

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE CITY OF SAN DIEGO
SUBMITTING FOR APPROVAL BY A TWO-THIRDS VOTE
OF THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO,
AT THE MUNICIPAL SPECIAL ELECTION CONSOLIDATED
WITH THE STATEWIDE GENERAL ELECTION TO BE HELD
ON NOVEMBER 3, 2020, ONE BALLOT MEASURE
AUTHORIZING A \$900 MILLION GENERAL OBLIGATION
BOND ISSUANCE FOR AFFORDABLE AND SUPPORTIVE
HOUSING, AND FIXING THE MAXIMUM RATE OF
INTEREST TO BE PAID THEREON.

WHEREAS, on January 14, 2020, the City Council (Council) adopted a Resolution of Necessity Related to a Proposed Ballot Measure for the November 3, 2020 Municipal Special Election Concerning the Issuance of General Obligation Bonds to Finance the Construction of Affordable and Permanent Supportive Housing (Resolution of Necessity), on a 6 to 3 vote, which is attached to this Ordinance as Exhibit A, and on file with the Office of the City Clerk as Resolution No. R-312816; and

WHEREAS, the Resolution of Necessity confirmed a citywide state of emergency regarding a severe shortage of affordable housing in the City of San Diego (City), where cost burden is the most common housing problem experienced by renter and owner households, and most of the cost-burdened households are low- or moderate-income households; and

WHEREAS, the Resolution of Necessity confirmed the lack of more affordable housing has resulted in a high number of individuals experiencing homelessness within the City, and the number of housing units available does not satisfy the demand, as further detailed in the City's Community Action Plan on Homelessness (Action Plan); and

WHEREAS, the Resolution of Necessity confirmed that the Action Plan calls for the creation of more than 5,000 new housing homes or units over the next 10 years through the construction or rehabilitation of supportive housing, and the provision of additional rental assistance for low-income households, rapid rehousing for households experiencing homelessness, and diversion resources for households new to experiencing homelessness, with a total estimated cost of \$1.94 billion; and

WHEREAS, on July 7, 2020, the Council adopted Ordinance O-_____, calling a Municipal Special Election in the City for November 3, 2020, for the purpose of submitting one or more ballot measures to the City’s qualified voters; and

WHEREAS, to help address the needs confirmed by the Resolution of Necessity, the Council now seeks to place a measure on the November 3, 2020 Municipal Special Election ballot seeking voter authorization for the City to issue general obligation bonds, in an amount not to exceed \$900 million, to help to reduce homelessness, including those who are at risk of becoming homeless, in the City; and

WHEREAS, the specific purposes of the bonds to be issued are to fund the acquisition or improvement of real property to provide permanent supportive and affordable housing for vulnerable populations (Affordable Housing), which will help reduce homelessness in the City; and

WHEREAS, “vulnerable populations” includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses; and

WHEREAS, Affordable Housing may include: (1) facilities for which assistance and services, such as mental health treatment, healthcare, drug and alcohol treatment, education and job training may be provided by the City, other public entities, non-profit entities and/or private entities and (2) infrastructure and landscaping, including utilities, sidewalks, and streets that are directly related to and necessary for the acquisition, construction, or improvement of the Affordable Housing; and

WHEREAS, the proceeds of any bonds issued pursuant to this general obligation bond measure (Bond Measure) will be applied only to these specific purposes, as detailed in the measure; and

WHEREAS, the Council finds that issuing general obligation bonds to build Affordable Housing serves a public purpose and is the most cost-effective way to raise funds to acquire and construct the Affordable Housing needed, which will help to reduce homelessness in the City; and

WHEREAS, the San Diego Municipal Code (Municipal Code) requires certain developers/owners of real property (Developers) within the City to pay fees to support the supply of, or construct actual units that qualify as, Affordable Housing (Inclusionary Housing/Linkage Fees); and

WHEREAS, within 3 months of the certification of the voters' approval of this Bond Measure, the Council shall introduce an enforceable ordinance (Subsequent Ordinance) that, if adopted, would provide that Developers subject to the Inclusionary Affordable Housing Regulations, codified in Chapter 14, Article 2, Division 13 of the Municipal Code, or subject to Housing Impact Fees on Commercial Development, codified in Chapter 9, Article 8, Division 6 of the Municipal Code (collectively, the Ordinances) will be entitled to a credit (Credit) toward

