

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE CALLING AND GIVING NOTICE OF, ON ITS OWN MOTION, THE SUBMISSION TO THE ELECTORS OF THE CITY OF SAN JOSE AT A SPECIAL MUNICIPAL ELECTION, TO BE CONSOLIDATED WITH THE NEXT GENERAL ELECTION ON NOVEMBER 6, 2018, A BALLOT MEASURE PROPOSAL TO AMEND SECTION 407 OF ARTICLE IV, SECTION 1001.1 OF ARTICLE X, AND SECTION 1603 OF ARTICLE XVI OF THE SAN JOSE CITY CHARTER RELATING TO MAYOR AND CITY COUNCIL MEMBER SALARIES AND ALIGNING THE CHARTER WITH STATE LAW REGARDING COMPETING MEASURES IN MUNICIPAL ELECTIONS**

**WHEREAS**, San José City Charter Sections 1600 and 1601 authorize the City Council to set the date for a Special Municipal Election; and

**WHEREAS**, pursuant to California Elections Code Sections 9255(b)(1) and 1415(a)(2)(A) and Government Code Section 34458(a), the City Council desires to submit to the electors of the City of San José (the “City” or alternatively, “San José”), at a Special Municipal Election, a ballot measure proposal to amend Section 407 of Article IV, Section 1001.1 of Article X, and Section 1603 of Article XVI of the San José City Charter to remove the ability of the City Council to set their own salaries, require the Salary Setting Commission to set the base salaries for the City Council once every ten years, and limit City Council salary increases to annual adjustments accounting for inflation, and to align the City Charter with state law regarding competing measures in Municipal Elections, and to place the measure on the ballot for the next General Election on November 6, 2018, a Statewide General Election;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

**SECTION 1.** A Special Municipal Election is hereby called and ordered to be held in the City of San José on November 6, 2018 to vote on a ballot measure to amend Section 407 of Article IV, Section 1001.1 of Article X, and Section 1603 of Article XVI of the San José City Charter to remove the ability of the City Council to set their own salaries, require the Salary Setting Commission to set the base salaries for the City Council once every ten years, and limit City Council salary increases to annual adjustments accounting for inflation, and to align the City Charter with state law regarding competing measures in Municipal Elections, which shall be deemed ratified, pursuant to Government Code Section 34459, if a majority of the electors voting on the measure vote to approve the measure. The full text of the proposed City Charter amendment is attached as Exhibit A and incorporated by reference in this Resolution.

**SECTION 2.** The ballot measure will be placed on the ballot for the November 6, 2018 election in the following form:

**MEASURE \_\_\_\_**  
**2018 Charter Amendments**

<p>Shall the City of San José Charter be amended to:</p> <ul style="list-style-type: none"><li>• Remove the Mayor and Council's ability to approve their salaries;</li><li>• Require the Salary Setting Commission to adjust the base salaries for the Mayor and City Council once every ten years;</li><li>• Limit base salary increases after each 10-year adjustment to annual adjustments for inflation; and</li><li>• Align the City Charter with State law to allow the City Council to place competing ordinances on the same ballot in Municipal Elections?</li></ul>	YES	
	NO	

**SECTION 3.** The City Council hereby requests the Board of Supervisors of the County of Santa Clara, California to permit the Registrar of Voters of Santa Clara County to render to the City of San José such services as the City Clerk of the City of San José may request relating to the conduct of the above-described Special Municipal Election with respect to the following matters:

Coordination of election precincts, polling places, voting booths, voting systems and election officers; Printing and mailing of voter pamphlets; Preparation of tabulation of result of votes cast; and all other services necessary to conduct an election.

**SECTION 4.** The City Council hereby requests that the Registrar of Voters of the County of Santa Clara consolidate the Special Municipal Election called and ordered to be held on November 6, 2018 with any other election that may be held on that date.

**SECTION 5.** The City Council hereby authorizes the Board of Supervisors of Santa Clara County, California to canvass the returns of the Special Municipal Election.

**SECTION 6.** The City Council hereby directs the City Clerk to reimburse the County of Santa Clara in full for any of the above-mentioned services which may be performed by the Registrar of Voters, upon presentation of a bill to the City, with funds already appropriated to the City Clerk for election purposes.

