancy in the office of Mayor, City Attorney, City Auditor, or a Councilmember occurs by reason of a successful recall or removal election, the Council shall adopt procedures to fill the vacancy. A vacancy in the office of member of the Board of Education of the San Diego Unified School District shall be filled as provided in Charter section 66. The School Board may adopt additional procedures for the conduct of the election that are consistent with this Charter, as may be necessary.

(b) If a vacancy occurs in the office of Mayor, City Attorney, City Auditor, or a Councilmember 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.

SECTION 303: RESTRICTIONS ON COMPENSATION AND BENEFITS FOR ELECTIVE OFFICERS

All elective officers for the City, defined in this section as the City Councilmembers, Mayor, ~~and~~ City Attorney, and City Auditor, must adhere to the restrictions on compensation and benefits set forth in this section. This section is not intended to conflict with any provisions in federal or state law, except, however, where the restrictions on compensation are greater in this section than what is authorized under federal or state law, the greater restriction controls the compensation received by an elective officer.

(a) Elective officers are prohibited from accepting honoraria, as that term is defined by State law.

(b) Effective December 10, 2020, elective officers are prohibited from receiving a regularly paid car allowance as a form of additional compensation, except they may be reimbursed for actual miles driven in a personal vehicle while on City business, in accordance with reimbursement policies that comply with federal tax laws and regulations in effect at the time of the request for reimbursement.

(c) Elective officers are prohibited from attending any sports or entertainment event in a venue owned, partially or in whole, by the City unless the officer has paid fair market value for admission, seats, or other accommodations. Elective officers are prohibited from giving away any City-held ticket, unless the recipient pays the face value of the ticket to the City. Any seats or similar amenities or services owned or controlled by the City, in part or in whole, within any sports or entertainment venue, must be marketed to the public at fair market value with all revenues received to be directed to the City Treasurer.

OPTION TWO – CHARTER AMENDMENT TO RECONFIGURE THE COMPOSITION OF THE AUDIT COMMITTEE

SECTION 39.1: AUDIT COMMITTEE

The Audit Committee is an independent body consisting of ~~five~~ three public members who shall be appointed by a screening committee consisting of two outside financial experts and one retired judge. Eligible retired judges must have 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 at a publicly noticed date and time. The City Clerk shall also draw at random the name of one additional retired judge to be designated as an alternative who will be appointed to serve on the screening committee if the other member is unable or unwilling to serve. The two outside financial experts shall be the Chief Financial Officer of the County of San Diego or designee and the Chief Financial Officer of a municipal corporation within the County of San Diego or designee. Members of the screening committee shall serve until replaced. Notwithstanding any other Charter provision to the contrary, the Audit Committee members must be appointed as provided under this section. ~~To ensure its independence, the Audit Committee must be composed of two members of the City Council and three members of the public. The two Councilmembers must be appointed by the City Council, one of whom will serve as Chair of the Audit Committee. The three public members of the Audit Committee must 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 composed of the member of the City Council serving as the Chair of the Audit Committee, the Independent Budget Analyst, and two outside financial experts appointed by the other members of the screening committee and confirmed by the City Council. Each outside financial expert on the screening committee may serve until replaced by the City Council's appointment of a new financial expert to the screening committee. The City Council may waive the requirement for appointment of a public member of the Audit Committee from a pool of at least two candidates when a sitting incumbent applies, and is eligible for reappointment.~~

~~Public-m~~Members of the Audit Committee must possess the independence, experience, and technical expertise necessary to carry out the duties of the Audit Committee and be free of any actual and perceived conflicts of interest. This expertise includes knowledge of accounting, auditing, and financial reporting. The minimum professional standards for ~~public~~-members must 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. Members of the Audit Committee shall not make financial contributions to candidates for City office, nor shall members participate in campaigns supporting or opposing candidates for City office. ~~The public-m~~Members of the Audit Committee shall serve for terms of four years and until their successors have been appointed and qualified. ~~Public-m~~Members of the Audit Committee are limited to two full consecutive terms, with at least one term intervening before they become eligible for reappointment. The screening committee shall reassess the member's eligibility to serve before reappointment to a second term may occur. Appointments must be made so that no more than one ~~public~~-member's term of office expires in any one year.

The Audit Committee has oversight responsibility regarding the City's auditing, internal controls, and any other financial or business practices required of this Committee by this Charter. Each year, at its regular meeting in January, the Audit Committee shall elect from its membership, a Chair and Vice Chair, each to serve for 12 months beginning in January. The Chair shall preside at all meetings, and shall represent and act for the Audit Committee in matters deemed appropriate by majority consent of the other members of the Audit Committee. In the absence of the Chair, the Vice Chair shall exercise the full authority and responsibility of the Chair. The Audit Committee must evaluate applicants for the position of City Auditor and recommend to the City Council no fewer than three qualified candidates for consideration, based on the minimum qualifications set forth in section 39.2 of this Charter and other criteria determined by the Audit Committee. The Audit Committee may use staff from the Office of the Independent Budget Analyst and employ expert consultants, in accordance with City contracting rules, to assist in the process of evaluating City Auditor applicants. The City Auditor reports directly to the Audit Committee, which directs and reviews the work of the City Auditor. The Audit Committee recommends the annual compensation of the City Auditor to the City Council and conducts an annual performance review of the City Auditor. The City Council shall allocate funds sufficient for the City Auditor to carry out the responsibilities described herein. The Audit

Committee also recommends to the City Council the retention of the City's outside audit firm and, when appropriate, the removal of such firm. The Audit Committee must 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 must be reported to the City Council. The City Council may specify additional responsibilities and duties of the Audit Committee by ordinance as necessary to carry into effect the provisions of this section.