Inclusionary Housing/Linkage Fees paid pursuant to the Ordinances or in the case of Developers that elect or have previously elected to construct affordable housing, will be entitled to a credit as required by the Ordinances, and receive reimbursement (Reimbursement) for the Inclusionary Housing/Linkage Fees those Developers would have paid or have previously paid pursuant to the Ordinances, in an amount equal to the amount of Affordable Housing Tax they pay under the provisions of this Bond Measure, which Credit or Reimbursement may never exceed the total amount a Developer would be required to pay the City under the Ordinances; and

WHEREAS, article XVI, section 18(a) of the California Constitution allows public entities, such as the City, to incur indebtedness in any year exceeding the income and revenue provided for such year with the approval of two-thirds of the voters of the City voting on the measure at an election to be held for that purpose; and

WHEREAS, San Diego Charter (Charter) section 99 confirms that the indebtedness provisions in article XVI, section 18(a) of the California Constitution apply to the City; and

WHEREAS, Charter section 90.1, which authorizes the Council (by a two-thirds vote of the Council) to issue revenue bonds payable from enterprise funds for water facilities, wastewater facilities, or stormwater facilities, does not limit the authority of the qualified electors of the City to authorize the issuance of bonds for other purposes; and

WHEREAS, California Government Code sections 53410 and 53411 provide that any voter-approved local measure allowing a local agency to sell bonds must provide accountability measures that include, but are not limited to: (a) a statement indicating the specific purposes of the bonds; (b) a requirement that the bond proceeds be applied only to those identified specific purposes; (c) the creation of an account into which the bond proceeds will be deposited; and (d) a requirement that the chief fiscal officer file a report with the local agency's governing body at

least annually, describing the bond proceeds collected and expended, as well as the status of any project required or authorized to be funded; and

WHEREAS, the Bond Measure will establish accountability measures to ensure that the City uses the bond proceeds only for the purposes specified in this Ordinance, in compliance with California Government Code sections 53410 and 53411; and

WHEREAS, in compliance with the Charter and San Diego Municipal Code, the Council now desires to submit to the voters at the Municipal Special Election one ballot measure authorizing a bond issuance not to exceed \$900 million for Affordable Housing, as detailed in this Ordinance, and fixing the maximum rate of interest to be paid thereon; and

WHEREAS, this Ordinance requires a two-thirds vote of the Council for approval, which will authorize the measure to be submitted to voters in the City of San Diego; and

WHEREAS, the Bond Measure requires approval by a two-thirds majority of the local electorate voting on the measure; NOW, THEREFORE,

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

Section 1. One measure is hereby submitted to the qualified voters of the City of San Diego at the Municipal Special Election to be held on November 3, 2020, to be consolidated with the California State General Election to be held on the same date, with the measure to read as follows:

MEASURE

AUTHORIZATION FOR THE CITY OF SAN DIEGO TO ISSUE GENERAL OBLIGATION BONDS IN AN AMOUNT NOT TO EXCEED \$900 MILLION TO GENERATE FUNDING FOR PERMANENT SUPPORTIVE AND AFFORDABLE HOUSING

The San Diego City Council (Council) recognizes the existence of a housing crisis in the City of San Diego (City). Rising costs of home ownership and the increasing cost of rental units have resulted in an increasing number of homeless individuals. The latest homeless count revealed a total of 4,887 homeless individuals in the City, with 2,283 unsheltered.

The Council is placing this general obligation bond measure (Bond Measure) on the ballot which, if approved, would authorize the City to issue and sell taxable or tax-exempt bonds in accordance with the City Charter and pursuant to certain provisions of the California Government Code, including Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title 4 and including Article 4.5, commencing with Section 53506, of Chapter 3 of Part 1 of Division 2 of Title 5 (collectively, the Bond Law), in an amount not to exceed \$900 million, for the acquisition or improvement of real property in order to provide within the City permanent supportive and affordable housing for vulnerable populations (Affordable Housing).