**SECTION 7.** The City Council hereby directs the City Clerk to take all actions necessary to facilitate the Special Municipal Election in the time frame specified herein and comply with provisions of the Elections Code of the State of California, City Charter, Ordinances, Resolutions and Policies regarding the conduct of the Special Municipal Election.

***ALTERNATE 1 (FULL TEXT PUBLICATION)***

**SECTION 8.** Pursuant to Section 12111 of the California Elections Code, the City Council hereby directs the City Clerk to: (a) cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San José Mercury News, a newspaper of general circulation within the City of San José; (b) consolidate the Notice of Measure to be Voted with the Notice of Election into a single notice; (c) cause copies of the full text of the proposed measure set forth in the attached Exhibit A to be printed in the Voter Information Portion of the Sample Ballot; (d) cause copies of the Sample Ballot to be mailed to each of the qualified electors of the City of San José; and (e) do all other things required by law to submit the specified measure above to the electors of the City of San José at the Special Municipal Election, including causing the full text of the proposed measure to be made available in the Office of the City Clerk at no cost and posted on the City Clerk's website.

***ALTERNATE 2 (FULL TEXT NOT PUBLISHED)***

**SECTION 8.** Pursuant to Section 12111 of the California Elections Code, the City Council hereby directs the City Clerk to: (a) cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San José Mercury News, a newspaper of general circulation within the City of San José; (b) consolidate the Notice of Measure to be Voted with the Notice of Election into a single notice; (c) cause the following statement to be printed in the impartial analysis to be prepared by the City Attorney: "If you would like to read the full text of the measure, see <http://www.sanjoseca.gov/index.aspx?nid=5694> or call 408-535-1260 and a copy will be sent at no cost to you."; and (d) do all other things required by law to submit the specified measure above to the electors of the City of San José at the Special Municipal Election, including causing the full text of the proposed measure to be made available in the Office of the City Clerk at no cost and posted on the City Clerk's website.

**SECTION 9.** Pursuant to Sections 9282 and 9285 of the California Elections Code, the City Council hereby approves the submittal of direct arguments for and against the ballot measure, if any, [and authorizes the City Council or any member or members of the Council to author and submit a ballot measure argument in favor of the ballot measure] [but determines that rebuttal arguments will not be allowed] OR [and approves the submittal of rebuttal arguments in response to arguments for and against the ballot measure and authorizes the City Council or any member or members of the City Council to author and submit a rebuttal, if any.]

**SECTION 10.** The City Council hereby directs the City Clerk to transmit a copy of the measure qualifying for placement on the ballot to the City Attorney for preparation of an impartial analysis.

**SECTION 11.** The City Council hereby acknowledges that the consolidated election will be held and conducted in the manner prescribed in California Elections Code Section 10418.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

**EXHIBIT A TO RESOLUTION NO. \_\_\_\_\_ OF THE CITY OF SAN JOSE**

That the citizens of the City of San José do hereby enact the following amendments to the City Charter:

1. That Section 407 of the City Charter be amended to read as follows:

**SECTION 407. The Council; ~~Compensation~~Salary.**

Each member of the Council, including the Mayor, shall be paid ~~as compensation~~a salary for his or her services as a member of the Council, ~~for each calendar month during which he or she is a member of the Council, a monthly salary~~ which shall be established ~~by ordinance adopted pursuant to and~~ in accordance with the provisions hereinafter set forth in this Section. No salary shall be established for any member of the Council, including the Mayor, except as provided in this Section.

- (a) Between March 1st and April 30th ~~commencing in 2019, and every ten (10) years thereafter, of every odd-numbered year,~~ the ~~Council~~ Salary Setting Commission shall ~~recommend to the Council~~set the amount of ~~monthly-base~~ salary which it deems appropriate for the members of the Council, including the Mayor, ~~for the two-year period~~ commencing July 1 of that ~~odd-numbered~~ year. The amount ~~recommended~~set for each member of the Council shall be the same, except that the amount ~~recommended~~set for the Mayor may exceed that of the other members of the Council. The ~~monthly-base~~ salary shall be in an amount which takes into account the full time nature of the office and which is commensurate with salaries then being paid for other public or private positions having similar full time duties, responsibilities and obligations.
- No ~~recommendation-determination of base salary amounts~~ shall be made except upon the affirmative vote of three (3) members of the Commission. Failure of the Commission to make a ~~recommendation-determination of salary amounts~~ in any year within the time prescribed shall be deemed to mean ~~a recommendation~~ that no change to the base salary be made.
- (b) ~~Each biennial recommendation~~The Salary Setting Commission's determination of the Mayor and Council base salaries, together with the reasons therefor, shall be made in writing and submitted to the City Manager no later than May 1, so that funds can be budgeted and appropriated for that purpose. Before it submits any such ~~recommendation-determination~~ to the ~~Council~~City Manager, the Commission shall conduct at least one public hearing on the matter. When such a ~~recommendation-determination~~ has been submitted to the

Council City Manager, it shall not thereafter be amended by the Commission.

- (c) Commencing July 1, 2020, and annually thereafter in years in which there are no base salaries set by the Salary Setting Commission under Section 407(a), in order to provide a cost of living adjustment, the base salaries of the Council and Mayor shall increase by a percentage equal to the percentage increase of the preceding calendar year's annual average of the Consumer Price Index-Urban (CPI-U), or successor index, for San Francisco-Oakland-Hayward, as determined by the United States Department of Labor, Bureau of Labor Statistics. In no event shall the CPI-U salary increase exceed 5% per year. The Council shall, by ordinance, which shall be subject to the referendum provisions of this Charter, adopt the salaries as recommended by the Commission, or in some lesser amount, but in no event may it increase the amount.
- (d) No more than one salary setting ordinance shall be adopted on the basis of any biennial recommendation, provided that tThe Council may, at any time, by ordinance, reduce the salaries of the members of the Council, including the Mayor. In any salary setting-reducing ordinance adopted hereunder, the salaries for each member of the Council shall be the same, except that the salary of the Mayor may exceed that of the other members of the Council. Salaries established by ordinance adopted pursuant to the provisions of this Section shall remain in effect until amended by a subsequent ordinance adopted pursuant to the provisions of this Section.
- (e) For each member of the Council, except the Mayor, a sum, as established by the Council Salary Setting Commission, shall be deducted from the salary of such member for each regular meeting of the Council, other than regular adjourned meetings, which he or she fails to attend in each such calendar month; provided, however, that such deduction shall not be made for his or her failure to attend any meeting during which he or she is away on authorized City business, or from which he or she is absent because of his or her own illness or the illness or death of a close family member. No deduction shall be made from the Salary of the Mayor because of his or her failure to attend any Council meeting.

2. That Section 1001.1 of the City Charter be amended to read as follows:

#### **SECTION 1001.1. Salary Setting Commission.**

There shall be, and there is hereby established, a Salary Setting Commission. The following provisions shall be applicable thereto:



- (a) MEMBERSHIP. The Salary Setting Commission shall consist of five (5) members appointed by the Civil Service Commission. Members must be qualified electors of the City at all times during their term of office.
- (b) TERMS OF OFFICE. Except as provided hereinbelow, the regular term of office of each member of the Salary Setting Commission shall be four (4) years. The initial members of the Salary Setting Commission shall be appointed by the Civil Service Commission during the month of January, 1981. Two (2) of the members so appointed shall be appointed for a term expiring on December 31, 1982; and three (3) of the members so appointed shall be appointed for a term expiring on December 31, 1984. Commencing in December of 1982, the Civil Service Commission shall, during the month of December of each even-numbered year, make appointments to fill the offices of the members whose terms are expiring at the end of such even-numbered year. Such appointments shall be for regular terms of four (4) years commencing on the first day of January of the following odd-numbered year and expiring on the 31st day of December of the second even-numbered year thereafter.
- (c) VACANCIES. The office of a member shall become vacant upon the happening before the expiration of his or her term of any of the events set forth in subsections (a), (b), (c), (d), (e), (h), (i), (j), (k), and (l) of Section 409 of this Charter. Also, the Civil Service Commission may remove a member from office at any time for misconduct, inefficiency or willful neglect in the performance of the duties of his or her office providing it first states in writing the reasons for such removal and gives such member an opportunity to be heard before the Civil Service Commission in his or her own defense. If a vacancy occurs before the expiration of a member's term, the Civil Service Commission shall appoint a qualified person to fill such vacancy for the remainder of the unexpired term of such member.
- (d) POWERS AND DUTIES.