For purposes of the Bond Measure, the following definitions will apply:

“Vulnerable populations” includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses.

The following definitions shall apply, as cited above in the definition of “vulnerable populations:”

(1) “Extremely low income” includes individuals and families whose income does not exceed 30 percent of area median income, as established and revised periodically by the U.S. Department of Housing and Urban Development (HUD) for the County of San Diego;

(2) “Very low income” includes individuals and families whose income does not exceed 50 percent of area median income, as established and revised periodically by HUD for the County of San Diego; and

(3) “Low income” includes individuals and families whose income does not exceed 80 percent of area median income, as established and revised periodically by HUD for the County of San Diego.

The Affordable Housing may be provided at below-market rates and may also be provided in connection with supportive mental health and substance abuse services.

Bond proceeds used for vulnerable populations may also be used to fund:

- (a) facilities for which assistance and services, such as mental health treatment, healthcare, drug and alcohol treatment, education, and job training may be provided by the City, other public entities, non-profit entities, and/or private entities; and
- (b) infrastructure and landscaping, including utilities, sidewalks, and streets that are directly related to and necessary for the acquisition, construction, or improvement of the Affordable Housing.

The Council views housing as a critical need of vulnerable populations, without which individuals in these populations are unlikely to achieve stability. Creating and improving housing for the City’s vulnerable populations is consistent with the City’s mission to plan for the needs of a dynamic community, provide quality services and promote a healthy, safe, and prosperous community for all.

OVERVIEW AND ACCOUNTABILITY SAFEGUARDS

Statement of Purpose

The specific purpose of the Bond Measure is to fund the acquisition or improvement of real property to provide Affordable Housing to reduce homelessness in the City. Bond proceeds will be used to assist “vulnerable populations,” which includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses.

Bond proceeds may also be used for the following: (1) facilities for which assistance and services, such as mental health treatment, healthcare, drug and alcohol treatment, education, and job training may be provided by the City, other public entities, non-profit entities, and/or private entities and (2) infrastructure and landscaping, including utilities, sidewalks, and streets that are directly related to and necessary for the acquisition, construction, or improvement of the Affordable Housing.

Bond proceeds may also be used, as part of the acquisition or improvement of real property, to provide the Affordable Housing (1) to pay the legal or other fees incidental to or connected with the authorization, issuance, and sale of the bonds and (2) to pay the costs of printing the bonds and other costs and expenses incidental to or connected with the authorization, issuance, and sale of the bonds (together, Costs of Issuance).

The Bond Measure responds to needs identified in the Resolution of Necessity adopted by the Council on January 14, 2020, as Resolution No. R-312816, which identified the need for more than 5,000 new homes for those who are homeless or at risk of becoming homeless.

The City intends to distribute the new Affordable Housing across the City and to leverage the bond proceeds by attracting both private and public matching funds, including from state and federal sources. Different forms of assistance for the specified vulnerable populations may be provided based on programs and spending as determined by the Council.

The proceeds of any bonds issued pursuant to this Bond Measure shall be applied only to these specific purposes.

Applicability

This Bond Measure, if approved, will apply to all taxable real property within the City. Within 3 months of the certification of the voters' approval of this Bond Measure, the Council shall introduce an enforceable ordinance (Subsequent Ordinance) that, if adopted, would provide that certain developers/owners of real property (Developers) will be eligible to receive a credit (Credit) or reimbursement (Reimbursement) in an amount equal to the amount of Affordable Housing Tax they pay. Developers subject to either the Inclusionary Affordable Housing Regulations, codified in Chapter 14, Article 2, Division 13 of the Municipal Code, or Housing Impact Fees on Commercial Development, codified in Chapter 9, Article 8, Division 6 of the Municipal Code (collectively, the Ordinances), will be entitled to the Credit which will be applied toward fees the Developers have paid pursuant to the Ordinances to support the supply of, or the costs of, constructing actual units that qualify as Affordable Housing (Inclusionary Housing/Linkage Fees). Developers that elect or have previously elected to construct Affordable Housing units as required by the Ordinances will be entitled to reimbursement (Reimbursement) in the amount of the Inclusionary Housing/Linkage Fees those Developers would have paid pursuant to the Ordinances. The amount of the Credit or Reimbursement received by Developers may never exceed the total amount of Inclusionary Housing/Linkage Fees paid, or that would

have been paid, by the Developers. Guidelines for the application of the Credit or Reimbursement will be delineated in the Subsequent Ordinance.