The Salary Setting Commission shall perform the following duties~~biennially make recommendations~~:

- (1) Respecting Commencing in 2019, and every ten (10) years thereafter, the Salary Setting Commission shall set the base salaries for members of the Council, including the Mayor, as provided in Section 407 of this Charter.
- (2) The Salary Setting Commission shall biennially make recommendations ~~R~~egarding the monthly stipend for any non-City

employee member of the retirement board or boards which administer the retirement plan or plans established pursuant to Article XV of this Charter and designated by the Council to receive a stipend. The stipend set by the Council will be in accordance with the process established through ordinance.

3. That Section 1603 of the City Charter be amended to read as follows:

**SECTION 1603. Initiative, Referendum and Recall.**

The powers of initiative, referendum and the recall of elected municipal officers are hereby reserved to the electors of the City. The provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, governing the initiative and referendum and the recall of municipal officers in cities shall be applicable insofar as the same are not in conflict with this Charter; provided, however, that the number of signatures required shall be as follows:

- (a) INITIATIVE. To initiate proceedings for the exercise of the power of initiative, either of the following provisions shall apply as is applicable:
  - (1) If the petition is signed by duly qualified electors of the City equal in number to at least eight percent (8%) of the number of persons eligible to vote according to the last report of registration filed by the County Registrar of Voters with the Secretary of State, which is in effect at the time the notice of intent to circulate the petition is published, and contains a request that the proposed ordinance be submitted immediately to a vote of the people at a Special Municipal Election, the Council shall either pass the proposed ordinance for publication, without alteration, at the regular meeting at which it is presented by the City Clerk and adopt said ordinance within ten (10) days after it is presented, or immediately call a Special Municipal Election at which the ordinance, without alteration, shall be submitted to a vote of the voters of the City.
  - (2) If the petition is signed by duly qualified electors of the City equal in number to at least five percent (5%) of the number of persons eligible to vote according to the last report of registration filed by the County Registrar of Voters with the Secretary of State, which is in effect at the time the notice of intent to circulate the petition is published, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a Special Municipal Election, and is not adopted without alteration by the Council, then the proposed ordinance, without alteration, shall be submitted by the Council to the voters at the next General Election.

In the event that a petition is submitted in accordance with the provisions of either subparagraphs (1) or (2) of subsection (a), and the Council submits said proposed ordinance to a vote of the voters of the City, the Council may ~~not~~ at the same time submit ~~an~~ any alternative ordinance. If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.

- (b) REFERENDUM. To initiate proceedings for the exercise of the power of referendum, the petition shall be signed by duly qualified electors of the City equal in number to at least eight percent (8%) of the number of persons eligible to vote according to the last report of registration filed by the County Registrar of Voters with the Secretary of State, which is in effect at the time of adoption of the ordinance or measure which is the subject of the petition.
- (c) RECALL OF THE MAYOR. To initiate proceedings for the exercise of the power of recall of the Mayor, the petition shall be signed by duly qualified electors of the City equal in number to at least twelve percent (12%) of the number of persons eligible to vote according to the last report of registration filed by the County Registrar of Voters with the Secretary of State, which is in effect at the time the notice of intent to circulate the petition is published.
- (d) RECALL OF COUNCIL MEMBER. To initiate proceedings for the exercise of the power of recall of a Council member elected by a District, the petition shall be signed by duly qualified electors of the District equal in number to at least twelve percent (12%) of the number of persons residing in the District eligible to vote according to the last report of registration filed by the County Registrar of Voters with the Secretary of State, which is in effect at the time the notice of intent to circulate the petition is published.