Principal Amount and Estimated Cost

This Bond Measure, if approved, would authorize the City to issue and sell taxable or tax-exempt bonds in accordance with the Bond Law in a principal amount not to exceed \$900 million, which is also the estimated cost of the proposed Affordable Housing.

If bonds are approved, the City expects to sell the bonds in phases, as qualified projects are identified and ready to be funded. The City expects to sell bonds in multiple series over 7 years from the issuance date of the first series, for a total not to exceed \$900 million.

Maximum Interest Rate

The rate of interest to be paid on the bonds shall be market rates at the time of their issuance. However, the maximum rate of interest allowed to be paid on the bonds shall be eight percent (8%). Said interest shall be payable semiannually except that interest for the first year after the date of the bonds may be made payable at the end of said year.

Special Bond Proceeds Account

The proceeds of the bonds issued pursuant to this measure shall be deposited in a special account created by the City.

Administration

The program funds will be administered by the San Diego Housing Commission (Housing Commission), reporting to the Council as the City of San Diego Housing Authority.

Annual Plan

Bond proceeds will be used and expended in accordance with an annual allocation plan adopted by the Council. Proceeds will pay for costs associated with acquiring and improving real

properties, as well as Costs of Issuance. Bond proceeds will not be used to finance services or operations, nor are they intended to entirely replace existing funding sources currently dedicated to developing similar Affordable Housing or facilities that provide homeless services.

Annual Report

The City's Chief Operating Officer, working with the City's Department of Finance and the Housing Commission, will ensure that an annual report is prepared pursuant to California Government Code section 53411, describing the amount of bond proceeds collected and expended, and the status of every project required or authorized to be funded with such proceeds. The parties responsible for the report shall ensure that it is submitted each year to the Council and filed with the City Clerk.

Citizens' Oversight Committee

An advisory Citizens' Oversight Committee (Committee) composed of representatives or professionals in the areas of public finance, housing, homeless services, community and economic development, and architecture, will be established by ordinance of the Council.

Committee members will be appointed as stated in the ordinance, and in accordance with the City Charter's appointment procedures, similar to the manner that appointments are made to advisory boards under San Diego Charter section 43(a). In this case, however, the Committee will advise the Housing Commission. The Committee's duties, to be included in the ordinance, will include reviewing all proposed Affordable Housing projects and receiving progress reports on the Affordable Housing projects funded with the bond proceeds. The Committee will also be tasked with reviewing the Annual Report each year to ensure fiscal accountability, and in turn will report on its review to the Council.

Independent and External Audit

An external auditor will review the spending of bond proceeds to ensure accountability. The auditor will be selected by the Committee and confirmed by the Council after a competitive process that follows City contracting practices.

Severability

If any provision of this Bond Measure, or its application to any person or circumstance is determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Bond Measure and, to that end, the provisions of this Bond Measure are severable.

TAX RATE STATEMENT

A Municipal Special Election will be held in the City of San Diego, State of California (City) on November 3, 2020, to ask voters to authorize the sale of general obligation bonds of the City, in an amount not to exceed \$900 million, to mitigate the City's housing crisis. Bond proceeds will be used to provide permanent supportive and affordable housing for vulnerable populations (Affordable Housing), which will help to reduce homelessness in the City. Bond proceeds will be used to assist "vulnerable populations," which includes: (1) extremely low income, or (2) very-low income, or (3) low-income individuals or families, veterans, youth, seniors, the disabled, the homeless or chronically homeless, those at serious risk of becoming homeless, and individuals suffering from mental health or substance abuse illnesses.

The Affordable Housing may include: (1) facilities for which assistance and services, such as mental health treatment, healthcare, drug and alcohol treatment, education, and job training may be provided by the City, other public entities, non-profit entities and/or private entities and (2) infrastructure and landscaping, including utilities, sidewalks, and streets that are

directly related to and necessary for the acquisition, construction, or improvement of the Affordable Housing.

The proceeds of any bonds issued pursuant to this Bond Measure shall be applied only to these specific purposes.

If the Bond Measure is approved, the City expects to issue and sell the taxable or tax-exempt bonds in accordance with the Bond Law in multiple series over 7 years from the issuance date of the first series. Principal and interest on the bonds will be payable from the proceeds of taxes levied upon taxable property located within the City. The following information is provided in compliance with Sections 9400 to 9404 of the Elections Code of the State of California:

- The best current estimate of the tax that would be required to be levied to fund this Bond Measure during the first fiscal year of the sale of the first series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is \$0.00314 per \$100 (\$3.14 per \$100,000) of assessed valuation in fiscal year 2022.
- The best current estimate of the tax that would be required to be levied to fund this Bond Measure during the first fiscal year of the sale of the last series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is \$0.02085 per \$100 (\$20.85 per \$100,000) of assessed valuation in fiscal year 2028.
- The best current estimate of the highest tax rate that would be required to be levied to fund this Bond Measure, based on estimated assessed valuations

available at the time of filing of this statement, is \$0.02085 per \$100 (\$20.85 per \$100,000) of assessed valuation in fiscal years 2028 through 2062.

- The best current estimate of the final fiscal year in which the tax is anticipated to be collected is 2068.
- The best current estimate of the total debt service, including the principal and interest, that would be required to be repaid if all of the bonds are issued and sold is approximately \$2.1 billion.

Voters are directed to the fact that the foregoing information is based upon the City's projections and estimates only, which are not binding upon the City. Further, voters should note that the above estimates do not account for impacts to the tax rate if the Subsequent Ordinance is adopted.

The estimates provided herein do not account for the taxes levied to pay for bonds issued by the City pursuant to prior ballot measures approved by voters authorizing the issuance of bonds, if any.

Voters should note:

- The actual tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount of bonds sold at any given sale, market interest rates at the time of each bond sale, the credit quality of the City at the time each issue is sold, and actual assessed valuations of the real property being taxed over the term of repayment of the bonds, among other factors.

- The actual dates of issuance and sale of the bonds and the amount sold at any given time will be governed by the Affordable Housing needs of the City, as the City may determine, through the Committee and the Housing Authority, and other factors.
- The actual interest rates at which the bonds will be issued and sold will depend on the bond market at the time of each sale.
- Actual future assessed valuations of the real property being taxed pursuant to this Bond Measure will depend upon the amount and value of taxable real property within the City as determined in the annual assessment and the equalization process conducted by the County of San Diego.

END OF MEASURE

Section 2. The Bond Measure shall be presented and printed upon the ballot and submitted to the voters in the manner and form to be determined by the Council, in compliance with the San Diego Municipal Code.

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:

MEASURE ____ . GENERAL OBLIGATION BONDS FOR AFFORDABLE HOUSING. Shall the City of San Diego issue up to \$900 million in general obligation bonds to provide permanent and supportive housing for low- and moderate-income individuals and families, including supportive mental health and substance abuse services, for populations including veterans, seniors, the disabled, youth and the homeless, financed by property tax assessments estimated between approximately \$3 and \$21 per each \$100,000 of assessed valuation for fiscal years 2022 through 2068?	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 measure. An appropriate mark placed in the voting square after the word “No” shall be counted against the adoption of the measure.

Section 5. Passage of the Bond Measure requires the affirmative vote of two-thirds 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 Council. Further, this Ordinance shall be published once a day for at least seven days in a newspaper published at least six days a week in the city, or once a week for two weeks in a newspaper published less than six days a week in the city. The first of said publications shall, in either event, be within fifteen days after the adoption of this Ordinance.

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 to the San Diego County Registrar of Voters under the deadline for publication of ballot materials. 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 Council and the public prior to the day of its passage.

Section 9. This Ordinance may be passed by the Council on the date of introduction pursuant to Charter section 275(c) and shall take effect upon final passage pursuant to Charter sections 295(a) and 295(d).

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Bret A. Bartolotta
Deputy City Attorney

SBS:BAB:jdf
07/08/2020
Or. Dept.: Rules Committee
Doc. No. 2420326

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

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor