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*Attorneys for the People of the State of California;
California Secretary of State and Dr. Shirley N.
Weber, in her official capacity as California
Secretary of State*

*Exempt from Payment of Filing Fee
Pursuant to Gov. Code, § 6103*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. ROB BONTA, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA; DR. SHIRLEY N. WEBER, in her official capacity as California Secretary of State,

Petitioners,

v.

CITY OF HUNTINGTON BEACH; ROBIN ESTANISLAU, in her official capacity as the City of Huntington Beach City Clerk; DOES 1 through 50, INCLUSIVE,

Respondents.

Case No.
PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

(Civ. Proc. Code, §§ 526, 1060, 1085)

1 This Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief is
2 brought by the People of the State of California, by and through Rob Bonta, Attorney General of
3 the State of California, and Dr. Shirley N. Weber, in her official capacity as Secretary of State of
4 the State of California, and is directed to Respondents City of Huntington Beach, Robin
5 Estanislau, in her official capacity as the City of Huntington Beach City Clerk, and DOES 1
6 through 50.

7 JURISDICTION AND VENUE

8 1. This Court has jurisdiction over this matter pursuant to Article VI, Section 10 of the
9 California Constitution and Sections 187, 1060, and 1085 of the Code of Civil Procedure.

10 2. Venue is proper in this Court pursuant to Section 394, subdivision (a) of the Code of
11 Civil Procedure because the City of Huntington Beach is situated within the County of Orange.

12 PARTIES

13 3. Petitioner Rob Bonta is the Attorney General of the State of California. The Attorney
14 General is the chief law officer of the State and has the duty to see that the State's laws are
15 uniformly and adequately enforced for the protection of public rights and interests.

16 4. Petitioner Dr. Shirley N. Weber is the Secretary of State of the State of California.
17 The Secretary of State is the chief elections officer of the State and has the duty to see that the
18 State's elections are conducted in accordance with the State's laws.

19 5. Respondent City of Huntington Beach ("City") is a charter city incorporated and
20 existing under the laws of the State of California.

21 6. Respondent Robin Estanislau is the City of Huntington Beach City Clerk and is
22 named here in her official capacity. The City Clerk is the chief elections official of the City and
23 has the duty of conducting all municipal elections.

24 7. Petitioners are unaware of the true names and capacities of Respondents DOES 1
25 through 50, who are therefore sued by fictitious names pursuant to Section 474 of the Code of
26 Civil Procedure. Petitioners allege on information and belief that each such fictitiously named
27 party is responsible or liable in some manner for the events and happenings referred to herein, and
28

1 Petitioners will seek leave to amend this Petition and Complaint to allege their true names and
2 capacities after they have been ascertained.

3 **FACTUAL BACKGROUND**

4 8. On June 6, 2023, the Huntington Beach City Council voted to approve the formation
5 of the Charter Review Ballot Measure Ad Hoc Committee (“Committee”) to recommend
6 proposed City Charter amendments that could be placed before the City’s voters in the March
7 2024 Presidential Primary Election. (Ex. A, pp. 2–3; see also Ex. B.) The City Council
8 designated then-Mayor Tony Strickland to lead the Committee and select two additional
9 councilmembers to join the Committee. (*Ibid.*) Then-Mayor Pro Tem Gracey Van Der Mark and
10 then-Councilmember Pat Burns joined Mayor Strickland on the Committee. (Ex. A, pp. 2–3.) As
11 an ad hoc committee exempt from the public meeting requirements of the Ralph M. Brown Act
12 (Gov. Code, §§ 54950 et seq.), the Committee met behind closed doors.

13 9. The Huntington Beach City Council considered the Committee’s proposed City
14 Charter amendments on August 1, 2023. (Ex. C., p. 27.) Among the proposed amendments was
15 a proposal concerning “voter ID provisions for resident verification.” (Ex. D.) State Senator
16 Dave Min wrote to the City Council that day to express “deep concerns” about the proposal. (Ex.
17 E, p. 1.) The City Council continued to deliberate on the Committee’s proposed City Charter
18 amendments in the following weeks, including the amendment related to “asking in-person voters
19 to produce an ID . . . to verify they are on the voter roll.” (Ex. F, p. 2; see also Exs. G, H, I.)

20 10. On September 28, 2023, Petitioners sent a letter to the City explaining that the voter
21 identification provisions of the proposed City Charter amendment “conflict[] with state law and
22 would only serve to suppress voter participation without providing any discernible local benefit.”
23 (Ex. J, p. 2.) The letter “respectfully urge[d] [the City] to reject this proposed charter
24 amendment” and warned that “[i]f the City moves forward and places it on the ballot, we stand
25 ready to take appropriate action to ensure that voters’ rights are protected, and state election laws
26 are enforced.” (*Ibid.*) The American Civil Liberties Union of Southern California and Disability
27 Rights California sent a similar letter on October 5, 2023. (Ex. K.)
28

1 11. On October 5, 2023, the Huntington Beach City Council voted in favor of placing the
2 proposed City Charter amendment on the ballot at the upcoming March 2024 Presidential Primary
3 Election as Ballot Measure A. (Ex. L, p. 6.) Measure A was drafted to revise Section 702
4 (Procedure for Holding Elections) of the City’s Charter, providing that the provisions of the
5 Charter prevail over conflicting state election laws. (Ex. M, p. 2.) It also added Section 705
6 (Special Provisions Relating to Municipal Elections) to the Charter. Subdivision (a)(2) of Section
7 705 states that, “[b]eginning in 2026, for all municipal elections . . . [t]he City may verify the
8 eligibility of Electors by voter identification.”¹ (*Ibid.*) The City Attorney’s impartial analysis of
9 the measure recognized that it would “authorize, but not require, the City to: verify the eligibility
10 of Electors by voter identification.” (*Ibid.*)

11 12. On October 17, 2023, the Huntington Beach City Council adopted Resolution No.
12 2023-42, calling for a special City election that would include Measure A and be consolidated
13 with the March 5, 2024 Presidential Primary Election orchestrated by the County of Orange.
14 (Ex. N.)

15 13. While Section 705 appears to only apply to the City’s municipal elections, the City
16 routinely consolidates its elections with statewide general elections orchestrated by the County of
17 Orange. (See generally Elec. Code, §§ 10400 et seq.) Unless the City runs its own parallel
18 elections, Section 705, subdivision (a)(2) purports to empower the City to impose voter
19 identification requirements for all general state and federal elections. Regardless, for the reasons
20 set forth below, Section 705, subdivision (a)(2) is unlawful whether or not the City runs its own
21 parallel elections.

22 14. On November 22, 2023, a private citizen brought a pre-election challenge to Measure
23 A. (See *Bixby vs. Estanislau*, Orange County Super. Ct., Case No. 30-2023-01366664.) The
24 Court ultimately rejected the challenge as premature. (See Ex. O.)

25 15. Measure A was approved by 53.4% of the City’s voters in the March 5, 2024,
26 Primary Election, thereby incorporating Measure A’s provisions into the City’s Charter. (Ex. P.)

27 ¹ “Elector” is defined in subdivision (a)(1) of Section 705 as “a person who is a United States
28 citizen 18 years of age or older, and a resident of the City on or before the day of an election.”

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Writ of Mandate (Code of Civil Procedure § 1085; Preemption)**

4 **[Against All Respondents]**

5 16. Petitioners re-allege all paragraphs set forth above and incorporate them by reference
6 as though they were fully set forth in this cause of action.

7 17. Under the California Constitution, the laws of charter cities supersede state law with
8 respect to “municipal affairs,” but state law is supreme with respect to matters of “statewide
9 concern.” (Cal. Const., art. XI, § 5; *State Bldg. & Construction Trades Council of Cal. v. City of*
10 *Vista* (2012) 54 Cal.4th 547, 552.) Where local law conflicts with state law reasonably tailored to
11 the resolution of a statewide concern, the local law is preempted and invalid. (*Cal. Federal*
12 *Savings & Loan Assoc. v. City of Los Angeles* (1991) 54 Cal.3d 1, 7.)

13 18. California maintains a uniform and robust legal scheme for protecting the rights of
14 eligible voters and safeguarding the integrity of the electoral process. These laws preempt the
15 grant of authority under Section 705, subdivision (a)(2) of the Huntington Beach City Charter.

16 19. The California Constitution establishes that all citizens and residents of California at
17 least 18 years of age may vote. (Cal. Const. art. II, § 2; see also Elec. Code, § 2000.) It also tasks
18 the Legislature with “defin[ing] residence and provid[ing] for voter registration and free
19 elections” and “prohibit[ing] improper practices that affect elections.” (Cal. Const. art. II,
20 §§ 3, 4.)

21 20. The Legislature has satisfied these constitutional mandates by developing a statutory
22 scheme that carefully balances the right to vote with protections against illegal voting. Voter
23 identity and qualifications are generally confirmed with documentation and under penalty of
24 perjury during the registration process. (Elec. Code, §§ 2150, 2112, 2188, 2196; Cal. Code Regs.
25 tit. 2, §§ 19073, 20107; see also Elec. Code, §§ 18100, 18500.) Registered voters wishing to vote
26 in person must therefore only provide their name and address. (Elec. Code, § 14216; see also Cal.
27 Code Regs. tit. 2, § 19075.) Voter registration is within the sole purview of the Legislature,
28 except as mandated by court judgment or otherwise provided by statute. (Elec. Code, § 2100; see

1 also *id.* §§ 2157, 2196.) Consistent with these provisions, the Legislature has adopted a “Voter
2 Bill of Rights” that establishes, among other things, that registered voters “have the right to cast a
3 ballot.” (*Id.* § 2300.) Any challenge to voter identity or other qualifications must be based on
4 evidence constituting probable cause, at which point the challenged voter need only provide a
5 sworn oath to cast their ballot. (*Id.* §§ 14240 et seq., 18543.) Registered voters are presumed
6 qualified to vote. (*Id.* § 14251; see also *id.* § 14246.)

7 21. Section 705, subdivision (a)(2) conflicts with state law concerning voter eligibility
8 and the right to cast a ballot. It purports to authorize the City to demand supplemental
9 documentation from registered voters before they cast a ballot, usurping the Legislature’s
10 exclusive authority over voter registration, placing the onus on registered voters to establish their
11 eligibility to vote, and groundlessly challenging the right to vote. This additional burden on
12 voters cannot be reconciled with state law.

13 22. State law concerning voter eligibility and the right to cast a ballot in municipal, state,
14 and federal elections addresses matters of statewide concern. Protecting the integrity of the
15 electoral process, at both the state and local level, is a matter of statewide concern. (See *Jauregui*
16 *v. City of Palmdale* (2014) 226 Cal.App.4th 781, 801.) So, too, is the protection of the
17 constitutional rights of Californians, including the fundamental right to vote. (See *City of*
18 *Huntington Beach v. Becerra* (2020) 44 Cal.App.5th 243, 275; *Canaan v. Abdelnour* (1985) 40
19 Cal.3d 703, 714.) These concerns are “equally important” and mutually reinforcing. (*People v.*
20 *Gordon* (1855) 5 Cal. 235, 236.) Indeed, the California Supreme Court has recognized that “[i]t
21 is one of the high prerogatives of the state to provide for and insure honest elections,” for
22 “[w]ithout this safeguard the liberties of the people and the stability of the government would be
23 at an end.” (*Pierce v. Superior Court* (1934) 1 Cal.2d 759, 761.)

24 23. State law concerning voter eligibility and the right to cast a ballot is carefully
25 designed to promote these statewide concerns. Voters must confirm their identity when they
26 register to vote and face criminal liability for supplying fraudulent information, safeguarding
27 California’s elections from fraudulent voters. (Elec. Code, §§ 2150, 2188, 2196, 18100, 18500;
28 Cal. Code Regs. tit. 2, §§ 19073, 20107.) Once registered, however, voters are entitled to a more

1 streamlined process at the polls. (Elec. Code, §§ 2300, 14216; see also Cal. Code Regs. tit. 2, §
2 19075.) Only well-founded questions regarding a voter’s eligibility may interrupt the voting
3 process, and then only to a limited extent. (Elec. Code, §§ 14240 et seq., 18543.) These
4 requirements are uniform statewide, reducing potential voter confusion and inadvertent
5 disenfranchisement. They also conform with California’s plans to implement federal election
6 integrity and voting rights law. (See Help America Vote Act, 52 U.S.C. §§ 20901–21145; Ex. Q,
7 pp. 8–14.)

8 24. State law concerning voter eligibility and the right to cast a ballot does not
9 unnecessarily interfere with the City’s local governance. To the contrary, it assumes significant
10 election-related burdens for the City. For example, it obviates the need for the City to validate
11 voter identity during registration, maintain its own voter registration database, or confirm voter
12 eligibility at the polls. Meanwhile, Measure A contains no findings and cites no evidence that the
13 state’s uniform voter registration requirements and procedures for challenging voter eligibility at
14 the polls interfere with local governance. In fact, Measure A does not cite any evidence that
15 fraudulent voting occurs with any regularity in the City or has ever compromised the outcome of
16 a municipal election.² City Council members campaigning for Measure A made only vague and
17 conclusory statements that “trust in the outcome of elections comes into question when we can’t
18 always be certain who is voting,” and that voters in Huntington Beach “deserve to know, without
19 question, that their elections are secure.” (Ex. M, pp. 3, 4.) These statements are nothing more
20 than unsupported policy disagreements with state law, which already establishes a thorough,
21 carefully balanced scheme for ensuring voter eligibility at the polls while protecting the right to
22 vote.³

23 ² Casting the possibility of locating such evidence into doubt, the Orange County Registrar of
24 Voters recently underwent a rigorous evaluation and audit process and was granted ISO
25 9001:2015 certification, “an internationally recognized standard that ensures its services meet the
26 needs of stakeholders through the use of an effective quality management system.” (Ex. R, p. 2.)
The Registrar stated that “the certification process was rigorous and ensures that we are hyper
focused on detail, accuracy and integrity,” thereby “help[ing] to build confidence among voters.”
(*Id.*, p. 3.)

27 ³ Councilmember Strickland unsuccessfully endeavored to establish voter identification statewide
28 while serving in the California Legislature between 1998 and 2012. (See, e.g., Assembly Bill No.
247 (2003–2004 Reg. Sess); Ex. S.)

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Dated: April 15, 2024

Respectfully submitted,

ROB BONTA
Attorney General of California
R. MATTHEW WISE
Supervising Deputy Attorney General



MICHAEL S. COHEN
Deputy Attorney General
*Attorneys for the People of the State of
California; California Secretary of State*

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EXHIBIT A



City of Huntington Beach

File #: 23-700

MEETING DATE: 9/5/2023

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Al Zelinka, City Manager

PREPARED BY: Paul D'Alessandro, Acting Chief Assistant City Attorney

Subject:

Consider the submission of 3 Charter amendment ballot measures for voter approval at the March 5, 2024 Statewide Primary Election, and the adoption of Resolution Nos. 2023-42, 2023-43, 2023-44 and 2023-45

Statement of Issue:

Pursuant to City Council direction, the City Attorney's Office has worked with the Council's Ad Hoc Charter Revision Committee on several proposed City Charter amendments. The Ad Hoc Committee has reviewed and approved the attached proposed Resolutions, which contain revisions of the City Charter, Ballot questions, and exhibits for final consideration and approval by the full City Council. Adoption of the Resolutions is needed to place the Charter amendment measures on the ballot for the March 5, 2024 Statewide Primary Election for voter approval.

1. Resolution 2023-42 - A Resolution of the City Council of the City of Huntington Beach, California, Calling for the Holding of a Special Municipal Election to be held on Tuesday, March 5, 2024, for the Submission to the Voters Questions Relating to City Charter Amendments
2. Resolution 2023-43 - A Resolution of the City Council of the City of Huntington Beach, California, Requesting the Board of Supervisors of the County of Orange to Consolidate a Special Municipal Election to be held on March 5, 2024, with the Statewide Primary Election to be held on the Date Pursuant to § 10403 of the Elections Code
3. Resolution 2023-44 - A Resolution of the City Council of the City of Huntington Beach, California, Setting Priorities for Filing Written Arguments Regarding City Measures and Directing the City Attorney to Prepare Impartial Analysis
4. Resolution 2023-45 - A Resolution of the City Council of the City of Huntington Beach, California, Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Municipal Elections

Financial Impact:

The cost to place 3 ballot measures on the March 2024 Statewide Primary Election is roughly estimated at \$1,174,884 (or \$391,628 per measure).

The final cost for each ballot measure will rely on several factors including the number of pages required to present the measure and secondary expenses such as postage, printing and cost recovery for Orange County's Vote Center model. The Orange County Registrar of Voters (ROV) provided a rough estimate of \$327,428 - \$391,628 per ballot measure, which is the basis of the estimate above.

Given the variability of the costs, it is recommended that the City Council budget towards the higher end of the ROV's estimated range and appropriate \$1,200,000 in General Funds to business unit 10010201.

Recommended Action:

- A) Consider the three proposed Charter amendment ballot measures, ballot language, and exhibits for placement on the March 5, 2024 Statewide Primary Election ballot for voter approval; and
- B) Adopt Resolution 2023-42, "A Resolution of the City Council of the City of Huntington Beach, California, Call for the Holding of a Special Municipal Election to be held on Tuesday, March 5, 2024, for the Submission to Voters Questions Relating to City Charter Amendments," and
- C) Adopt Resolution 2023-43, "A Resolution of the City Council of the City of Huntington Beach, California, Requesting the Board of Supervisors of the County of Orange to Consolidate a Special Municipal Election to be held on March 5, 2024, with the Statewide Primary Election to be held on the Date Pursuant to § 10403 of the Elections Code," and
- D) Adopt Resolution 2023-44, "A Resolution of the City Council of the City of Huntington Beach, California, Setting Priorities for Filing Written Arguments Regarding City Measures and Directing the City Attorney to Prepare Impartial Analysis," and
- E) Adopt Resolution 2023-45, "A Resolution of the City Council of the City of Huntington Beach, California Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Municipal Elections," and
- F) Appropriate \$1,200,000 in General Funds to business unit 10010201.

Alternative Action(s):

Do not approve one or more recommended actions, and direct staff accordingly.

Analysis:

On June 6, 2023, City Council approved the formation of a Charter Review Ad Hoc Council Committee to recommend Charter amendments ([File #: 23-480](#)) [<https://huntingtonbeach.legistar.com/LegislationDetail.aspx?ID=6246350&GUID=54997A4C-DC06-4719-86CB-69EE98104FC2&Options=&Search=>](https://huntingtonbeach.legistar.com/LegislationDetail.aspx?ID=6246350&GUID=54997A4C-DC06-4719-86CB-69EE98104FC2&Options=&Search=>). The Ad Hoc Committee, comprised of Mayor

Strickland, Mayor Pro Tem Van Der Mark, and Council Member Burns, worked with the City Attorney to identify 7 proposed amendments. On August 1, 2023 ([File #: 23-670](#)) [<https://huntingtonbeach.legistar.com/LegislationDetail.aspx?ID=6300483&GUID=06DA0D45-0D09-450E-B077-58582029D8E7&Options=&Search=>](https://huntingtonbeach.legistar.com/LegislationDetail.aspx?ID=6300483&GUID=06DA0D45-0D09-450E-B077-58582029D8E7&Options=&Search=>), Council approved the 7 amendments, added 3 additional amendments, and directed the City Attorney to review each one and staff to prepare and return all materials required for submittal to the ROV for Council's consideration. In late August, the City Attorney's Office prepared the required materials and met with the Ad Hoc Committee to review them.

These proposals have been divided into three ballot measure questions for the March 5, 2024 primary election, which is an established, statewide election date. If approved the Measures will amend the Charter as follows:

Overview of Measure No. 1:

- Amend Section 702 regarding procedures for holding elections
- Add new Section 705 to verify the eligibility of electors using voter identification, require at least 20 residential voting locations, and monitor ballot drop boxes in the City.
- Amend Section 304(b) and 309 to revise the City Attorney's powers and duties to: allow full control of all legal business and proceedings; prohibit any reductions to the City Attorney's compensation and annual budget without a four-fifths Council vote; require all privileged communications remain confidential and inaccessible by any City official or third party without Council approval; all changes to Section 309 would take effect on January 1, 2027.
- Amend Section 310 such that qualifying for the City Clerk position would require any four-year Bachelor's degree, not limited to business, public administration or a related field.
- Add new Section 314 requiring any allegation of malfeasance, wrongdoing or misconduct against an elected City official be referred to the County District Attorney or other higher level government agency.

Overview of Measure No. 2:

- Add new Section 806 allowing the display a set selection of flags on City properties; requires a unanimous Council vote to display any other flag.
- Amend Sections 401 and 601-605 requiring the City to transition from an annual to biennial budget starting in 2026.
- Amend Section 300 to move the election of City Clerk and Treasurer to the same gubernatorial election cycle as the City Attorney; clarifies the commencement date of the terms of City elected officials.

Overview of Measure No. 3:

- Add new Section 618 requiring voter approval of certain City transactions that forgive, waive or forgo property tax collection by the City in excess of \$100,000 without both Council and citywide voter approval. Transactions to acquire property for public parks or infrastructure are exempted.
- Amend Section 612 to exempt the construction of public restrooms up to a certain size, as well as the construction and replacement of playground equipment up to a certain size from requiring citywide voter approval.

- Amend Section 303 to clarify that City Council meetings may be cancelled as needed by the Mayor or majority of Council Members.

Details of each proposed ballot question and redlined changes to the Charter are included in the attached Resolution Nos. 2023-42 and 2023-43, which call for a Special Municipal Election and ask that the County consolidate the Special Municipal Election with the Statewide Primary Election on the same date.

Adoption of Resolution No. 2023-44 would set priorities for filing written arguments for each measure and direct the City Attorney to prepare impartial analyses for measures where there is no conflict of interest. Resolution No. 2023-45 would provide for the filing of rebuttal arguments for each measure. Staff recommends identifying authors for arguments and rebuttals tonight. Following adoption of the Resolutions, the City will prepare an impartial analysis of each Measure and gather the arguments and rebuttals, all of which must be submitted to the County Registrar of Voters by the filing deadline of December 8, 2023.

Lastly, staff recommends appropriating \$1.2 million in General Funds to cover the estimated cost of placing 3 ballot measures on the March 2024 elections.

Environmental Status:

Pursuant to CEQA Guidelines Section 15378(b)(5), administrative activities of governments that will not result in direct or indirect physical changes in the environment do not constitute a project.

Strategic Plan Goal:

Non Applicable - Administrative Item

Attachment(s):

1. Resolution 2023-42, "A Resolution of the City Council of the City of Huntington Beach, California, Calling for the Holding of a Special Municipal Election to be held on Tuesday, March 5, 2024, for the Submission to the Voters Questions Relating to City Charter Amendments"
2. Resolution 2023-43, "A Resolution of the City Council of the City of Huntington Beach, California, Requesting the Board of Supervisors of the County of Orange to Consolidate a Special Municipal Election to be held on March 5, 2024, with the Statewide Primary Election to be held on the Date Pursuant to § 10403 of the Elections Code"
3. Resolution 2023-44, "A Resolution of the City Council of the City of Huntington Beach, California, Setting Priorities for Filing Written Arguments Regarding City Measures and Directing the City Attorney to Prepare Impartial Analysis"
4. Resolution 2023-45, "A Resolution of the City Council of the City of Huntington Beach, California Providing for the Filing of Rebuttal Arguments for City Measures Submitted at Municipal Elections"

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EXHIBIT B



**CITY OF HUNTINGTON BEACH
CITY COUNCIL MEETING – COUNCIL MEMBER ITEMS REPORT**

TO: CITY COUNCIL

FROM: PAT BURNS, COUNCIL MEMBER

DATE: JUNE 6, 2023

**SUBJECT: REQUEST TO FORM A CHARTER REVIEW AD HOC COUNCIL COMMITTEE TO
RECOMMEND PROPOSED CHARTER AMENDMENTS**

ISSUE STATEMENT

The proposals for Charter Amendments that were placed on the November 2022 ballot by the previous City Council failed. There are areas in the Charter that could use meaningful updates. The California primary is set for March 5, 2024. We should have a City Council ad hoc Committee assembled to return to the entire City Council with recommendations for Charter updates.

RECOMMENDED ACTION

Designate Mayor Tony Strickland to lead an ad hoc committee of himself and two other City Council members of his choice to work with the City Attorney's Office, if necessary, and to return to City Council at a regular City Council meeting in July of this year with recommendations for proposed Charter Amendments.

It is also requested that the City Clerk, who is our local elections official, provide a timeline of events or deadlines the City is required to meet in order to get any proposed City Charter Amendments on the ballot for the March 5, 2024 election.

STRATEGIC PLAN GOAL

Not applicable

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EXHIBIT C

Minutes

City Council/Public Financing Authority City of Huntington Beach

Tuesday, August 1, 2023
5:00 PM — Council Chambers
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of the 5:00 PM and 6:00 PM portions of this meeting is on file in the Office of the City Clerk, and archived at www.surfcity-hb.org/government/agendas/

5:00 PM — COUNCIL CHAMBERS

CALLED TO ORDER — 5:00 PM

ROLL CALL

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
Absent: None

CITY COUNCILMEMBER COMMENTS — None

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS PERTAINING TO CLOSED SESSION ITEMS (Received After Agenda Distribution) — None

PUBLIC COMMENTS PERTAINING TO CLOSED SESSION ITEMS — None

RECESSED TO CLOSED SESSION — 5:03 PM

A motion was made by McKeon, second by Van Der Mark, to recess to Closed Session.

Councilmember Kalmick stated his recusal from Closed Session Item 1 regarding Conference with Real Property Negotiators due to a financial conflict of interest with Huntington Central Park Equestrian Center, a professional client of his.

Mayor Strickland announced: Pursuant to Government Code Section 54956.8, the City Council takes this opportunity to publicly introduce and identify property negotiators: Chris Cole, Acting Deputy Director, Community & Library Services; Kriss Casanova, Economic Development Manager, Community Development; William Krill, Real Estate & Project Manager, Public Works. Also in attendance: Michael Gates, City Attorney; and Robin Estanislau, City Clerk. Negotiating parties: Mary Behrens, President, National Equestrian Centers, Inc. Under negotiation: Amendment to the current lease.

CLOSED SESSION

- 1. 23-661 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code section 54956.8.)**
Property: Huntington Central Park Equestrian Center located at 18381 Goldenwest Street, Huntington Beach, CA 92648 (APN: 894-901-96). Agency negotiator: Chris Cole, Acting Deputy Director, Community & Library Services; Kriss Casanova, Economic Development Manager, Community Development; William Krill, Real Estate & Project Manager, Public Works. Negotiating parties: Mary Behrens, President, National Equestrian Centers, Inc. Under negotiation: Amendment to the current lease.

6:00 PM — COUNCIL CHAMBERS

RECONVENED CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING — 6:00 PM

ROLL CALL

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
Absent: None

PLEDGE OF ALLEGIANCE — Led by Mayor Pro Tem Van Der Mark

INVOCATION

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

- 2. 23-662 Huntington Beach Police Chaplain James Pike**

CLOSED SESSION REPORT BY CITY ATTORNEY — None

City Attorney Michael Gates provided an explanation for withdrawing from Council consideration Consent Calendar Item #18 (23-656) regarding employment agreement with Randy Risner as Chief Assistant City Attorney.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads:

Council Committee Appointments #3 (1 email); City Attorney's Report #6 (1 PowerPoint communication and 1 letter); Consent Calendar Item #8 (2 communications), #10 (1 email), #20 (1 email), #23 (1 email); Administrative Items #27 (38 emails), #28 (1 Interdepartmental memo, 1 letter, and 30 emails); Councilmember Items #29 (1 letter, and 21 emails).

PUBLIC COMMENTS — 65 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Shirley Dettloff, a Huntington Beach resident since 1964, Former Councilmember, Mayor and co-author of the Huntington Beach Declaration of Policy on Human Dignity, was called to speak and stated her opposition to Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. She also stated her support for continuing the work of the Huntington Beach Human Relations Committee (HBHRC), and the Greater Huntington Beach Interfaith Council (GHBIC) which ensures Huntington Beach is living up to the Human Dignity policy. (00:10:14)

Elaine Bauer Keeley, daughter of deceased Ralph Bauer, a former Councilmember, Mayor, and co-author of the Huntington Beach Declaration of Policy on Human Dignity, was called to speak and stated her opposition to Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (00:13:37)

Unnamed Guest was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (00:17:02)

Wendy Rincon, a 49-year resident of Huntington Beach, was called to speak and stated her opposition to Administrative Items #28 regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024, Statewide Primary Election. (00:20:00)

Arthur Estrada, a resident at Skandia Mobile Home Park, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (00:21:58)

Roy C. McCord was called to speak and shared his opinions and concerns related to materials and resources for Huntington Beach public libraries, specifically titles of books which City Council does not feel are appropriate for the Children's Section. (00:25:15)

Paul Horgan, a Huntington Beach resident, was called to speak and shared his opinions, concerns and experience related to materials and resources for Huntington Beach public libraries, specifically titles of books which City Council does not feel are appropriate for the Children's Section. (00:28:39)

Shammy Dingus was called to speak and shared her concerns, questions and opposition to Administrative Items #28 regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024, Statewide Primary Election, and concerns and questions regarding the settlement of the Pacific Air Show lawsuit. (00:31:46)

Avery Counts, a Huntington Beach resident, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically regarding Recommendations #2, dissolution of the Huntington Beach Human Relations Committee (HBHRC) and #4, dissolution of the Mobile Home Advisory Board (MHAD). (00:35:10)

Andrew Einhorn, a Huntington Beach resident, was called to speak and stated his opposition to Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. Mr. Einhorn also stated his opposition to Administrative Items #28 regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024, Statewide Primary Election, specifically Section 310 (Clerk Qualifications), and Section 702 (Local Control Over Elections). (00:38:17)

Victor Leipzig, a 41-year resident of Huntington Beach, Former City Councilmember, Mayor, Planning Commissioner, and Liaison to many Committees and Boards, was called to speak and shared his opinion that proposed Charter amendments should be presented through open disclosure and opportunity for public response before being placed on any ballot. Mr. Leipzig stated his support for the comments made by Elaine Bauer Keeley in opposition to Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (00:41:20)

Randell Costello was called to speak and shared his opinions on Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (00:44:00)

Robin Estanislau, Huntington Beach City Clerk, was called to speak and shared her concerns and opposition to Administrative Items #28 regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024, Statewide Primary Election, specifically Section 300 (Clerk and Treasurer Election Cycle), Section 310 (Clerk Qualifications), and Section 702 (Local Control Over Elections), and asked that Council take no action on these sections. (00:47:22)

Joan Flynn, a 58-year Huntington Beach resident and former Huntington Beach City Clerk, was called to speak and stated her opposition to Administrative Items #28 regarding recommended Charter Amendments for placement as ballot measures at the March 5, 2024, Statewide Primary Election, specifically Section 310 (Clerk Qualifications). (00:50:49)

Ada Hand was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (00:54:59)

Allie Plum was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (00:57:37)

Donna Andrade, a 3-year Huntington Beach mobile home resident, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (01:01:01)

Jeanne Farrens, a resident of Skandia Mobile Home Park, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (01:03:02)

Unnamed Guest was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (01:06:44)

Mary Jo Baretich, a resident of Huntington Beach for over 40 years, and Mobile Home Advisory Board Member, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (01:07:47)

Jignesh Padhiar was called to speak and stated appreciation for City Attorney's Report #7, an update on Pacific Airshow v. City of Huntington Beach lawsuit. Mr. Padhiar also stated support for Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024, Statewide Primary Election, specifically Section 702 (Local Control Over Elections). (01:10:54)

Stephen Quinn was called to speak and stated support for Councilmember Items #29 amending the Declaration of Policy on Human Dignity. (01:12:58)

Jeanne Paris was called to speak and stated her support for Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees. Ms. Paris also stated support for Councilmember Items #29 amending the Declaration of Policy on Human Dignity. (01:15:04)

Ann Palmer, 30-year Huntington Beach resident, was called to speak and stated her support for Administrative Items #28 regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 300 (Term Commencement); Section 303 (Regular Meetings); her opposition to Section 612 (Measure C) b. Parks; support for Sections 601/602 (Annual Budget); and Section 702 (Local Control Over Elections). Ms. Palmer also shared her opinions regarding Administrative Items #27 regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, and stated her support for Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (01:17:23)

At 7:19 PM, Mayor Strickland called for a 5-minute recess to restore order in the Chambers.

Connie Boardman, former Huntington Beach Councilmember and Mayor, was called to speak and shared her opinions and experience related to the Pacific Air Show v. City of Huntington Beach lawsuit. Ms. Boardman stated her opposition to Administrative Items #28, regarding proposed Charter Amendments, specifically Section 300 (Clerk and Treasurer Election Cycle), Section 310 (Clerk Qualifications), and Section 702 (Local Control Over Elections). (01:22:59)

Gigi Jackson, a Huntington Beach resident, Homeless United Advocate, and NAACP Orange County Branch Secretary, was called to speak and stated opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC); and Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (01:25:14)

KC Fockler, a resident of Huntington Beach for over 40 years, and Environmental and Sustainability Board Member, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #5 dissolving the Environmental and Sustainability Board. (01:28:40)

Nora Pedersen, a 36-year resident of Huntington Beach, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and Councilmember Items #29 amending the Declaration of Policy on Human Dignity. (01:31:23)

Bud Benneman, Huntington Beach resident, Goldenwest College Professor of Geology, Surfrider Foundation Member, and Environmental and Sustainability Board Member, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #5 dissolving the Environmental and Sustainability Board. (01:32:49)

Debbi Parrott, Huntington Beach Human Relations Committee Member and former Vice Chair, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC). (01:34:53)

Jeff Rokos, a 25-year Huntington Beach resident, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees; and Administrative Items #28 regarding proposed Charter Amendments, specifically Section 300 (Clerk and Treasurer Election Cycle), Section 310 (Clerk Qualifications), and Section 702 (Local Control Over Elections). (01:37:41)

Colin Parrott, Huntington Beach Youth Board Former Member, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and Recommendation #7 regarding restructuring of the Huntington Beach Youth Board. (01:40:57)

Gary Miller, a resident of Huntington Beach since 1985, was called to speak and shared concerns about recent safety issues he experienced and observed near and on the Pier that did not result in issuance of a citation. Mr. Miller asked that in addition to educating the public on breaking the law, Huntington Beach Police Officers take more action to issue citations. (01:44:15)

Vanessa Chow, Huntington Beach Human Relations Committee Vice Chair, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC). (01:46:56)

Eric Silkenson, 51-year Huntington Beach resident, Huntington Beach City Council Candidate in 2020, and Mobile Home Advisory Board Chair, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB); and his opposition to Administrative Items #28, regarding Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 310 (Clerk Qualifications). (01:50:08)

Kim Carr, former Huntington Beach Councilmember and Mayor, was called to speak and shared what she described as factual errors in the PowerPoint presentation for City Attorney's Report, Agenda Item

#6 regarding the history of authorized actions in the Moore v. City, Gates lawsuit. Ms. Carr also stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 dissolving the Huntington Beach Human Relations Committee (HBHRC), and Recommendation #4 dissolving the Mobile Home Advisory Board (MHAB); Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 310 (Clerk Qualifications); and Councilmember Items #29 amending the Declaration of Policy on Human Dignity. (01:53:24)

Tim Geddes, 40-year Huntington Beach resident, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board (MHAB). (01:56:50)

Michael Gates, Huntington Beach City Attorney, Candidate for Re-Election in 2026, was called to speak and explained his perspective regarding comments made earlier in this meeting by City Clerk Robin Estanislau relating to proposed Charter Amendments, specifically Section 310 (Clerk Qualifications),. (01:59:50)

Linda Moon, a 49-year Huntington Beach resident, was called to speak and stated opposition to Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024, Statewide Primary Election, specifically Sections 303 (Regular Meetings), 601/602 (Annual Budget), 300 (Clerk and Treasurer Election Cycle), 310 (Clerk Qualifications), and 702 (Local Control Over Elections). (02:03:46)

Donna Taylor, a Huntington Beach mobile home resident for 39 years, was called to speak and proudly announced that she will be 92 years old this month. Ms. Taylor also requested that the Council consider the concerns shared by the City's mobile home residents and provide assistance. (02:07:12)

Peggy Willett was called to speak and asked that Councilmembers help address the concerns of the City's mobile home residents, many of whom are active and contributing in many different ways to enhance the quality of life for others. (02:08:35)

Sharon Petersen, a 30-year Huntington Beach mobile home resident, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), Recommendation #4 dissolving the Huntington Beach Mobile Home Advisory Board (HBHAB); and Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 702 (Local Control Over Elections). (02:09:45)

Todd Harkness, a Building Contractor, was called to speak and shared concerns about the Building Department's inspection processes for re-roof projects and related issues. Mr. Harkness asked for Council support to consider changes, and Mayor Strickland asked Mr. Harkness to complete a blue card for staff follow-up. (02:12:58)

Kathryn Goddard, a Huntington Beach resident since the 1980s, was called to speak and asked that Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, and Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide

Primary Election, specifically Section 702 (Local Control Over Elections) be withdrawn to allow time for proper transparency and public input. (02:14:26)

Amory Hanson was called to speak and stated his support for Consent Calendar Item #12 regarding a memorial plaque honoring Past Mayor Donald MacAllister as recommended by the Community & Library Services Commission. (02:16:35)

Unnamed Guest was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 dissolving the Huntington Beach Mobile Home Advisory Board (HBMAB). (02:17:54)

Ken Inouye, a 52-year resident of Huntington Beach, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendations #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and #4 dissolving the Huntington Beach Mobile Home Advisory Board (HBMAB). (02:21:11)

Kathy McGuire, a 32-year Huntington Beach resident, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendations #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and #4 dissolving the Huntington Beach Mobile Home Advisory Board (HBMAB). (02:24:07)

Russell Neal, a Huntington Beach resident, was called to speak and stated his support for Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC); Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 702 (Local Control Over Elections); and suggested that Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity, should be eliminated rather than amended. (02:26:16)

Kane Durham was called to speak and stated opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendations #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and #4 dissolving the Huntington Beach Mobile Home Advisory Board (HBMAB); and Councilmember Items #29 amending the Declaration of Policy on Human Dignity. (02:29:12)

Joanna Sousa was called to speak and stated her support for Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC). (02:31:18)

Unnamed Guest, a resident of Fountain Valley, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendations #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and #5 regarding dissolving the Environmental and Sustainability Board; Administrative Items #28, regarding proposed Charter

Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 702 (Local Control Over Elections); and Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity until such time as Councilmember Burns defines his goal for making changes. (02:33:00)

B. Channel was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendations #2 regarding dissolving the Huntington Beach Human Relations Committee (HBHRC), and #4 regarding dissolving the Mobile Home Advisory Board; Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 702 (Local Control Over Elections); and Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (02:36:07)

Nick McLachlan, resident of Huntington Beach Los Amigos Mobile Home Park, was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #4 regarding dissolving the Mobile Home Advisory Board; and Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election, specifically Section 702 (Local Control Over Elections). (02:39:24)

Marilyn Boehm, a 30-year Huntington Beach resident and Huntington Beach Human Relations Committee Former Member, was called to speak and stated her opposition to Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (02:42:37)

Kathleen McGowan, Environmental and Sustainability Board Member, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #5 regarding dissolving the Environmental and Sustainability Board. (02:46:02)

Kim King, a 45-year resident of Huntington Beach, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendations #2 regarding dissolving the Huntington Beach Human Relations Committee, and #4 dissolving the Huntington Beach Mobile Home Advisory Board (HBMAB); Administrative Items #28, regarding proposed Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election; and Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (02:48:57)

Chris Waring, resident of Surf City Cottages Home Park, was called to speak and shared his concerns related to major lease increases in recent years. He asked for Councilmember assistance in addressing the issues mobile home park residents are facing. (02:52:06)

Clare Bostick, a 46-year resident of Huntington Beach and retired public-school teacher, was called to speak and stated her opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee, and Councilmember Items #29 regarding amending the Declaration of Policy on Human Dignity. (02:55:19)

John Bostick was called to speak and stated his opposition to Administrative Items #27, regarding streamlining and restructuring select citizen-led Boards, Commissions, and Committees and Council

Committees, specifically Recommendation #2 regarding dissolving the Huntington Beach Human Relations Committee. (02:58:35)

Carol Kanode, Huntington Beach Youth Shelter Founder, was called to speak and asked why there is not a museum to celebrate and remember Huntington Beach's legacy and offered to help and assist with such a project. (03:01:53)

Justine Makoff, Free Rein Foundation Chief Financial Officer, was called to speak and invited everyone to attend the Foundation's fundraiser, Cattle Baron's Ball, on Saturday, August 12, 5:30 PM – 9:30 PM, Huntington Central Park Equestrian Center, Red Horse Barn. All details are available at www.freereignfoundation.org. (03:03:34)

Chris Byrnes, a 55-year Huntington Beach resident, was called to speak and shared his support for the four newly elected Councilmembers, City Attorney Michael Gates, and his perspective and opinions on a wide range of local politicians and issues. (03:05:22)

Dom Jones, a 9-year Huntington Beach resident, Ordained Minister and 47th District Congressional Candidate in 2024, was called to speak and shared her opinions and perspectives directed to Councilmembers encouraging them to use their power to do great things, with love, as they address the pains and fears of their constituents. (03:08:39)

Roger Noor was called to speak and thanked Mayor Strickland for following through to address his situation related to his car being towed and praised City Clerk Robin Estanislau and her staff for the cordial services he experienced. (03:11:16)

COUNCIL COMMITTEE APPOINTMENT ANNOUNCEMENTS

3. 23-664 Appointed Voting Delegate and Alternates for the League of California Cities Annual Conference and Expo - September 20-22, 2023

A motion was made by Strickland, second McKeon to appoint City Council Member Mayor Pro Tem Van Der Mark to serve as the voting delegate and City Council Member Burns as an alternate, to represent the City of Huntington Beach at the 2023 League of California Cities Annual Conference & Expo. The General Assembly will be held on Friday, September 22, 2023.

The motion carried by the following vote:

AYES: Kalmick, Van Der Mark, Strickland, McKeon, and Burns

NOES: None

ABSTAIN: Moser, and Bolton

AB 1234 REPORTING — None

OPENNESS IN NEGOTIATION DISCLOSURES — Councilmember McKeon reported meeting with representatives from the Firefighters' Association.

CITY MANAGER'S REPORT

4. 23-610 OneHB Public Service Excellence Vision

Al Zelinka, City Manager, Chris Tanio, Public Works Principal Civil Engineer, and Fire Department Division Chief Martin Ortiz, presented a PowerPoint communication titled *OneHB Service Vision Statement* with slides entitled: *HB Service Excellence Initiative (2)*; *3 Pillars of Service Excellence*; *Service Excellence Vision Development Process (2)*; *Service Vision Statement*; *Standard of Care*; *Service Vision (2)*; *Next Steps*; and *Service Vision*.

Councilmember Moser thanked staff for the presentation and discussed with City Manager Zelinka how performance will be measured and managed, the frequency of reporting, as well as integrating existing tools into the processes.

CITY TREASURER'S REPORT

5. 23-578 Received and Filed the City Treasurer's June 2023 Quarterly Report

Alisa Backstrom, City Treasurer, presented a PowerPoint communication titled *Quarterly Treasurer's Report Quarter Ended: June 30, 2023*, with slides entitled: *Economic Update*; *Interest Rates - US Treasury Yield Curve July 1, 2022 - June 30, 2023*; *Investment Portfolio - Summary, Quarter End 06/30/23*; *Investment Portfolio - Investments by Type Quarter End 06/30/23*; *Investment Portfolio - Selected Activity Quarter End 06/30/23*; *Investment Portfolio - Earnings*; *Selected Investment Policy Compliance Requirements Quarter End 6/30/23*; and *Summary*.

A motion was made by Strickland, second Kalmick to receive and file the City Treasurer's Quarterly Report for June 2023, pursuant to Section 17.0 of the Investment Policy of the City of Huntington Beach.

The motion carried by the following vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

CITY ATTORNEY'S REPORT

NOTE: *The Minutes maintain original Agenda order, rather than actual discussion order.*

6. 23-612 In response to Dec 20, 2022, City Council direction, received report on history of authorized actions in the Moore v. City, Gates lawsuit and report on review of RWG involvement

Michael Gates, City Attorney, presented a PowerPoint communication titled *Response to H Item Part 1* with slides entitled: *Richards Watson Gershon Report (44, including subtitles: December 20, 2022 H Item by Council Member McKeon, City of Huntington Beach Organization Chart, Moore, Field v. City, Gates Lawsuit, Independent Investigation, Review of Records revealed the following Preliminary Findings, which will be reviewed further)* and, *Thank You*.

City Attorney Gates verbally described a timeline of activities associated with the Moore, Field v. City, Gates Lawsuit, and RWG's involvement. Councilmember McKeon and Mayor Strickland both shared deep concerns about the information presented in the report regarding the actions of certain City employees and Councilmembers total disregard for attorney-client privilege.

City Attorney Gates confirmed there will be another report at a future date on additional details related to this lawsuit.

7. 23-671 Received Update on Pacific Airshow v. City of Huntington Beach lawsuit

City Attorney Gates reported that pursuant to the May 9, 2023, settlement, the City of Huntington Beach has been dismissed; however, former Mayor Carr remains a Defendant. He stated the first amendment complaint highlights the allegations that Defendants were sued because of how the Airshow was cancelled. He explained how the newly elected Council in December 2022 authorized him to take any and all legal action necessary to pursue those oil companies who caused/were involved in, the oil spill, and how he immediately retained a Plaintiff firm, The Robinson Law Firm, experienced in large, complex cases. He also explained that a delay in the legal process was created because the previous City Council declined to take legal action against the oil companies that caused the oil spill.

City Attorney Gates reported on the recent defeat of Connie Boardman and Mark Bixby's legal attempt to put a complete stop to the Airshow settlement, clearing the way for the 2023 Pacific Airshow to take place. He also described Council's decision to settle the lawsuit prior to the calendar hearing (a demur, or a challenge by a Defendant to a complaint), involving pleading to a judge that the facts alleged are insufficient to support the causes of action.

City Attorney Gates reported that the Gina Clayton-Tarvin lawsuit to compel the disclosure of the entire Settlement Agreement is still pending, explaining the decision to not disclose the entire Settlement Agreement document was pursuant to State law regarding pending litigation. In addition, The Robinson Law Firm attorneys, representing the oil company's lawsuit, have also opposed the release or disclosure of the entire Settlement Agreement document because of the potential impact on the success of the pending oil company's lawsuit. City Attorney Gates stated he has asked the attorneys to ask the court for an expedited in-camera review of the Settlement Agreement to make a swift and early determination one way or the other on that decision.

Councilmember McKeon directed residents to the OneHB website, under the Media/Press Releases tab, where the 2022 Airshow Economic Impact Report is available for review, highlighting some of the statistics shown in this report.

Mayor Strickland noted that the Economic Impact Report shows that 91% of the out-of-Orange County-guests to the Airshow, return to Huntington Beach for another event.

City Attorney Gates also announced that he and Mayor Strickland will provide more updates on the Airshow at the upcoming August 30 Town Hall meeting at the Senior Center in Central Park at 5:30 PM.

CONSENT CALENDAR

Councilmember Kalmick recused himself from voting on Item #15 because of financial conflict of interest in that Dianne Thompson is his Insurance Agent, and Councilmember McKeon pulled Item #21 for further discussion.

CITY CLERK**8. 23-652 Approved and Adopted Minutes as Amended by Supplemental Communication**

A motion was made by Strickland, second Kalmick to approve and adopt the City Council/Public Financing Authority special meeting minutes of June 8, 2023; and, approve and adopt the City

Council/Public Financing Authority regular, and Housing Authority special meeting minutes of July 18, 2023, **as amended by supplemental communication.**

The motion as amended carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

9. 23-663 Received July Update of Activities for Citizen Boards, Commissions, Committees (BCCs) and Regional Agencies

A motion was made by Strickland, second Kalmick to receive and file.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

COMMUNITY DEVELOPMENT

10. 23-630 Adopted Resolution 2023-35 Confirming Cost Report for Weed Abatement on Private Parcels within the City for the 2023 Season

A motion was made by Strickland, second Kalmick to adopt Resolution 2023-35 "A Resolution of the City Council of the City of Huntington Beach Confirming the Report of the Public Works Director Regarding the Cost for Weed Abatement on Private Property Within the City for the 2023 Season;" and, direct that all charges listed thereon be certified to the Orange County 2023/24 Property Tax Roll.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

COMMUNITY AND LIBRARY SERVICES

11. 23-631 Approved the Non-Exclusive License Agreement between the City of Huntington Beach and Children's Bureau of Southern California for the Operation of the Oak View Center

A motion was made by Strickland, second Kalmick to approve and authorize the Mayor and the City Clerk to execute the non-exclusive license agreement between the City of Huntington Beach and Children's Bureau of Southern California for the continued operation of the Oak View Center.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

12. 23-642 Approved the design concept and placement of a memorial plaque honoring Donald MacAllister, Past Mayor, on Tower Zero of the Huntington Beach Municipal Pier as recommended by the Community & Library Services Commission

A motion was made by Strickland, second Kalmick to approve the design concept and placement of a memorial plaque honoring Donald "Don" Andrews MacAllister at Tower Zero on the Huntington Beach Municipal Pier as recommended by the Community & Library Services Commission.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns

NOES: None

FIRE DEPARTMENT

13. 23-599 Approved and authorized execution of Amendment No. 2 to agreement between the City of Huntington Beach and Wittman Enterprises, LLC for additional compensation not to exceed \$320,000 to provide billing services for emergency paramedic and ambulance services

A motion was made by Strickland, second Kalmick to approve and authorize the Mayor and City Clerk to execute "Amendment No. 2 to Agreement between the City of Huntington Beach and Wittman Enterprises, LLC for Billing Services for Emergency Paramedic and Ambulance Services" for additional compensation not to exceed \$320,000.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns

NOES: None

14. 23-657 Approved and accepted the Fiscal Year (FY) 2022 Assistance to Firefighters Grant; authorized the Fire Chief and Chief Financial Officer to execute documents; and approved budget appropriations

A motion was made by Strickland, second Kalmick to approve and accept the FY 2022 Assistance to Firefighters Grant awarded to the City of Huntington Beach; and assign authority to the Fire Chief and Chief Financial Officer as the officials to execute and sign for the FY 2022 Assistance to Firefighters Grant award, agreement, amendments, and extensions; and approve the budget appropriations and expenditures of \$144,290.90, which is the federal award amount. The remaining \$14,429.10 non-federal matching requirement will be funded by existing budget appropriations in the FY 2023/24 Fire Department operating budget.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns

NOES: None

HUMAN RESOURCES

15. 23-639 Approved the reappointment of Dianne Thompson and appointment of Charles Barsam, Justin Betance and Ron Pasqual to the Personnel Commission, as recommended by Council Liaisons, Mayor Pro Tem Van Der Mark and Councilmember Burns

A motion was made by Strickland, second McKeon to approve the reappointment of Dianne Thompson, and the appointment of Charles Barsam, Justin Betance and Ron Pasqual to the Personnel Commission for the term of July 1, 2023 through June 30, 2025, as recommended by the Council Liaisons to the Personnel Commission.

The motion carried by the following roll call vote:

AYES: Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None
RECUSED: Kalmick (out of room)

16. 23-660 Approved Professional Services Contract between the City of Huntington Beach and INTERCARE for Workers' Compensation Third Party Administration of Claims

A motion was made by Strickland, second Kalmick to approve the Professional Services Contract between the City of Huntington Beach and INTERCARE for Workers' Compensation Third Party Administration of Claims for a three-year term.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

17. 23-501 Adopted Resolution No. 2023-36 of the City Council of the City of Huntington Beach approving the Side Letter to the Memorandum of Understanding between the City of Huntington Beach and the Huntington Beach Fire Management Association for the term July 1, 2021 through December 31, 2023

A motion was made by Strickland, second Kalmick to adopt Resolution No. 2023-36, "A Resolution of the City Council of the City of Huntington Beach Approving the Side Letter to the Memorandum of Understanding Between the City of Huntington Beach and the Huntington Beach Fire Management Association for the Term July 1, 2021 through December 31, 2023" authorizing the Side Letter between the City of Huntington Beach and the Huntington Beach Fire Management Association for the term beginning July 1, 2021 through December 31, 2023.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

18. 23-656 ~~ITEM 18 WITHDRAWN FROM CITY COUNCIL CONSIDERATION by City Attorney Michael Gates** Pursuant to the Non-Associated (NA) Resolution, approve Pay Step for new hire, Chief Assistant City Attorney, Randy J. Risner, and authorize the City Attorney to enter into such an employment contract~~**

POLICE DEPARTMENT

19. 23-647 Authorized use of Supplemental Law Enforcement Services Fund (SLESF) monies to fund up to \$500,000 in increased costs for the purchase of the City's third police helicopter

A motion was made by Strickland, second Kalmick to authorize the use of up to \$500K in SLESF funds to cover the outlined expenses; and appropriate up to \$500K from the SLESF fund balance to account 98470101.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

20. 23-648 Approved three-year agreement with Waymakers for Gang Prevention and Intervention Program services

A motion was made by Strickland, second Kalmick to approve and authorize the Mayor and City Clerk to execute a "Professional Services Contract between the City of Huntington Beach and Waymakers for the Management of Gang Prevention and Intervention Program."

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

21. 23-629 Approved and authorized execution of a one-year agreement with the Riverside County Sheriff's Department to participate in Operation Stone Garden

Councilmember McKeon pulled this item to provide Police Captain Svendsbo an opportunity to describe this important program. Captain Svendsbo stated that Operation Stone Garden provides funding for investments in enhanced cooperation and coordination among United States Border Patrol, and state and federal law enforcement agencies in securing the United States border for ingress along international borders to ensure resident and officer safety.

A motion was made by McKeon, second Strickland to approve and authorize Police Chief Eric G. Parra to execute the "Agreement for Fiscal Year 2022 Operation Stone Garden (OPSG);" and, appropriate \$369,000 in grant funding for Operation Stone Garden.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

22. 23-498 Approved and authorized the execution of contract amendments with Norman A. Traub & Associates, LLC and Beard Investigative Services, LLC for background investigative services, increasing compensation by \$75,000 per contract and extending the terms through June 30, 2024

A motion was made by Strickland, second Kalmick to approve and authorize the Mayor and City Clerk to execute "Amendment No. 3 to Agreement between the City of Huntington Beach and Norman A. Traub and Associates LLC for Background Services" (Attachment 1); and, approve and authorize the Mayor and City Clerk to execute "Amendment No. 2 to Agreement between the City of Huntington Beach and Beard Investigative Services LLC for Background Investigative Services" (Attachment 2).

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns

NOES: None

PUBLIC WORKS

23. 23-644 Accepted the lowest responsive and responsible bid and authorized the execution of a construction contract with Excel Paving Inc. for \$418,250 for the Flow Line Half Round Drainage Inlet Structures Project, CC1733

A motion was made by Strickland, second Kalmick to accept the lowest responsive and responsible bid submitted by Excel Paving Inc. in the amount of \$418,250; authorize the Mayor and City Clerk to execute a construction contract in a form approved by the City attorney; and approve the appropriation of \$180,988 from the Drainage Fund (211) to account 21188007.82500.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns

NOES: None

24. 23-621 Awarded and authorized the execution of a construction contract with Mehta Mechanical Company, Inc., in the amount of \$4,134,200 for the Humboldt Sewer Lift Station Replacement Project, CC-1634

A motion was made by Strickland, second Kalmick to accept the lowest responsive and responsible bid submitted by Mehta Mechanical Company, Inc., in the amount of \$4,134,200; and, appropriate \$887,502 from the undesignated Sewer Service fund balance to 51189017.82600; and, authorize the Mayor and City Clerk to execute a construction contract in a form approved by the City Attorney.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns

NOES: None

25. 23-608 Accepted the lowest responsive and responsible bid and authorized execution of a construction contract with Sancon Technologies, Inc. in the amount of \$1,318,770 for the Fiscal Year 22/23 Sewer Lining Project, CC-1728

A motion was made by Strickland, second Kalmick to accept the lowest responsive and responsible bid submitted by Sancon Technologies, Inc. in the amount of \$1,318,770.00; and authorize the Mayor and City Clerk to execute a construction contract in a form approved by the City Attorney.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

26. 23-565 Approved Sole Source Procurement Request with Cascade Pump Company for the servicing or replacement of mixed or axial flow pumps used at all 15 flood control stations

A motion was made by Strickland, second Kalmick to approve the sole source procurement request with Cascade Pump Company to service the City's existing Cascade pumps at its flood control stations.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

ADMINISTRATIVE ITEMS

27. 23-641 Approved recommendations to streamline and restructure a select number of citizen-led Boards, Commissions, and Committees and Council Committees

Travis Hopkins, Assistant City Manager, presented a PowerPoint communication titled Board, Commission, & Committee (BCC) Reconfiguration with slides entitled: *Background (2); Current BCC Structure by Number; Current BCC Structure by Type; Proposed Committee Recommendations by Category; Committee Recommendation 1; Committee Recommendation 2; Committee Recommendation 3; Committee Recommendation 4; Committee Recommendation 5; Committee Recommendation 6; Committee Recommendation 7; Committee Recommendation 8; Committee Recommendation 9; and Recommended Actions.*

Mayor Strickland made a motion to approve the recommended actions, as presented.

Councilmember Moser asked if each Recommendation could be considered separately, and Mayor Strickland withdrew his motion.

Councilmember Kalmick clarified with Mayor Strickland that the goal of these recommendations is to have staff presentations to the full City Council for full Council discussion and deliberation.

Councilmember Moser and members of the Ad Hoc Committee discussed whether the Huntington Beach Human Relations Committee is providing redundant services. Councilmember Moser shared her personal involvement as a member of the Human Relations Committee and stated she would not support dissolving this legacy Committee.

Councilmember McKeon stated his opinion that boards and commissions should encourage civic engagement of the residents in municipal affairs, but many of the existing boards and commissions are focused on private sector issues. Further, staff time should be spent on core local government functions, and he believes the Huntington Beach Human Relations Committee duplicates the efforts of the Orange County Human Relations Commission.

Councilmember Bolton expressed her frustration that the Ad Hoc Committee recommendations were made without much understanding of what these groups actually do, nor was there any attempt to

discuss possible dissolution with any of the affected boards, commissions or committees during the consideration process. She stated how important it is to have community commitment and involvement, and the amount of money being saved is minimal in her opinion. Councilmember Bolton recommended discussing alternative solutions with the impacted groups before just arbitrarily dissolving them.

Mayor Strickland stated that the citizens of Huntington Beach can always organize and meet, and noted that over three-quarters of Orange County cities are happy with the services provided by the Orange County Human Relations Commission in dealing with the same issues that Huntington Beach deals with.

Councilmember Kalmick and Mayor Strickland discussed staff recommendations made during the budget process to reduce the number of meetings and number of staff hours for selected boards, commissions and committees to help reduce costs. Councilmember Kalmick stated these boards, commissions and committees do not make policy decisions, but provide the service of informing Councilmembers. Councilmember Kalmick noted other committees which he thinks could probably be dissolved rather than some being considered in this item.

Mayor Strickland stated that this item is not an "end all be all" effort, and suggested that Councilmember Kalmick bring his recommendations forward for Council consideration at a future meeting.

Councilmember Bolton shared her opinion it is a shame to dissolve a commission with such great technical expertise, and thanked the Jet Noise Commission for the Southwest Airlines agreement to fly at a higher path when they can into Long Beach Airport.

Councilmember McKeon stated his personal commitment to the Jet Noise volunteers to continue as a working group.

Councilmember Kalmick, speaking as a former Jet Noise Commission Council Liaison, suggested recommending this Commission meet "as needed" rather than dissolving it.

Councilmember Burns stated his appreciation for everyone who has served on any of the boards, commissions and committees. He also explained the Ad Hoc Committee determined that Huntington Beach doesn't have any regulatory power regarding mobile home parks and therefore recommend dissolving the Mobile Home Advisory Board.

Councilmember Kalmick suggested modifying this Board into an "Attainable Housing Board" to provide advice and recommendations on providing and maintaining attainable housing as a whole within the community.

Mayor Strickland responded there is nothing prohibiting mobile home residents from forming their own non-profit or lobbying groups.

Councilmember McKeon stated this is the perfect example of an issue that should be handled in the private sector, and in his opinion the government should not interject itself into disputes between tenants and landlords. He noted that Huntington Beach does provide a Tenant Rental Assistance Program.

Councilmember Kalmick noted the Smart Cities and Technology Council Committee doesn't meet until there is a Council item that would require the expertise of those Committee members, and respectfully shared his opinion that the Environmental and Sustainability Board expertise may not exist within the Public Works Commission.

Mayor Strickland reiterated that all of these recommendations were vetted through staff discussions and recommendations.

Assistant City Manager Travis Hopkins and City Manager Al Zelinka confirmed their support for Recommendation #5 regarding dissolving the Environmental and Sustainability Board and transferring those duties to the Public Works Commission.

Councilmember Moser shared her opinion it will be a major loss for a coastal city to dissolve the Environmental and Sustainability Board in the middle of developing the Sustainability Masterplan.

Mayor Strickland noted that a "committee" is not necessary for community members to bring their expertise and advice to Councilmembers, and noted nothing in these Recommendations prevents Councilmembers from setting up Advisory Boards as needed.

Councilmember McKeon stated his support for making decisions on a major topic like options related to more local management of Pacific Coast Highway development through the Downtown/Main Street area, require a Study Session to ensure community involvement.

Councilmember Moser stated her support for this suggestion.

Councilmember Kalmick noted that ad-hoc committees are not required to meet behind closed doors and asked that this committee meet only as needed.

Mayor Strickland and Assistant City Manager Travis Hopkins explained Recommendation #7 is focused on creating a Youth Committee that is not restricted by Brown Act meeting regulations, and expanding the committee to include involvement with the new Youth Citizens Academy.

Councilmember Moser, speaking as a Former Huntington Beach Youth Board Council Liaison, stated her support for this change, and suggested the importance of also educating them on the Brown Act. She stated her support for continuing the Youth in Government Day event, and allowing the Youth Citizen Leaders Committee members the opportunity to determine some of the government functions they want to learn more about.

Councilmember Burns stressed the importance of Council Liaisons being available to address Youth Committee member questions, and Councilmember Moser stated the Council Liaisons should make the commitment to attend meetings and be involved from the start to the end of the meetings.

Mayor Pro Tem Van Der Mark clarified that she has a passion for youth and desires to see them more involved in local government, and noted Recommendation #7 will expand, rather than limit, youth opportunities.

Mayor Pro Tem Van Der Mark explained that during her campaign a number of young people she had dialogue with didn't know why the 4th of July is celebrated, and she believes that Recommendation #8 is a start to clarifying the real purpose behind the celebration.

Mayor Strickland commended every person involved in the 2023 event, especially the public safety staff, for a very successful celebration.

Councilmember Kalmick made a point of order comment that addressing the RFP process is not appropriate in this action item, and Mayor Strickland stated he understood reference to the RFP as basically informational for staff.

City Attorney Gates confirmed that reference to the RFP should be removed from this item.

Mayor Strickland explained City Council representation at the table is important when priorities are determined for large-scale events in Huntington Beach.

Councilmember Kalmick, Mayor Strickland and Assistant City Manager Travis Hopkins clarified that the Special Events Executive Committee should focus on "policy" and provide staff with some guidelines when large events are being considered as Councilmembers supported during Strategic Planning. Mayor Strickland confirmed that as a "standing" Council Committee, meetings would be noticed and open to the public and would function under Brown Act policies.

A motion was made by Strickland, second Burns to approve Committee Recommendation #1 — Dissolve Short-Term Rentals Ad-hoc Council Committee, Housing/RHNA Ad-hoc Council Committee, and Cannabis Regulation and Policy Ad-hoc Council Committee.

The motion carried by the following minute action:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

At 10:59 PM, a motion was made by Strickland, second by Burns, to continue the meeting past the hour of 11:00 PM. The motion was approved 7 – 0.

A motion was made by Strickland, second Van Der Mark to approve Committee Recommendation #2 — Dissolve Huntington Beach Human Relations Committee (HBHRC).

A substitute motion was made by Moser, second Kalmick to **Retain** the Human Relations Committee.

The substitute motion failed by the following minute action:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Mayor Strickland's motion seconded by Van Der Mark to approve Committee Recommendation #2 — Dissolve Huntington Beach Human Relations Committee (HBHRC) carried by the following minute action:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

A motion was made by Strickland, second Burns to approve Committee Recommendation #3 — Dissolve the Jet Noise Commission.

The motion carried by the following minute action:

AYES: Van Der Mark, Strickland, McKeon, and Burns

NOES: Kalmick, Moser, and Bolton

A motion was made by Strickland, second Van Der Mark to approve Committee Recommendation #4 — Dissolve the Mobile Home Advisory Board.

The motion carried by the following minute action:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

A motion was made by Strickland, second Burns to approve Committee Recommendation #5 — Dissolve the Smart Cities and Technology Council Committee (standing committee) and the Environmental and Sustainability Board and transfer their duties to the Citizen Infrastructure Advisory Board/Public Works Commission (CIAB/PWC).

The motion carried by the following minute action:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

A motion was made by Strickland, second Burns to approve Committee Recommendation #6 — Rename the Urban Design Study Ad-Hoc Committee to "Downtown and Beach Front ~~Ad-hoc~~ Committee" to broaden their scope of work, **as amended to meet on an "as needed" basis with required Public Notice.**

The motion carried by the following minute action:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

A motion was made by Strickland, second Burns to approve Committee Recommendation #7 — Restructure the Huntington Beach Youth Board as a Youth Citizen Leaders Committee, with specific, focused goals.

The motion carried by the following minute action:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

A motion was made by Strickland, second Van Der Mark to approve Committee Recommendation #8 — Restructure the Fourth of July Executive Board to be named as the Independence Day Board with more defined roles, **as amended to remove action to initiate a new RFP process.**

The motion carried by the following minute action:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

A motion was made by Strickland, second Burns to Committee Recommendation #9 — Restructure the Specific Events Executive Committee as a standing Council Committee to review Council's priorities for large-scale specific events.

The motion carried by the following minute action:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

A motion was made by Burns, second Strickland to direct staff to work with the City Attorney's Office and develop the appropriate Resolution(s), Ordinance(s), and other documents necessary to implement City Council directed adjustments and bring them back to the City Council; and direct staff to plan an appropriate event to recognize and thank citizen appointees who will be retiring due to this restructuring effort for their contribution.

The motion carried by the following minute action:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Burns
NOES: Bolton

28. 23-670 Considered and approved individually, by straw vote action, the City Council Charter Review Ad Hoc Committee's recommended Charter Amendments for placement as ballot measures at the March 5, 2024 Statewide Primary Election

Travis Hopkins, Assistant City Manager, and Robin Estanislau, City Clerk, presented a PowerPoint communication titled *Charter Review Ad Hoc Committee's Proposed Charter Amendments* with slides entitled: *Recommended Charter Amendment Timeline*; *Charter Review Ad Hoc Committee's Proposed Charter Amendments (5)*; and *Recommended Actions*.

Mayor Strickland clarified for the record that the City Council Charter Review Ad Hoc Committee's Section 310 (Clerk Qualifications) recommendation only requires any four-year bachelor's degree and only removes the verbiage he described as "subjective". He confirmed that the other requirements listed for the successful candidate to complete within three years will still stand.

City Attorney Gates noted that in the past the City Clerk educational requirement, as currently worded, has generated questions and required research which never resulted in clear, non-subjective interpretation.

Mayor Strickland explained that some municipalities in Northern California have "Choice" voting for specific situations, and noted that Section 702 (Local Control Over Elections) is an effort to determine if it is feasible for Huntington Beach to set up more polling locations, get more people involved in the voting process, and require Voter ID for municipal elections. This recommendation is not intended to get rid of State or County Election Codes.

City Attorney Michael Gates stated for the benefit of the public that currently Charter Section 702 specifically provides that "all elections shall be held in accordance with the provisions of the Election Code of the State of California," and confirmed with Mayor Strickland that the City Charter Review Ad Hoc Committee desires to have local control on the three items just referenced by Mayor Strickland.

Councilmember Kalmick questioned a point of order in that Ad Hoc Committee recommendations include, "and anything else," and City Attorney Gates opined straw vote actions will allow discussion, and all items will return at a future meeting where the public will have opportunity to comment.

Councilmember Burns requested that the City Flag Ordinance provisions be incorporated into the City Charter, as amended to include the Olympic Flag.

Councilmember McKeon read the full text for his July 18, 2023 "H" item: "An amendment to the City Charter that would restrict City Council from engaging in real property transactions that would require the City of Huntington Beach to forgo regularly collected property taxes on investment property, unless those purchases are approved by the voters of the City of Huntington Beach. Exceptions to this rule would/may include real property transactions that are important for acquisition of private property for infrastructure."

Councilmember Kalmick shared his understanding that Councilmember McKeon's approved "H" item requested that the Ad Hoc Committee address possible pitfalls and recommend language, and questioned if the Committee still needs to meet on this item. City Attorney Gates noted that all proposed Charter amendments will be finessed during future Councilmember presentation discussions.

Councilmember McKeon, speaking as a member of last year's Charter Review Committee, stated the importance of clarifying Charter language relating to the City Attorney's elected role to provide exclusive legal counsel for the City, acknowledges his authority to hire outside counsel, protects attorney-client privilege communications and work product, establishes internal investigation protocol, to ensure the situation City Attorney Gates described in his report earlier this evening (Agenda Item #6) never happens again.

Mayor Strickland and City Attorney Gates discussed the illegality of accessing and sharing attorney-client privilege communications which recently happened, and noted the issue will be addressed by clarifying proper processes.

Councilmember Kalmick stated, as a point of order, that Councilmember McKeon's item appears to substantially alter the rights or benefits of the City Attorney's role and may be illegal to put on a Primary ballot under SB 311.

City Attorney Gates explained that the issue is initially presented tonight, and that Chief Assistant City Attorney Paul D'Alessandro will be handing these items for review and will advise how to proceed.

Councilmember Bolton, Councilmember McKeon, City Attorney Gates and City Manager Zelinka discussed Councilmember McKeon's recommendation that for any issues related to the conduct of any City elected official or a staff member, a third-party public agency could be utilized as determined by the recommendation of the City Attorney.

Discussion ensued on the proposed amendment to Section 612 (Measure C). Councilmember Moser recommended that Community and Library Services staff be asked to determine what the numbers should be regarding expansion of the existing footprint for playground facilities and equipment. She further expressed her interest in addressing the issue of building a new public restroom where one doesn't currently exist. Councilmember Moser also requested that staff provide some guidelines to define a "structure" as related to beaches and parks.

City Attorney Gates stated the purpose of this item is to make it possible for the City to make beach and park improvements and/or alterations without having to always bring the item to a vote of the people per Measure C requirements. He noted that there is a difference between improving an existing structure vs building new.

Mayor Strickland requested that the Council move forward with conducting straw vote action.

Councilmember Kalmick asked if costs for Charter Amendments could be reduced by placing them on the November ballot rather than in March, and City Clerk Estanislau confirmed she will find out and report back.

A motion was made by Strickland, second McKeon to approve Section 300 (Term Commencement): the term of the elected candidate is to commence at the first regular City Council Meeting following the City's certification of the election, rather than the "Monday" following.

The motion carried by the following straw vote:

AYES: Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: Kalmick

A motion was made by Strickland, second Burns to approve Section 303 (Regular Meetings): the cancellation of a City Council Meeting may occur when there is a lack of a quorum or is cancelled by the Mayor or Majority of Council Members.

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

A motion was made by Strickland, second McKeon to approve Section 612 (Measure C): Beaches and Parks: revise to provide more allowance to restroom and other existing facilities remodels, with no cost/price cap, only allowing expansion of the facility footprint up to 20% within a 10 year period; **as amended to include new restroom facilities**; Parks: revise children's playground facilities and equipment, both for new installations and for replacement installations; and replacement installations of playground facilities and equipment would be limited to not expand the existing footprint of more than ~~400~~ **20%** within a 10 year period, **or 100% in perpetuity, as amended.**

The motion carried by the following straw vote:

AYES: Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: Kalmick

Prior to a straw vote regarding Section 601/602 (Annual Budget), Councilmember Moser asked staff if there are any drawbacks to changing from an Annual Budget as recommended in Section 601/602 (Annual Budget).

Sunny Han, Chief Financial Officer, stated her support for this change and noted there are significant advantages, and there would still be the need for mid-year adjustments. City Manager Zelinka stated he has experience with two-year budgets and noted there are many more upsides than drawbacks.

A motion was made by Strickland, second McKeon to approve Section 601/602 (Annual Budget): revise to submission of two-year budgets in even **or odd** years, **as amended**.

Councilmember Kalmick asked, and staff acknowledged that an appropriate timeline for making this change will be provided.

The motion carried by the following straw vote:

AYES: Moser, Van Der Mark, Strickland, McKeon, and Burns

NOES: Kalmick, and Bolton

A motion was made by Strickland, second Burns to approve Section 300 (Clerk and Treasurer Election Cycle) to change election cycle to Gubernatorial for Treasurer and Clerk positions.

Councilmember Kalmick questioned the need for this amendment, and explained that the current voting cycle for elected officials was determined as the best way to prevent the potential for having four new City Council members at the same time as a new City Clerk and Treasurer. He also questioned how this change could be implemented without having the current City Clerk and Treasurer actually serve 6-year, rather than 4-year terms. Mayor Strickland stated these details would be addressed by staff in the process of returning these items for final Councilmember votes.

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns

NOES: Kalmick, Moser, and Bolton

Mayor Strickland clarified again that the only purpose of Section 310 (City Clerk) recommendation is to remove the subjective text, ". . .in business, public administration, or a related field,".

Councilmember Bolton asked if there has ever been a dispute regarding this issue, and City Clerk Estanislau stated to the best of her knowledge not related to the City Clerk position, however, attorney advice was previously required for the City Treasurer position to determine if a potential candidate was qualified.

City Attorney Gates stated there have been potential candidate inquiries in the past brought to his office and noted in doing historical research they could not find a "bachelor's in business" degree, but rather a Bachelor of Science in Business Administration, or Business Management seems to be the correct nomenclature.

A motion was made by Strickland, second Burns to approve Section 310 (Clerk Qualifications) "To become and remain eligible for City Clerk, the person elected or appointed shall have a Bachelor's Degree in ~~business, public administration, or a related field~~, and hold a certification as a Municipal Clerk or obtain such certification within the first three years in office." or modify so that Clerk position requires any four-year Bachelor's Degree for clarifying candidates

Councilmember Moser questioned qualifying a candidate whose degree in no way relates to the profession and does not offer the appropriate skills or knowledge to responsibly fill the position.

Councilmember Kalmick suggested that the Certified Municipal Clerk (CMC) certification also be required of a qualified candidate, rather than allowing three years to acquire the certification.

In response to Councilmember Moser's inquiry, City Clerk Estanislau described the International Institute of Municipal Clerk's Association (IIMC) "points" system to earn the CMC designation, and why a three-year timeframe may be needed to attend the Technical Track for Clerks (TTC) program that offers classes to earn points for those with little or no education, or prior municipal experience.

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns

NOES: Kalmick, Moser, and Bolton

Mayor Strickland clarified the goal for approval of Section 702 (Local Control over Elections) is not to remove the State or County Election Codes or services, but rather to determine if, for municipal elections, Huntington Beach can expand the number of polling locations, require voter ID, and monitor ballot drop boxes.

A motion was made by Strickland, second Burns to approve Section 702 (Local Control over Elections) remove exclusive reliance on State Elections Code for all aspects of elections; add that for Municipal Elections, the City will maintain local control over voter ID provisions for resident verification; require/provide at least 12 polling locations/facilities throughout the City for in-person voting; and provide that the city will require/provide for monitoring of ballot drop boxes.

Mayor Strickland and Councilmembers Bolton, Kalmick and McKeon discussed what "monitoring ballot drop boxes" means, voter fraud implications for Orange County, and why requiring voter ID is being proposed. Councilmember McKeon asked that staff return this item to include "Voter ID" definition and review the changes that the state of Georgia made that resulted in increased voter turnout.

City Clerk Estanislau explained that every Orange County voter receives a mail-in ballot, that use of County vote centers is not restricted to the residents of the city the vote center is located in, and that the Voters' Rights Act determines the number of voting locations based on voter registration and population.

City Attorney Gates stated that as a matter of law, from initial research, it appears the three options being considered for this item are possible.

Councilmember Moser requested that if these suggestions related to voting are possible, when the items return, costs to implement the discussed options.

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns

NOES: Kalmick, Moser, and Bolton

A motion was made by McKeon, second Burns to approve adding the City's Flag Ordinance into the City's Charter, **as amended to also include the Olympic flag.**

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns

NOES: Kalmick, Moser, and Bolton

A motion was made by McKeon, second Strickland to approve an amendment to the City Charter that would restrict City Councils from engaging in real property transactions that would require the City of Huntington Beach to forgo regularly collected property taxes on investment property, unless those purchases are approved by the voters of the City of Huntington Beach. Exceptions to this rule would/may include real property transactions that are important for acquisition of private property for infrastructure.

Councilmember Moser stated her general opposition to taking action on all proposed Charter amendments without an open and transparent process that includes public participation/discussion.

Mayor Strickland responded that none of these items can be enacted without voter approval, and noted that discussions, including public input on each item, will take place as the process moves forward.

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

A motion was made by McKeon, second Strickland to approve incorporating language clarifying that the City Attorney is the exclusive legal counsel for the City; City Attorney Hiring Authority; Attorney-Client Privilege Communications and Work Product; and Internal Investigation Protocol

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

A motion was made by McKeon, second Strickland to direct the City Attorney to review each proposed amendment and direct staff to prepare and return ballot measure language and all other materials required for submittal to the ROV for City Council consideration.

The motion carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

COUNCILMEMBER ITEMS

29. 23-672 Approved Item Submitted by Councilmember Burns — Amending the Declaration of Policy on Human Dignity

Councilmember Burns noted that on November 16, 2021, the Huntington Beach City Council voted that the Declaration of Policy on Human Dignity, originally implemented on May 6, 1996, be amended and renamed Declaration on Policy on Human Dignity. The November 16, 2021, amendment included significant revisions to the language of the 1996 Declaration. His intent is to ask Councilmembers to further amend the Declaration, or cancel it, through an Ad Hoc Committee of three members and present recommendations at the October 3, 2023 City Council Meeting.

Councilmember Kalmick stated he cannot support the creation of another Ad Hoc Committee to meet behind closed doors, and shared his opinion there is no need to change anything within the Declaration of Policy on Human Dignity.

Councilmember Moser stated her support for a document that shows the vision for the kind of community we want to have where everyone has dignity and feels safe. She stated this document is a testament to the City's commitment to uphold the dignity of the community.

Councilmember Burns noted that the Declaration was dramatically amended in November 2021, and he is presenting an opportunity to re-evaluate whether the original Declaration should be reinstated, or possibly totally cancelled, and return to using the full Constitutional protection that everyone already has.

Councilmember Moser noted that one of the November 2021 updates included Penal Code updates, and she asked that the Ad Hoc Committee members be announced at this meeting.

Mayor Strickland appointed Mayor Pro Tem Van Der Mark, and Councilmembers McKeon and Burns to this Ad Hoc Committee.

Councilmember Moser and Mayor Pro Tem Van Der Mark exchanged words regarding alleged past statements pertaining to the Holocaust and personal associations with the Proud Boys that should prevent Mayor Pro Tem Van Der Mark from serving on the Ad Hoc Committee.

City Attorney Gates interrupted the discussion to note it is not appropriate in this meeting to interrogate anyone about their beliefs in this manner and discuss non-agendized topics.

A motion was made by Strickland, second McKeon to recommend that the City Council amend the Declaration of Policy on Human Dignity through an Ad Hoc Committee of three City Council members (**Van Der Mark, McKeon, Burns**) appointed by the Mayor; and, the amendments to the Declaration of Policy on Human Dignity be presented at a future City Council Meeting on October 3, 2023 for approval of the newly amended Declaration of Policy on Human Dignity.

The motion carried by the following roll call vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

ADJOURNMENT — at 1:16 AM on Wednesday, August 2, 2023, a motion was made by McKeon, second by Van Der Mark, to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, September 5, 2023, in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

The Huntington Beach City Council/Public Financing Authority regular meeting of August 15, 2023 has been cancelled due to a lack of quorum.

INTERNET ACCESS TO CITY COUNCIL/PUBLIC FINANCING AUTHORITY AGENDA AND
STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO CITY COUNCIL MEETINGS AT
<http://www.huntingtonbeachca.gov>



City Clerk and ex-officio Clerk of the City Council
of the City of Huntington Beach and Secretary of
the Public Financing Authority of the City of
Huntington Beach, California

ATTEST:



City Clerk-Secretary



Mayor-Chair

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EXHIBIT D

Charter Review Ad Hoc Committee Proposals

1. **Section 300 (Term Commencement)**
 - a. Change that the term of the elected candidate to commence at the first regular City Council Meeting following the City's certification of the election, rather than the "Monday" following.
2. **Section 303 (Regular Meetings)**
 - a. Provide that the cancellation of a City Council Meeting may occur where there is a lack of quorum or is cancelled by the Mayor or Majority of Council Members.
3. **Section 612 (Measure C)**
 - a. Beaches and Parks: Revise to provide more allowance to restroom and other existing facilities remodels, with no cost/price cap, only allowing expansion of the facility footprint up to 20% within a 10 year period
 - b. Parks: Revise children's playground facilities and equipment, both for new installations and for replacement installations
 - i. Replacement installations of playground facilities and equipment would be limited to not expand the existing footprint of more than 100% within a 10 year period
4. **Sections 601/602 (Annual Budget)**
 - a. Revise to submission of two-year budgets in even years
5. **Section 300 (Clerk and Treasurer Election Cycle)**
 - a. Change election cycles to Governatorial for Treasurer and Clerk positions
6. **Section 310 (Clerk Qualifications)**
 - a. Modify such that Clerk position requires any four-year Bachelor's Degree, remove additional requirements for qualifying candidates
7. **Section 702 (Local Control over Elections)**
 - a. Remove exclusive reliance on State Elections Code for all aspects of elections; add that for Municipal Elections, the City will maintain local control over voter ID provisions for resident verification; require/provide at least 12 polling locations/facilities throughout the City for in-person voting; and provide that the City will require/provide for monitoring ballot drop boxes.
8. **Any other Proposal Suggested by City Council at the Time of the Meeting**

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EXHIBIT E

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FINANCIAL INSTITUTIONS
BUDGET AND FISCAL REVIEW
BUDGET SUBCOMMITTEE #1
ON EDUCATION
ENERGY, UTILITIES AND
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August 1, 2023

Mayor Tony Strickland
Council Member Rhonda Bolton
Council Member Dan Kalmick
Council Member Natalie Moser

Mayor Pro Tem Gracy Van Der Mark
Council Member Pat Burns
Council Member Casey McKeon

Huntington Beach City Hall
2000 Main Street
Huntington Beach, CA 92648
City.Council@surfcity-hb.org
Via electronic mail

Re: Charter Amendment 702 and Voter Suppression

Dear Mayor Strickland, Mayor Pro Tem Van Der Mark and Councilmembers,

I write to you to express my deep concerns about your City Council Charter Review Ad Hoc Committee's recommended Charter Amendment Section 702,¹ which will be discussed at tonight's City Council meeting. While your Charter Review Ad Hoc Committee has not provided much detail on this proposed Charter Amendment—a lack of transparency which itself raises great concern—what is described raises great concern that this proposed change, either on its face or as implemented, would greatly impede the rights of voters in Huntington Beach to vote in municipal, state, and federal elections.

Specifically, Section 702 is described as follows:

Remove exclusive reliance on State Elections Code for all aspects of elections; add that for Municipal Elections, the City will maintain local control over voter ID provisions for resident verification; require/provide at least 12 polling locations/facilities throughout

¹ "Charter Review Ad Hoc Committee Proposals," Huntington Beach City Council Charter Review Ad Hoc Committee Attachment 1, July 26, 2023, available at <https://huntingtonbeach.legistar.com/View.ashx?M=F&ID=12187416&GUID=CA42FA63-5901-442D-AEA0-AADF06CB3AED>

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the City for in-person voting; and provide that the City will require/provide for monitoring ballot drop boxes.²

As you know, while it is well recognized that charter cities in California have broad authority over local matters,³ this municipal authority is limited and must be consistent with the Constitution and general laws of both the state of California and the United States.⁴ Charter cities have presumptive authority over the “manner” or “conduct” in which municipal elections are carried out, but this authority is limited when a matter of “statewide concern” is implicated.⁵

Again, it is unclear what the proposed charter amendment would do, since the item does not yet have specific language. However, public statements made by Huntington Beach Mayor Tony Strickland on this proposal give us some idea of what is being proposed, and it is alarming. In an interview with the Voice of OC, Mayor Strickland says that new rules are necessary to help strengthen faith in the integrity of local elections, noting that “Our democracy does not work if people do not have faith in the election results... Anytime you can put safeguards in I think it’s important to do so people have faith in our election outcomes.”⁶ Mayor Strickland further states that the intention of the as-yet unreleased Charter Amendment would be, among other things, to require voter identification to be presented for all in-person voting, saying, “You’d have to show an ID when you show up to vote in the polls.”⁷

² *Ibid.*

³ See Article IX, Section 7 of the California Constitution, which grants a city broad discretionary authority to “make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws.” See also *State Building & Construction Trades Council of California v. City of Vista*, 54 Cal. 4th 547, 555 (2012) (“Charter cities are specifically authorized by our state Constitution to govern themselves, free of state legislative intrusion, as to those matters deemed municipal affairs”).

⁴ See California Government Code § 37100 (“The legislative body [of a city] may pass ordinances not in conflict with the Constitution and laws of the State [of California] or United States.” See also *Carlin v. City of Palm Springs*, 14 Cal.App.3d 706, 711 (1971) (Municipalities have broad powers, “providing the power is exercised within the confines of the city and is not in conflict with the state’s general laws”) (citing *People v. Taylor*, 33 Cal.App.2d.Supp. 760, 761 (1956)).

⁵ See *Johnson v. Bradley*, 4 Ca. 4th 389, 399 (1992) (citing *California Fed. Savings & Loan Assn. v. City of Los Angeles*, 54 Cal. 3d 1, 17 (1991)).

⁶ Noah Biesiada, *Surf City to Consider Requiring Voter ID and Ballot Box Monitoring*, VOICE OF OC, July 31, 2023, available at <https://voiceofoc.org/2023/07/surf-city-to-consider-requiring-voter-id-and-ballot-box-monitoring/>

⁷ *Ibid.*

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To state the obvious, there has been no compelling evidence of widespread election fraud, and I am not aware of any claims that California elections, especially local elections, have experienced any issues that would lead to voters questioning their integrity. While former President Donald Trump and some of his extremist MAGA allies have alleged that there was widespread voter fraud in the 2020 election, these claims have been entirely unsubstantiated, and numerous Trump lawyers have faced sanctions for their role in filing lawsuits based on these false and wholly unmerited claims.⁸ It has become increasingly evident that Donald Trump made these claims in a desperate play to try to illegitimately overturn election results he knew to be valid.⁹ But these false claims of election fraud have had dire and violent consequences, including but not limited to the January 6 attacks on the U.S. Capitol.

Section 702—which would implement new (if as yet unspecified) voter identification requirements and also allow for ballot box monitoring—raises a number of major concerns, which I hope you will address.

- Why is this measure needed? What credible evidence has there been that Huntington Beach municipal elections have recently, or ever, experienced fraud or other election integrity issues? After all, the 2022 elections seated the City Councilmembers and Mayor who are apparently behind this Charter Amendment, electing Mayor Strickland as well as Councilmembers Pat Burns, Casey McKeon and Gracey Van Der Mark.
- What guardrails would be in place to ensure that ballot box “monitoring” does not lead to voter intimidation or racial profiling? Given that similar measures to allow ballot monitoring have led to deliberately intimidating behavior, including “questioning voters, brandishing weapons, taking pictures of people voting and following or chasing voters who are attempting to drop off their ballots,”¹⁰ how can you assure voters and the state

⁸ See, e.g., Pete Williams and Dartunorro Clark, *Federal Judge Sanctions Trump Attorneys For Spreading False Election Fraud Claims*, NBC NEWS, Aug. 25, 2021, available at <https://www.nbcnews.com/politics/politics-news/federal-judge-sanctions-trump-attorneys-spreading-false-election-fraud-claims-n1277664>

⁹ See Ashley Parker, *January 6 Hearing Shows Trump Knew He Lost—Even While Claiming Otherwise*, THE WASHINGTON POST, Oct. 14, 2022, available at <https://www.washingtonpost.com/national-security/2022/10/14/trump-knew-he-lost-jan-6/>

¹⁰ See Ben Giles, *Monitors at Arizona Ballot Drop Boxes Draw Complaints of Voter Intimidation*, NPR, Oct. 26, 2022 (quoting then-Arizona Secretary of State Katie Hobbs), available at <https://www.npr.org/2022/10/26/1131474648/arizona-ballot-drop-boxes-mules-voter-intimidation>

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legislature that ballot monitoring in Huntington Beach would not lead to similar infringements on the state and federal constitutional rights of HB voters?

- What impact will this have on voters who seek to vote in state and federal elections? To the extent that federal and state elections voting are typically held at the same ballot boxes as municipal elections, any imposition of ballot box monitoring or voter ID requirements will invariably impact those seeking to vote in federal and state elections, in contravention of federal and state law. Moreover, even if such requirements are purely limited to municipal elections, how would you address the state and federal concern that this would lead to a "chilling effect" on those seeking to vote?

While I am unable to attend your meeting tonight in person, I look forward to hearing the discussion. I know you all agree with me that free and fair elections are the cornerstone of our democracy, and I hope you are able to address these concerns.

Very truly yours,

A handwritten signature in black ink, appearing to read "DM", with a long horizontal flourish extending to the right.

Dave Min
State Senator (SD-37)

Cc: Attorney General Rob Bonta
Secretary of State Shirley Weber
State Senate Elections and Constitutional Amendments Committee Chair Steven Glazer
State Senate Judiciary Committee Chair Tom Umberg
Assembly Elections Committee Chair Gail Pellerin
Assembly Judiciary Committee Chair Brian Maienschein

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EXHIBIT F

Minutes

City Council/Public Financing Authority City of Huntington Beach

Special Meeting

Thursday, September 21, 2023
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of this meeting
is on file in the Office of the City Clerk, and archived at
www.surfcity-hb.org/government/agendas/

6:00 PM - COUNCIL CHAMBERS

CALLED TO ORDER A SPECIAL MEETING OF THE CITY COUNCIL/PUBLIC FINANCING AUTHORITY — 6:00 PM

ROLL CALL

Mayor Strickland announced that pursuant to Resolution No. 2001-54, Councilmember Burns request for absence was excused.

City Attorney Michael Gates requested and was granted permission to be absent pursuant to City Charter Section 309 (d), and Acting Chief Assistant City Attorney Paul D'Alessandro attended the meeting in his place.

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Bolton
Absent: Burns

Councilmember Bolton stepped away from the meeting from 6:32 PM – 7:15 PM for Back-to-School Night.

PLEDGE OF ALLEGIANCE — Led by Assistant City Manager Travis Hopkins

INVOCATION

1. 23-809 Huntington Beach Police Chaplain Bob Ewing

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads.

Administrative Item #3 (46 email communications)

ADMINISTRATIVE ITEM

2. 23-808 Presentation of potential Charter amendments proposed by Charter Ad Hoc Committee Members Strickland, Van Der Mark and Burns

Mayor Strickland and Mayor Pro Tem Van Der Mark verbally described the Ad Hoc Committee process, timeline and proposed Charter amendments.

ELECTIONS (Sections 702, 705-new):

Voter ID: This item is meant to align with the County's current voting process by asking in-person voters to produce an ID when they state their name and address to verify they are on the voter roll. The committee suggests this as an enhancement to the Orange County Registrar of Voters (OCROV) current practices. To date, the OCROV has yet to take a position on this proposal, and staff estimates it could cost \$1.1M to independently implement the complete election process should the OCROV fail to support it. Additionally, managing the complete election process is not the goal of the Ad Hoc Committee.

Additional Polling Locations: The Committee's recommendation of adding 20 new residential voting locations is intended to increase in-person voting opportunities. An inquiry to the OCROV on this proposal has been met without a response or objections.

Drop Box Monitoring: This item is suggested to build confidence in the drop box process as the OCROV does not currently monitor drop boxes. In light of experiences and concerns from past elections, the Committee suggests monitoring either by camera or another technology that resources allow. This recommendation is not intended to replace or discourage mail-in voting, nor does the Committee expect the City to take on conducting elections, but rather the Committee's objective is to support faith and trust in the voting process and the results.

CITY ATTORNEY (Sections 304, 309):

The Ad Hoc Committee's recommendations related to the City Attorney position do not give this position any new powers, but merely clarify the position's responsibilities to fairly represent the City in all legal matters and strike the vague language in Section 304 which is currently inconsistent with State law regarding attorney/client relationships, and City Council responsibilities.

The proposed changes to Section 309 make it clear the City Attorney is the protector of the City Attorney/client and attorney work product material, unless there is a City Council vote to disclose such material, which is consistent with State law.

The final proposed change for the City Attorney position provides a guardrail to protect the City Attorney's compensation and department budget from political interference and prevent a repeat of past actions by previous City Councils that negatively impacted the functions of elected City Attorney (and City Treasurer, for that matter). The Ad Hoc Committee believes that such guardrails will protect the elected City Clerk, City Treasurer and City Attorney departments from possible City Council defunding.

CITY CLERK QUALIFICATIONS (Section 310): Proposed changes to Section 310, relating to the City Clerk qualifications, are intended to increase community participation for this position, and to use accurate degree titles. No other California charter city requires a four-year degree to run for City Clerk,

and the purpose of the proposed changes is to remove ambiguous language which is open to subjective interpretation.

INVESTIGATIONS OF MALFEASANCE (Section 314-new): This proposed Charter item seeks to clarify that for elected officials, whether City Council, City Attorney, City Clerk or City Treasurer, it is not appropriate for other elected officials or City staff to instigate outside investigations, nor should their email or other materials be searched or read by City staff. Investigations should be done by outside independent agencies to ensure there is no conflict of interest and to remove the potential for wrongdoing.

FLAGS (Section 806-new): The intent of this amendment is to provide Charter authority for the City's current flag flying policy and to allow exceptions for Olympic flags or any other flag the City Council may approve through unanimous consent.

BIENNIAL BUDGET (Sections 401, 601, 602, 603, 604, 605): The intent of recommending a two-year budget is to make it easier for staff, and build in more predictability and planning for future expenses and opportunities to identify revenue streams. This item is supported by Chief Financial Officer Sunny Han.

CLERK AND TREASURER ELECTION CYCLE (Section 300): Proposed to simply align the elections of these positions with the gubernatorial cycle.

PROPERTY TAX REAL ESTATE TRANSACTIONS (Section 618-new): Proposed by Councilmember McKeon in July 2023, the item addresses concerns that the City had engaged in real estate transactions which resulted in taxpayers forgoing approximately \$500,000 in property tax revenue per year. The Ad Hoc Committee recommends the voters should decide whether or not transactions should be entered into by the City that result in forgoing of property tax revenue.

MEASURE C UPDATE (Section 612): Proposed for more flexible Measure "C" spending by permitting park and beach improvements such as new or upgraded restrooms and playground equipment. Measure "C" was a citizen driven ballot initiative many years ago which was not drafted by City staff, nor approved by City Council for the ballot. Interpreting Measure "C" has always presented challenges and has tied the City's hands in keeping parks and beach child friendly, safe and esthetically pleasing.

CANCELLATION OF MEETINGS (Section 303): This is a clean-up effort related to Council meetings and conducting business in a proper, efficient and orderly manner.

PUBLIC COMMENTS (90-Second Time Limit) — 38 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Barbara Shapiro, Huntington Beach homeowner, was called to speak and stated her opposition to all proposed Charter amendments. (00:25:13)

Shirley Dettloff, a resident since 1964, was called to speak and stated opposition to all proposed Charter amendments because of the process being used. (00:26:57)

Shammy Dee was called to speak and stated dissatisfaction with the focus and performance of the newly elected Councilmembers. (00:28:40)

Betty Kanne, 40+ year resident, was called to speak and stated opposition to all proposed Charter amendments. (00:30:28)

Buzz McCord was called to speak and stated opposition to all proposed Charter amendments. (00:31:56)

Wendy Rincon was called to speak and stated interest in clear answers to the questions the residents have raised about the proposed Charter amendments. (00:33:21)

Linda Moon, a 49-year resident, was called to speak and shared her opinions related to the proposed Charter amendments regarding elections and office of City Attorney, including the fact that the Orange County Board of Supervisors is the ultimate authority on conduction of elections in the County. (00:34:35)

Andrew Einhorn, Huntington Beach resident, was called to speak and stated opposition to proposed Charter amendments. (00:36:18)

Tim Geddes, a 40-year resident with over 20 years of civic affairs involvement, was called to speak and stated the need for tangible evidence, real facts and figures regarding expense and content for the proposed Charter amendments. (00:37:42)

Ms. Reed, former U. S. History and Civics teacher, was called to speak and suggested that Councilmembers need to attend classes with her. (00:39:15)

Neal Kuster was called to speak and thanked speaker Linda Moon for explaining how proposed election changes could ultimately be decided by the County Supervisors, and stated he is still waiting for answers to the questions community members are asking about the proposed Charter amendments. (00:41:16)

Bethany Webb, longtime resident, was called to speak and asked Councilmembers to stop focusing on issues that do not exist and to focus on their core responsibilities. (00:42:52)

Unnamed Guest was called to speak and shared his opinion that Councilmembers are not listening to, not adequately responding to, resident questions. (00:44:10)

Cathey Ryder, resident voter since 1985, was called to speak and shared her concerns related to lack of budget transparency, expected deficits, and effect of a special election on finances. (00:45:54)

Mary Kyle, 25-year resident, was called to speak and stated opposition to all proposed Charter amendments. (00:47:25)

Brenda Glim, a resident, was called to speak and shared her opinions on Council focus and actions. (00:49:03)

Amory Hanson was called to speak and suggested an additional Charter amendment requiring a special election in the event of a Council vacancy, unless the Councilmember's term would soon expire and a General Election would soon be held anyway. (00:50:48)

Meg Robinson was called to speak and shared her opinion related to potential election costs if the election related proposed Charter amendments are passed. (00:51:41)

Ken Inouye, a 50-year resident, was called to speak and stated his interest in knowing what the proposed Charter amendments could cost with a proper accounting, amount of funds in the Unrestricted Reserve account, and City Attorney's legal opinion on the legality of the proposed Charter amendments. (00:52:59)

TJ England, 55-year resident and homeowner, was called to speak and shared her concerns about various decisions made by the current City Council. (00:54:40)

Unnamed Guest was called to speak and shared her opinion that a majority of residents are being ignored by the Councilmembers. (00:56:24)

Jeanne Farrens was called to speak and stated after reviewing the summary statements for the proposed Charter amendments she is more confused, and is opposed to the current grouping of unrelated items. (00:58:05)

Andrew Goffe, Candidate for U. S. Congress 47th District, was called to speak and shared his opinions regarding proposed Charter amendments related to voter ID and monitoring of ballot collection boxes. (00:59:49)

Mary Martin, a resident since 1989, was called to speak and stated opposition to all proposed Charter amendments. (01:01:19)

Steve Wells was called to speak and shared his opinions referencing newly-elected Councilmember campaign platforms. (01:02:55)

Kathryn Goddard was called to speak and stated opposition to all proposed Charter amendments, and suggested the appointment of a citizen Charter Review Commission to proceed in a transparent manner. (01:04:28)

Diana Lithgow, 41-year resident, was called to speak and stated opposition to the proposed Charter amendments. (01:05:52)

Harry McLachlan, a resident, was called to speak and stated opposition to proposed Charter amendments #1, #2 and #3. (01:07:02)

Ann Palmer, 30-year Huntington Beach homeowner, was called to speak and stated her support for some, but not all, of the proposed Charter amendments. (01:08:39)

Synde Manion, resident, was called to speak and stated opposition to all proposed Charter amendments. (01:10:14)

Unnamed Guest was called to speak and stated his opposition to the proposed Charter amendment regarding voter ID. (01:11:36)

Perry Clitheroe was called to speak and stated opposition to the proposed Charter amendments related to voting without evidence of wrongdoing by the Orange County Registrar of Voters. (01:13:13)

Ellen Riley was called to speak, recommended implementing a Citizen's Oversight Committee for Huntington Beach, and stated opposition to all proposed Charter amendments. (01:14:48)

Laura Sire, 60-year resident, was called to speak and stated opposition to all proposed Charter amendments. (01:16:35)

Paula Schaefer was called to speak and stated opposition to all proposed Charter amendments. (01:18:11)

Melvyn Sterling was called to speak and stated opposition to all proposed Charter amendments. (01:19:51)

Rick Brown was called to speak and shared his opinions regarding several topics. (01:20:41)

Valentina Bankhead was called to speak and stated support for the proposed Charter amendments. (01:22:08)

ADMINISTRATIVE ITEM

3. 23-807 City Council discussed potential Charter amendments proposed by the Charter Ad Hoc Committee and staff; opportunities to propose and discuss additional amendments to be considered for the March 5, 2024 Statewide Primary Election

Mayor Strickland reminded everyone that if Council approves the proposed Charter amendments, there is still the need for voter approval before they would become effective. He also noted the staff report did provide the projected cost of approximately \$370,000 to \$460,000 for putting three items on the March 5, 2024 Statewide Primary Election ballot. Mayor Strickland stated for clarification that he did campaign against the previous Council's proposed Charter amendments, but he did not ever state he would never propose any Charter changes. For the record, he also stated that Acting Chief Assistant City Attorney Paul D'Alessandro worked with the Ad Hoc Committee to ensure the legality of the proposed Charter amendments.

Acting Chief Assistant City Attorney Paul D'Alessandro confirmed there is nothing to prohibit placing Council approved proposed Charter amendments on the March 5, 2024, Statewide Primary election per Section 1415 of the Elections Code and added that none of the proposed Charter amendments fall into several categories that are prohibited.

Councilmember Kalmick stated he extensively reviewed legislative analyses and other sources regarding what is, or is not prohibited, for Statewide Primary elections, and asked Acting Chief Assistant City Attorney D'Alessandro for the specific legislative record. Councilmember Bolton added she would like to see the actual legal pros and cons for each proposed Charter amendment, not legal conclusions without the analyses.

Acting Chief Assistant City Attorney D'Alessandro confirmed that the legislative record is not super clear about the push for collective bargaining rights and noted the difference in California law regarding elected v. other employees who are protected by bargaining rights. In response to Councilmember Bolton's request, Acting Chief Assistant City Attorney D'Alessandro stated City Attorney Gates noted that the City Attorney's Office does not submit written legal opinions or memos into the record of public Council meetings primarily because they can be used as a roadmap to challenge Council's decision. When pressed by Councilmember Bolton, Acting Chief Assistant City Attorney D'Alessandro stated he personally doesn't believe the risk is large for a possible lawsuit.

Mayor Strickland noted part of the purpose for increasing public speaking opportunities is to hear other proposed Charter amendments, such as the one presented by Mr. Amory Hanson regarding Council vacancies. To address this proposal, Mayor Strickland suggested following the process used by the U. S. Senate whereby the Senate makes a short-term appointment until the next election. If the appointee is interested in keeping the position, they must run with all interested candidates at election time where the winner is selected through voter approval.

Councilmember Kalmick noted he made that same Charter amendment proposal for 2022, but also required at least four affirmative votes to appoint someone for the vacancy. There was discussion that the item was most likely voted down because of other items it was packaged with on the ballot.

Councilmember McKeon, speaking as a member of the previous Charter Review Commission, noted there was very little public interest or participation in those meetings. He stated his support for this current process that includes time for public comments and encouraged patience in taking these issues one step at a time.

To answer questions about the budget, Councilmember McKeon provided a brief overview of the budget process and described the initial deficit actually ended up becoming a surplus with additional adjustments, and invited Chief Financial Officer Sunny Han to explain why the budget has not yet been posted on the City's website.

Chief Financial Officer Han stated it takes some time for staff to update and document the impacts of the final budget adjustments which Council approved on June 26, 2023. In addition, several specific criteria are required by the Government Financial Officers Association for the City to continue to receive the distinguished budget award, which it has for 29 consecutive years. CFO Han stated the budget is expected to be released on September 22, along with a press release.

Councilmember McKeon and CFO Han discussed the \$4.9M balance in the Unrestricted Reserve account for next year's budget, plus additional one-time funds received which brings the total balance to approximately \$5.5M.

Councilmember McKeon asked that Councilmembers cordially debate the issues, and noted there is additional public speaking time after Council's discussion tonight to ask questions not answered during this discussion. He noted that Councilmembers will be prepared at the next meeting to answer the new questions presented tonight and determine if the proposed Charter amendments are worth the investment. He noted the importance of civil discourse on differences of opinion, and added that in the end, if a majority of voters do not approve, then none of the proposed items become policy.

Mayor Pro Tem Van Der Mark stated that she did not state during her campaign the City Charter should never be changed, but rather disagreed with some of the proposed Charter changes previously on the ballot. She noted that some of the Charter changes currently being proposed are repeats of the 2022 proposals as recommended by the Charter Review Commission.

Councilmember Kalmick stated he still does not clearly understand whether or not the City can legally require voter ID. In proposed Section 705. Special Provisions Relating to Municipal Elections, he questioned the language in the second sentence, "The City **shall** verify the eligibility of Electors by voter identification." He suggested using words that allow for options, such as ". . . **may** verify . . ." or "the City Council reserves the right to set its own election rules" in case the Orange County Registrar of Voters and/or County Supervisors determine verifying the eligibility of Electors is not legal and possibly demand Huntington Beach hold and pay for their own elections.

Councilmember Kalmick, Mayor Strickland, Mayor Pro Tem Van Der Mark and City Clerk Estanislau discussed how the number of additional in-person voting locations was determined by the Ad Hoc Committee.

Councilmember McKeon shared his opinion that the goal is to increase faith in the election process as well as voter participation.

Councilmember Kalmick suggested the proposed specific election-related Charter amendments could best be implemented through an Ordinance.

Acting Chief Assistant City Attorney D'Alessandro noted that "shall" is mandatory and "may" is permissive regarding verifying the eligibility of Electors. Discussion ensued regarding possible options for the City if any election-related item is ever determined to be illegal by the State Elections Code.

Councilmember Kalmick asked if the intent is not to discourage or replace mail-in ballots, nor is it intended for the City to take on elections, then that should be stated in the proposed Charter amendment. He stated he believes the proposed election-related Charter amendments are creating barriers that do not currently exist for a constitutionally protected right.

Acting Chief Assistant City Attorney D'Alessandro confirmed it is within the legislative power of the City Council to include the information as suggested by Councilmember Kalmick, but currently it is in a legally adoptable format.

City Clerk Estanislau noted there is nothing within the Charter which states Huntington Beach must consolidate with the County for elections, but rather reads that elections shall be held in accordance with provisions of the Elections Code of the State of California.

Councilmember Moser noted research shows that implementing voter ID disproportionately impacts communities that are already underrepresented, and the intent should be to make voting more accessible for every eligible voter. She stated she has full faith in the abilities of the Orange County Registrar of Voters to provide safe and secure elections, including transparency, accuracy, and ensuring every vote is counted securely. Further, she does not believe that Huntington Beach, with limited resources, could provide all of the services needed for safe and secure elections.

Councilmember Bolton stated the importance of signatures and their verification in the voting process, and referenced the State's Election Code process for situations when a signature may be challenged. She stated her concern that if someone challenges the proposed voter ID Charter amendment, she is uncertain if the City would prevail. She would like to see examples of cases and legislative history to support approving the amendment — history that would help clarify potential liability/legal risk and cost.

Chief Financial Officer Han clarified that the current estimated cost to hold an election is \$1.3M – \$1.65M which includes one-time capital costs and recurring costs, but does not include tracking or cyber security.

Councilmember Bolton stated there is no way this item should be proposed without complete financials.

Councilmember Moser stated that most residential polling places will not meet the standards used for determining polling locations, such as the Americans with Disability Act (ADA) compliance.

Councilmember Moser stated she doesn't see justification for requiring voter ID in Huntington Beach because of the cost for a professional secure system, considering that a professional secure system already exists, and there is no proof of voting fraud.

There was discussion of the fact that any Orange County voter can vote anywhere within the County and they will be provided with a provisional ballot which contains the ballot measures for their community of residence.

Mayor Strickland responded there is no intention for the City to hold their own elections, but rather to merge with the County elections.

Councilmember Moser noted the technical difficulties that exist with the MyHB app, and stated her doubt that the City could ensure electronic safety for elections. She also noted not even an estimate of those costs is available at this time.

Councilmember Bolton stated voter ID should not be enshrined within the Charter because it creates unforeseen issues down the road, just like Measure "C" has done.

Councilmember Kalmick moved on to the proposed Charter amendments related to the Office of the City Attorney, and stated he reviewed the documentation for all California charter cities with an elected City Attorney. He asked how the last sentence of Section 304 (b) is presently inconsistent with State law that defines the attorney-client relationship.

Acting Chief Assistant City Attorney D'Alessandro responded that one of the major concerns with the language that was added to Section 304 in 2010 is that it creates an internal inconsistency with Section 309. He added there are recent advances regarding the work product doctrine that this wording is inconsistent with and noted the language in Section 304 (b) is inconsistent with a couple of long held court cases: Hicks v Board of Supervisors and Hutton v O'Connor. The specific rule on attorneys representing corporations is in Section 1.13, which Acting Chief Assistant City Attorney D'Alessandro did not have in front of him.

Councilmember Bolton stated for her it is important to have that information available for a productive discussion. She quoted a clarifying statement from the Cal Cities Guide regarding the relationship between city councils, city attorneys and the voters: "Essentially all of the duties and requirements applicable to appointed city attorneys apply to elected city attorneys. Although the elected city attorney is accountable to the public through the election, the city, not the public, is the city attorney's client." She believes the city council is the client that makes decisions and holds the attorney-client privilege, not the city attorney. Councilmember Bolton sees the proposed attorney changes as ridiculous, not consistent with law, unworkable, bizarre, and an emotional response to a situation that happened a couple of years ago.

Mayor Stickland responded that the proposed language is similar to Long Beach's Charter.

Acting Chief Assistant City Attorney D'Alessandro agreed there are similarities with Long Beach, the city is the client, the city is directed by the city council for matters such as setting policy and settling lawsuits, but none of this affects the proposed change for Section 304 (b). He noted it is not unusual for city charters to express concern about certain employees, such as the Huntington Beach Charter which has a special carveout for the Police Chief, who cannot be fired, without the consent of the Council, by the City Manager.

Councilmember Bolton and Acting Chief Assistant City Attorney D'Alessandro further discussed the effect of the proposed changes, and Acting Chief Assistant City Attorney D'Alessandro stated the changes do not take away the privilege from the client but confirm the attorney's duty is to maintain and protect all confidential attorney-client privilege and attorney work product information. The privilege still resides with the city, as the client, expressed through the will of the Council. Or, if there is a document protected by attorney-client privilege, that privilege is not held by an individual Councilmember, but is held by the City expressed through a majority of the Council.

Acting Chief Assistant City Attorney D'Alessandro agreed that implementation is a different question from what is being proposed, which is legal and able to be voted upon by the people.

Councilmember Moser and Acting Chief Assistant City Attorney D'Alessandro further discussed that the City is the client and the City Council as a whole is authorized to speak on behalf of the client. Acting Chief Assistant City Attorney D'Alessandro stated the City has adopted a lot of rules and regulations where it has delegated to various members of staff in various other instances.

Councilmember Moser shared portions of her previous email communication with City Attorney Gates to demonstrate her concern about how the City Attorney is treating the public. Acting Chief Assistant City Attorney D'Alessandro clarified that Councilmember majority can only legally act in a Closed Session or City Council meeting, not as individuals outside of those meetings.

Councilmember Kalmick noted that the City Charter will no longer contain any language that says the City Council shall have control of all litigation, and the proposed action appears to isolate the City Attorney's role as being very independent and moves power away from the City Council and delegating through the Charter to other elected folks. He also stated the proposed budget Charter amendments appear to be restricting Council consideration with a formula and not allowing discretion for including community priorities.

Mayor Strickland invited Alisa Backstrom, City Treasurer, to describe how a former City Council, through Ordinance 3097, purported to transfer a majority of the City Treasurer's Charter mandated powers and duties to the Finance Department. City Treasurer Backstrom noted that an ordinance cannot be in conflict with the Charter and stated that elected officials are accountable to the citizens who voted them in to be stewards of the taxpayer monies as check and balances within the operational structure.

Councilmember Kalmick stated the budgetary recommendations appear to put up walls with no emergency ladders for a fiscal emergency, and he objected to the proposed Charter directed locked in percentage.

Mayor Strickland and Councilmember McKee stated the attempt is to prevent another Council from arbitrarily removing the power and duties of an elected official.

Councilmember Kalmick believes there are better ways to do that without locking up the budget.

City Treasurer Backstrom clarified she was hired for the position after a previous Council acted to purportedly remove Charter mandated powers and duties, during a time when the former City Treasurer had resigned to accept her election to the County Treasurer position. In response to Mayor Pro Tem Van Der Mark's question, as to whether or not it appeared the taxpayer monies were negatively impacted through the changes, City Treasurer Backstrom stated now that her duties have been realigned she has seen areas that can possibly be improved with more focus, such as the collection of delinquent accounts, procuring savings through review of current contracts which haven't gone out to bid for some time, review of business processes for potential improvements to enhance internal controls, and reviewing how current technology may save time and money.

Councilmember Moser stated she concurs with Councilmember Kalmick's statements and suggested the proposed Charter amendments should be handled through ordinances. In her opinion, it is not appropriate for the City's future budgeting policies to be cemented to this Council's governing approach, or current circumstances. The main function of the City Council is to determine the budget, including for elected offices.

Mayor Strickland expressed appreciation for the suggestions made by Councilmembers Kalmick and Moser, and stated he would revisit the proposed amendment's reference to budget.

Councilmember McKeon thanked all Councilmembers for participating in this discussion, and the process to fine-tune the proposed Charter amendments. He added that even if some of the issues being addressed happened in the past, it is appropriate to discuss, uncover facts, and determine if guardrails should be implemented to prevent repeat incidents.

Councilmember Bolton stated she cannot support hamstringing any future Council with a specific budget percentage in a Charter amendment.

Councilmember Kalmick stated that Council should be focused on creating equity by stating a budget could not be decreased unless it is decreased across the board for all departments. He also noted that changing an ordinance allows for public input without requiring the costs of an election.

Councilmember Kalmick weighed in on the proposed changes for the City Clerk educational requirements, noting some city charters don't address job requirements, but rather it is addressed through the municipal code. He also stated that more and more Orange County cities are appointing, rather than electing, their City Clerks.

Mayor Strickland stated the intent is to remove ambiguity and prevent one person from subjectively determining what an appropriate related field is.

When asked by Councilmember McKeon, City Clerk Estanislau noted that "related field" is used in most job applications, and the process typically used by Human Resource departments is to in addition, review experience and where that experience was acquired. City Clerk Estanislau explained if she had any questions or reservations about the qualifications of a particular City Clerk applicant, she would seek involve the City Attorney or other City staff in the discussion and decision process. She stated that in her review of all Orange County City Clerk job descriptions, 23 of 31 cities have qualifications that refer to Public Administration, Business Administration, Public Policy or Records Management. She respectfully suggested having the term "administration" follow "business" for a correct degree title, but objected to the removal of "or related field" language.

Councilmember Moser stated that if the concern is ambiguity, then stating Business Administration or Bachelor of Science would be appropriate, as well as keeping "or related field".

Councilmember Bolton stated support for Councilmember Moser's comments.

Mayor Strickland stated he is not trying to lower the standards as some have said, but rather he is attempting to eliminate ambiguity to ensure anyone can understand whether or not they qualify to run for City Clerk in Huntington Beach. He added that changing to an appointed position is a different discussion.

Councilmember McKeon noted that Measure "C" was passed to protect the City's open spaces, parks and beach, and has tied hands related to renovating existing facility structures and there is a need to remove ambiguity.

Director of Community & Library Services Ashley Wysocki described the need to define what a structure is, noted the Measure "C" minimum dollar amount threshold of around \$220,000 is under the cost of most current projects, and the 3,000 sq. ft. limitation is really a very small footprint. She stated that the volume of work and cost required to bring a shovel-ready project to a vote of the people is prohibitive, especially if the project is voted down. She defined staff recommendations to remove the restrictive dollar amount threshold and bringing a project to a vote of the public at the conceptual phase.

Councilmember McKeon stated his support for bringing a project to a vote of the public at the conceptual phase, and allowing City Council to ensure the project stays within budget. Determining parameters for renovating existing structures, as well as controlling a project through square footage rather than by footprint are additional items to consider changing.

Councilmember Moser stated her support for staff recommendations, believes the proposed added language is still too ambiguous, and recommended taking the time needed for more staff discussions. She stated the ultimate goal of Measure "C" was to preclude commercial development on public property, but in the end it has actually made it nearly impossible to do things that would benefit the entire community.

Councilmember Moser and Director Wysocki discussed the process of determining whether or not a park change or improvement plan will potentially need to go to a vote of the people.

Councilmember Moser stated her interest in keeping any changes to Measure "C" as close as possible to the original intent. She believes this will require more time and might help to also ensure voter approval. She provided examples relating to the lease portion of Measure "C" and suggested more time is needed to adequately consider some changes there also.

Director Wysocki confirmed the first need is to define "structure" then determine if existing buildings currently meet the needs for public service delivery and provide an opportunity to reimagine those spaces to ensure the longevity of public open spaces while being flexible and fluid in meeting the demands of a growing community. She stated it is a complex issue that may not be totally answered in a week.

Councilmember Bolton returned to the issue of election costs, noting all of the various numbers that have been stated, to illustrate the need for more time to prepare proposed Charter amendments. She doesn't believe there is any need to rush something as important as this.

Councilmember Moser shared her opinion that neither the previous changes presented to update Measure "C", nor the current proposed changes, fix the problem. More time is needed to allow proper staff and community engagement for defining appropriate changes.

Mayor Strickland reiterated the purpose to consider going to a biennial budget is to make the process easier for staff and provide more predictability and better planning.

Councilmember Kalmick stated it seems reasonable, but proposed wording does lock the City into a two-year budget, and he suggested wording change that would allow flexibility.

Mayor Strickland invited Chief Financial Officer Sunny Han to weigh in on this item. She stated that going to a biennial budget process would still include annual reviews and opportunity for mid-cycle adjustments as is currently done. CFO Han also stated that if there are ever items that need to be appropriated or which may fall outside of the budget adoption cycle or mid-year budget update, staff can always bring those items to Council's attention for consideration as a stand-alone item at any regularly scheduled Council meeting.

Mayor Strickland stated he brought the Clerk and Treasurer election cycle item forward and is willing to drop it unless there are objections from anyone. No one had any objections.

Councilmember McKeon invited Acting Chief Assistant City Attorney D'Alessandro to weigh in on options to address malfeasance, or when someone alleges misconduct by an elected official. Acting Chief

Assistant City Attorney D'Alessandro stated this issue could be addressed either through an ordinance or through the Charter.

Councilmember Bolton stated the need for more details regarding the type of investigation such as employment discrimination, harassment, or public corruption, some of which would not be handled by the Attorney General. She suggested more time be spent on this idea, and agreed with Councilmember McKeon that an ordinance could be a proper vehicle.

Councilmember Kalmick stated support for addressing the issues of ethics and malfeasance through an ordinance process with the objective of creating a high barrier for allegations of abuse with a low barrier for complaints.

Mayor Strickland introduced the proposed amendment changes related to cancellation of City Council meetings as a simple fix to an item that is already in the Charter.

Councilmember Kalmick objected to the proposed language and suggested returning to the language presented in the 2022 Charter amendment effort. He also agreed that the Charter reference to "Monday" meetings needs to be addressed. Mayor Strickland asked Councilmember Kalmick to provide the prior language related to this item to staff for discussion at the next special meeting.

Councilmember McKeon introduced discussion on the proposed Charter amendment addressing voter approval for matters affecting the collection of property tax. He stated this is an effort to prevent a repeat of the Joint Power Authority purchase of Elan and The Breakwater properties through government bonds that circumvented determining the will of the voters. Councilmember McKeon shared his opinion that when the government gets involved in private transactions like this it creates issues like the current dispute on "possessory tax", a dispute relating to whether or not the residents become liable for the foregone property taxes, and is now working its way through the court system.

Councilmember Kalmick stated he does not see how the proposed Charter amendment solves the stated problem. He added the need to start with defining "transaction". He referenced the staff report noting the definition does not include water infrastructure (i.e. water lines, reservoirs, etc.), and the phrase "beach facilities" could be generalized to include all "recreational facilities" which are also viewed as infrastructure. Councilmember Kalmick stated he agrees a public policy discussion on this issue is needed but disagrees with the premise used for this proposed Charter amendment, and stated support for addressing the issue through the ordinance process.

Mayor Pro Tem Van Der Mark introduced the proposed Charter amendment relating to display of flags. Council consented to holding this item for the next meeting when Councilmember Burns would be available to join the discussion.

Councilmember Bolton suggested two additional items for consideration: 1) amend Section 307 (Non Interference with Administration) by adding a new paragraph which says something to the effect "The City Council and any other elective officer of the City shall not order, directly or indirectly, the review, removal, restriction of access, prohibition, acquisition, classification rating or placement of any material or content within the collection, possession, or inventory of the City libraries." This will allow the voters to determine how to handle the library issue. 2) amend Section 313 (b) (Provision on Nepotism) which basically states the City Council cannot appoint or ask the City Manager or anyone else to appoint, a relative of any City Councilmember. She proposes added language to specify Councilmembers cannot require the hiring of a relative of any City Councilmember or any other elected department head.

Acting Chief Assistant City Attorney D'Alessandro agreed to add the proper language to address these two issues for next week's discussion.

Councilmember Kalmick noted that all of Measure L from the last ballot initiative, except for #10 regarding Measure "C", was code clean-up and recommended it be included in the current plans. He also would like to see a provision to address Council's ability to hire staff, an addition to the current restriction of addressing issues only through the City Manager. Discussion ensued to confirm a whole process and procedure would be established for implementing Council staff through an ordinance, if the voters approve the amendment.

Councilmember Kalmick noted that he would like to see an amendment that addresses City Council compensation to possibly make it financially possible for better representation of all segments of the community for what is essentially a full-time volunteer job.

Councilmember Kalmick suggested to consider adding a Legislative Counsel position, possibly under the City Manager's office, to help Councilmembers understand legislative duties and possibly alleviate some of the recent tensions. He also suggested setting up an Ethics Committee through the ordinance procedure. He also suggested addressing political endorsements and contributions for elected city positions, using Oakland as an example, and ways other cities allow for a bit of wiggle room in certain situations without requiring a vote of the people.

Councilmember Kalmick also stated his support, from a good government standpoint, for appointed positions to remove the possibility of politicization for the currently elected positions of City Attorney, City Clerk and City Treasurer.

Councilmember Bolton suggested including the same term limits for all elected positions, including Councilmembers, Clerk, Treasurer and Attorney.

A motion was made by Strickland, second McKeon to discuss potential Charter amendments proposed by the Ad Hoc Committee and City staff; propose and discuss additional amendment as needed; and receive and file this report.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Bolton
NOES: None
ABSENT: Burns

PUBLIC COMMENTS (90-Second Time Limit) – 17 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Neal Kuster was called to speak and stated his support for cooperative discussions among Councilmembers; setting up another Charter Review Commission to properly review the Charter; asked Councilmembers what they want to hear that would change their vote on the issues being considered; and encouraged more discussion on housing and development. (04:49:01)

Tim Geddes was called to speak and stated his support for allowing the Orange County Registrar of Voters (OCROV) to completely handle the voter process as the professionals they are. (04:50:39)

Wendy Rincon was called to speak and stated her opposition to any local changes in the voting process, encouraged Councilmembers to help educate concerned residents about the safety of the current voting process, and opposition to rushing through the proposed Charter amendment process which precludes a thorough legal analysis. (04:51:38)

Bethany Webb, a resident, was called to speak and shared her opinion there has been no voter fraud in Huntington Beach, and encouraged Councilmembers to focus on cooperative discussions as they did during the later part of this meeting. (04:53:13)

Unnamed Guest was called to speak and stated her dismay at learning of the disrespectful manner in which Councilmember Moser was treated; opposition to any local changes in the voting process; support for cooperative discussions among Councilmembers; and opposition to rushing through the proposed Charter amendment process. (04:54:13)

Unnamed Guest was called to speak and said she wants her tax dollars to pay for City services such as increased hours at libraries or more meals delivered to vulnerable residents; noted election costs being discussed are in today's dollars with no consideration of actual costs in future years; and stated if Measure "C" changes really are so important, it should stand alone on the ballot rather than being bundled. (04:55:55)

Unnamed Guest was called to speak and shared his support for stopping the proposed Charter amendment process since the legality of some of the proposed amendments is not clear, and full costs are not yet known. He stated everyone should be offended at the way an elected official reportedly addressed Councilmember Moser, and suggested if the proposed Charter amendment process proceeds, the items be placed on the General election ballot. (04:57:22)

At 10:58 PM, by consensus, Councilmembers agreed to continue the meeting past 11:00 PM.

Unnamed Guest was called to speak and stated support for using the ordinance process, rather than Charter amendment process, to address these issues. (04:58:45)

Mary Kyle was called to speak and stated support for presenting each proposed Charter amendment as a stand-alone item and encouraged Councilmembers to help educate concerned residents about the safety of the current voting process. (04:59:50)

Unnamed Guest was called to speak and shared his opinion that using the Primary election and requiring voter ID will statistically reduce voter participation; encouraged Councilmembers to help educate concerned residents about the safety of the current voting process; consider that an existing Charter amendment did not stop a rogue Council from breaking the law; and encouraged Councilmembers to focus on cooperative discussions as they did at the end of this meeting. (05:01:23)

Synde Manion, a resident, was called to speak and stated that only 14% of Huntington Beach voters actually voted in the last election and asked for clarification on a number of election-related questions, including processes and costs. (05:03:09)

Unnamed Guest was called to speak and encouraged Councilmembers to focus on cooperative discussions as they did at the end of this meeting, and stated opposition for special budget considerations for the City Attorney's office. (05:04:46)

ADJOURNMENT — at 11:07 PM Van Der Mark made a motion, second by McKeon, to adjourn to a special meeting of the Huntington Beach City Council on Thursday, September 28, 2023, at 6:00 PM in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

The next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority is Tuesday, October 3, 2023, in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

INTERNET ACCESS TO CITY COUNCIL/PUBLIC FINANCING AUTHORITY AGENDA AND
STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO CITY COUNCIL MEETINGS AT
<http://www.huntingtonbeachca.gov>



City Clerk and ex-officio Clerk of the City Council
of the City of Huntington Beach and Secretary of
the Public Financing Authority of the City of
Huntington Beach, California

ATTEST:



City Clerk-Secretary



Mayor-Chair

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EXHIBIT G

Minutes

City Council/Public Financing Authority Regular Meeting Successor Agency Special Meeting City of Huntington Beach

Tuesday, September 5, 2023
3:30 PM — Council Chambers
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of the 3:30 PM and 6:00 PM portions of this meeting is on file in the Office of the City Clerk, and archived at www.surfcity-hb.org/government/agendas/

3:30 PM — COUNCIL CHAMBERS

CALLED TO ORDER — 3:31 PM

ROLL CALL

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
Absent: None

CITY COUNCILMEMBER COMMENTS (3-Minute Time Limit)

Councilmember Burns thanked all involved for the successful Civil War Days event at Central Park over Labor Day weekend; Councilmember Moser honored the passing of Fred Provencher, founder of the HB Reads One Book Program, and founder of the Human Relations Task Force.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS PERTAINING TO CLOSED SESSION ITEMS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads:

Closed Session #4 (3 email communications)

PUBLIC COMMENTS PERTAINING TO CLOSED SESSION ITEMS (3-Minute Time Limit) — None.

RECESSED TO CLOSED SESSION — 3:34 PM

CLOSED SESSION

1. 23-709 CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code section 54957.6.)
Mayor Strickland announced, Agency designated representatives: Al Zelinka, City Manager and Melanie Chaney, Chief Negotiator; also in attendance: Jose Rodriguez, Human Resources Manager; Theresa St Peter, Interim Director of Human Resources; Travis Hopkins, Assistant City Manager; Michael E. Gates, City

Attorney; Scott Haberle, Fire Chief and Sunny Han, Chief Financial Officer.
Employee Organization: Fire Management Association (FMA).

2. 23-710 CONFERENCE WITH LABOR NEGOTIATORS (Gov. Code section 54957.6.)
Mayor Strickland announced Agency designated representatives: Al Zelinka, City Manager and Melanie Chaney, Chief Negotiator; also in attendance: Jose Rodriguez, Human Resources Manager; Theresa St Peter, Interim Director of Human Resources; Travis Hopkins, Assistant City Manager; Michael E. Gates, City Attorney; Scott Haberle, Fire Chief and Sunny Han, Chief Financial Officer.
Employee Organization: The Huntington Beach Firefighters' Association (HBFA).
3. 23-724 CONFERENCE WITH LEGAL COUNSEL — LITIGATION (Gov. Code section 54956.9(d)(4).): Number of matters: One (1) — Confer with City Attorney regarding a request to provide Amicus support with regard to Gloria Johnson, et al. v. City of Grants Pass; United States Court of Appeals for the Ninth Circuit Case Nos. 20-35752;20-35881; United States District Court for the District of Oregon Case No. 1:18-cv-01823-CL.
4. 23-683 CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Name of case: Gapezzani (Gary) v. John Romero, City of Huntington Beach; OCSC Case No.: 30-2021-01225030.
5. 23-684 CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Segal-Kaloski (Pamela) v. City of Huntington Beach, et al.; OCSC Case No.: 30-2021-01222791.
6. 23-698 CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Whitaker (Brittany) v. City of Huntington Beach, et al.; OCSC Case No.: 30-2021-01235807.
7. 23-702 CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION. (Paragraph (1) of subdivision (d) of Section 54956.9). Pacific Airshow, LLC v. City of Huntington Beach and Kim Carr; OCSC Case No. 30-2022-01287749.

6:00 PM — COUNCIL CHAMBERS

RECONVENED CITY COUNCIL/PUBLIC FINANCING AUTHORITY MEETING AND CALLED TO ORDER SPECIAL MEETING OF THE SUCCESSOR AGENCY — 6:00 PM

ROLL CALL

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
Absent: None

PLEDGE OF ALLEGIANCE — Led by Police Chief Eric Parra

INVOCATION

8. 23-720 Huntington Beach Police Chaplain Bob Ewing

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

CLOSED SESSION REPORT BY CITY ATTORNEY

City Attorney Gates reported that by a vote of 4–0–3 (Kalmick, Moser, Bolton — Abstain), the Council authorized his office to provide Amicus support with regard to Gloria Johnson, et al. v. City of Grants Pass; United States Court of Appeals for the Ninth Circuit Case Nos. 20-35752; 20-35881; United States District Court for the District of Oregon Case No. 1:18-cv-01823-CL.

AWARDS AND PRESENTATIONS

9. 23-678 ~~ITEM WITHDRAWN Mayor Strickland to call on the Friends of the Library for presentation of a check in the amount of \$250,000 to Community & Library Services Director Ashley Wysocki~~

City Attorney's Report, #12 (23-739), was presented out of agenda order. The minutes reflect agenda items in their original order.

Mayor Strickland announced that City Manager's Report, Item #10 (23-718), Quarterly Homeless Report was rescheduled to September 19, 2023, and Consent Calendar Item #17 (23-742), medical management responsibilities related to a workers' compensation claim was withdrawn from the Agenda.

City Clerk Robin Estanislau announced Ordinances for Introduction #29 regarding pedestrian use of center medians was pulled from the agenda by the Police Department.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads:

City Attorney's Report #12 (1 PowerPoint communication); Consent Calendar Items #15 (25 emails), #16 (37 emails), #17 (1 email); #19 (1 staff memorandum and 2 emails), #20 (1 email), #22 (20 emails), #24 (1 email), #26 (1 email), #27 (2 emails), #28 (2 emails); Ordinances for Introduction #29 (1 staff memorandum and 14 emails); Administrative Items #30 (1 staff memorandum and 101 emails), #31 (45 emails), #32 (100 emails); Councilmember Items #33 (12 emails), #34 (104 emails), and #35 (77 emails).

PUBLIC COMMENTS (3-Minute Time Limit) — 100 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Ashton Arocho, 2nd Vice-President, City Clerks Association of California (CCAC) and City of Westminster City Clerk, was called to speak and read for the record a previously submitted letter of support for the City of Huntington Beach City Clerk's Office dated August 28, 2023. The letter of support was approved unanimously by the CCAC Board, and signed by 169 Clerks in California. (00:55:53)

Barbara Shapiro, a Huntington Beach homeowner since 1980 and licensed nurse in California with infectious disease and public health training, was called to speak and stated her opposition to Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (00:58:11)

James Black, District Representative, Office of Senator Dave Min, was called to speak and read for the record Senator Min's statement respectfully urging City Council to reject Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (01:01:51)

Tony Daus, a 25-year resident of Huntington Beach, Former President, California-based professional organization of engineers and scientists, and Former Executive Vice President of an international engineering firm, was called to speak and shared his opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures, specifically Section 310 (City Clerk qualifications), and Section 702 (local control over elections). (01:04:08)

Carol Daus, a resident of Huntington Beach since 1997, was called to speak and stated her opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (01:06:05)

Joseph Dagley, a 30-year resident of Huntington Beach, was called to speak and shared opposition to Administrative Items #31(23-693) regarding introduction of ordinances to amend the Municipal Code to dissolve the Human Relations Committee, and #32 (23-734) regarding proposed Policy on Human Dignity. (01:09:25)

Kathy McGuire, a 32-year resident of Huntington Beach and retired high school English teacher, was called to speak and stated her opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (01:12:45)

Barry Kielsmeler was called to speak and stated his opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (01:22:56)

Nora Pedersen, a long-time resident of Huntington Beach, was called to speak and shared her concerns related to recent decisions by the Council majority and asked that all Councilmembers listen to all residents of Huntington Beach. (01:18:54)

Roy C. McCord, a long-time resident of Huntington Beach, was called to speak and stated his opposition to Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (01:21:35)

Linda Moon was called to speak and stated her opposition to Consent Calendar Item #16 (23-741) regarding actionable policy options regarding City library materials and safeguards; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #33 regarding proposed e-bike licensure and use regulations; #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (01:25:37)

Andrew Einhorn was called to speak and requested the City Council have an external independent investigation of Mayor Pro Tem Van Der Mark to determine the truth of her allegiances before allowing her to continue participating in the Ad Hoc Human Dignity Committee, and stated his opposition to

Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (01:28:25)

Laura Sire, a long-time resident of Huntington Beach, was called to speak and stated opposition to Consent Calendar Item #15 (23-673) regarding approval and execution of professional services contracts for state and federal legislative advocacy services, Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Item #22 (23-726) regarding payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (01:31:43)

Jocelyn Rabbit Sire, a resident of Huntington Beach since 1988, was called to speak and stated opposition to Consent Calendar Item #15 (23-673) regarding approval and execution of professional services contracts for state and federal legislative advocacy services, Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Item #22 (23-726) regarding payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (01:35:00)

Betty Kanne, a 40-year resident and Huntington Beach homeowner, was called to speak and stated her opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #32 (23-734) regarding proposed Policy on Human Dignity; and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (01:38:17)

Pat Goodman was called to speak and stated opposition to Consent Calendar Item #15 (23-673) regarding approval and execution of professional services contracts for state and federal legislative advocacy services, Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Item #22 (23-726) regarding payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (01:41:25)

Marissa Jackson was called to speak and stated her support for Councilmember Item #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. Ms. Jackson shared her opinion that no person is perfect, all should try to do better, and noted those who serve the people should set aside personal interests and work together to improve the health and vitality of the community. Ms. Jackson also shared concerns about Huntington Beach Hospital. (01:44:41)

Cathey Ryder, a Huntington Beach homeowner and resident since 1985, was called to speak and stated opposition to Consent Calendar Item #15 (23-673) regarding approval and execution of professional services contracts for state and federal legislative advocacy services; Item #22 (23-726) regarding

payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California; and Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (01:47:53)

Unnamed Guest was called to speak and stated opposition to and stated opposition to Consent Calendar Item #15 (23-673) (b.) regarding approval and execution of professional services contracts for federal legislative advocacy services; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (01:50:01)

Unnamed Guest was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (01:53:52)

Yvonne Gonzalez Duncan, League of Women Voters Member and Former State Director of League of United Latin American Citizens (LULAC), was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #33 regarding a proposal for e-bike licensure and use regulations; and #34 (23-731) regarding proposal to censure Councilmember Moser. (01:57:26)

Joanne Sosa, a resident of Huntington Beach, was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (02:00:50)

Tim Geddes, a 40-year resident of Huntington Beach, was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (02:03:08)

Peter Levy, a rabbi and Regional Director, Orange County and Long Beach Anti-Defamation League, was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (02:06:07)

Florice Hoffman was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #33 regarding a proposal for e-bike licensure and use regulations; #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (02:08:42)

Wendy Rincon, a 49-year resident of Huntington Beach, was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Item #22 (23-726) regarding payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; and #32 (23-734) regarding proposed Policy on Human Dignity. (02:11:41)

Chad Williams, born and raised in Huntington Beach, and Former Navy SEAL Veteran, was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (02:15:00)

Kane Durham, Pride at the Pier Board Member, was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity; and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (02:19:02)

Gaston Castellanos, Democratic Party Representative, was called to speak and shared his opinion that hate has no place in Huntington Beach or these chambers, and rather than giving false and misleading arguments or complaining about hate crimes, people should be prosecuting hate crimes. (02:22:09)

Brian Veal, a resident of Huntington Beach, was called to speak and stated opposition to Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (02:24:33)

Lawrence Schiel, 33-year resident of Huntington Beach and homeowner, was called to speak and stated his support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (02:26:57)

Keith Ellis, Huntington Beach resident, was called to speak and stated opposition to Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (02:30:09)

Andrew Goffe, Candidate for U. S. Congress 47th District, was called to speak and stated opposition to Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (02:33:14)

Unnamed Guest was called to speak and stated support for Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (02:36:27)

Ann Palmer, a 30-year Huntington Beach resident, was called to speak and stated support for ensuring that Consent Calendar Item #19 (23-712), specifically the City's response to Orange County Grand Jury findings and recommendations regarding animal welfare, do not fall through the cracks. In response to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures, Ms. Palmer stated support for a full Charter review. She also shared her opinions on Administrative Items #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; and her support for Councilmember Items #33 regarding a proposal for e-bike licensure and use regulations. (02:38:18)

Leanne Nichols Shoup, a fourth generation Huntington Beach property owner and taxpayer, was called to speak and shared her opinions regarding the Policy on Human Dignity, and specifically

Councilmember Moser's confrontation against Mayor Pro Tem Van Der Mark at the August 8, 2023, City Council meeting. (02:41:33)

Judy Lewis, retired Los Angeles County Sheriff Captain and Volunteer in Huntington Beach and Orange County, was called to speak and stated opposition to Administrative Items #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees, and #32 (23-734) regarding proposed Policy on Human Dignity. (02:44:52)

Doris Hill, a resident of Huntington Beach for over 45 years, was called to speak and stated support for Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (02:48:13)

Mark Dixon, a Huntington Beach resident, voter and homeowner for over 50 years, was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (02:49:37)

Tad Baltzer, Huntington Beach resident and Greater Huntington Beach Interfaith Council Member, was called to speak and invited everyone to attend the Blessing of the Waves event on September 17 at Pier Plaza. The event will begin with live music at 5:30 PM, and weather permitting, end with a paddle out. (02:53:43)

T. J. England was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (02:56:01)

Kristine Fray was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (02:57:53)

Heidi Barlow was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:01:04)

Bethany Webb, 45-year resident of Huntington Beach, was called to speak and shared her personal opinions in opposition to or support of certain Councilmembers. (03:04:17)

Joyce Riley, resident of Huntington Beach, was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:07:30)

Margaret Robinson was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; and Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (03:08:58)

Jeanne Goodin was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:11:56)

Cyndie Kasko, Huntington Beach resident and licensed medical provider, was called to speak and ask for a positive approach for Councilmember Items #33 (23-732) regarding proposed e-bike licensure and

use regulations, and stated opposition to Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:15:17)

Hector Valdez, a 30-year resident of Huntington Beach, was called to speak and stated support for Councilmember Items #33 (23-732) regarding proposed e-bike licensure and use regulations. (03:19:03)

Mark Anderson, Huntington Beach resident, was called to speak and stated support for Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:20:00)

Ronin Kasko, born and raised in Huntington Beach, was called to speak and stated support for Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards, and Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:22:41)

Mary Kyle, a 25-year Huntington Beach resident, was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (03:25:32)

Neal Kuster, a 22-year Huntington Beach resident, was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (03:27:23)

Diana Lithgow, a 41-year resident, Huntington Beach homeowner, and a nurse, was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #32 (23-734) regarding proposed Policy on Human Dignity; and Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:30:27)

Carly Kasko was called to speak and stated support for Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:33:41)

Val Savalle was called to speak and stated support for Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:35:24)

Kimberly, a resident of Costa Mesa who surfs in Huntington Beach, was called to speak and shared her opinions regarding City Attorney's Report Item #12 (23-739), and opposition to Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (03:38:57)

Amory Hanson was called to speak and shared his support for the plaque commemorating the service of Donald MacAllister at the Huntington Beach Pier. (03:44:35)

Paula Schaefer, resident of Huntington Beach, was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures. (03:45:14)

Melissa Ronning was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards, and Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:49:10)

Ada Hand was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures, and #32 (23-734) regarding proposed Policy on Human Dignity. (03:52:34)

Keith Jorgensen, a resident of Huntington Beach since 1979, was called to speak and stated support for Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (03:55:51)

Mary Jo Baretich, a resident of Huntington Beach for over 40 years, was called to speak and stated opposition to Administrative Items #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees, specifically the proposed dissolution of the Mobile Home Advisory Board. (03:57:44)

Kathryn Levassiur, a resident of Huntington Beach with a passion for short-term rental regulations, was called to speak and asked that Council consider allowing un-hosted short-term rentals. She also and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards. (04:01:03)

Buffy Channel was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Item #22 (23-726) regarding payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; and #32 (23-734) regarding proposed Policy on Human Dignity. (04:04:09)

Unnamed Guest was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards, and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (04:07:35)

Tamara Colby, a proud Huntington Beach educated individual, was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31 (23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (04:11:05)

Marilyn Boehm, 35-year resident of Huntington Beach, was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity, and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (04:15:16)

Terry Rose, a Huntington Beach resident since 1983, was called to speak and shared her opposition to a variety of issues she feels the Council majority has improperly handled. (04:18:35)

Kathy Carrick, a 48-year resident of Huntington Beach, was called to speak and shared her opinions regarding what she described as the efforts of leftist ideologists to disregard open dialogue and genuine community engagement, which serves to exacerbate existing division and fuel unnecessary discord within the community. She asked that steps be taken to discourage outside, or non-resident, influences from distorting the voices of the local community members. (04:21:41)

Ken Inouye, a 50-year resident of Huntington Beach, was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. He encouraged community members and Councilmembers to respectfully work together on city business in a manner that everyone can be proud of. (04:24:20)

Valentina Bankhead, a 6-year Huntington Beach resident, was called to speak and stated support for Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (04:26:48)

Lilli Wells, 21-year Huntington Beach resident was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (04:30:02)

Steve Wells, 28-year Huntington Beach resident, was called to speak and shared his opinions on effective government and government leaders. (04:33:06)

Pursuant to Resolution No. 2014-56, at approximately 10:35 pm Mayor Strickland made a motion, second McKeon, to continue business after the hour of 11:00 PM. The motion carried by a consensus of Council. (04:36:30)

Jeanne Farrens was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures. (04:37:36)

Joan Moon, a long-time Huntington Beach resident, was called to speak and stated opposition to Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (04:40:53)

Lisa, a 47-year Huntington Beach resident, was called to speak and stated support for requiring voter ID, thanked the newly-elected Councilmembers for their service, encouraged the Councilmembers with differing opinions to keep their conduct professional, and asked for constructive input from all. (04:43:58)

Unnamed Guest was called to speak and shared his opinions on many issues related to recent Councilmember actions. (04:47:11)

Chris Slama, a resident of Huntington Beach for over 40 years and Former Huntington Beach Community and Library Services Director, was called to speak and thanked the Friends of the Library for their continued support. He also stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures, specifically proposed amendment to Charter Section 612, Measure C; #32 (23-734) regarding proposed Policy on Human Dignity; and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (04:51:38)

Mason Creyanimiller was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #33 (23-732) regarding proposal for e-bike licensure and use regulations, #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (04:54:48)

Laury Creyanimiller was called to speak, shared her opinions, and stated opposition to every agenda proposal presented by the newly elected Council majority. (04:56:27)

Jerry Donohue, a 47-year Huntington Beach resident, was called to speak and shared his opinion that Councilmembers need to talk to each other as humans and begin to set a proper example for the community. (04:59:48)

Kim Carr, Former Huntington Beach Mayor, was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures; #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #33 (23-732) regarding proposal for e-bike licensure and use regulations, #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (05:01:42)

Gabi Gibson, a resident of Huntington Beach, was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (05:04:59)

Emma Jenson was called to speak and shared her opinions related to vote protocol and voter demographics. (05:07:51)

Lisa Ferraro, a 35+-year resident of Huntington Beach and business owner, was called to speak and stated support for Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (05:11:08)

Beck Levin, Dayle McIntosh Center for the Disabled, Systems Change Advocate, was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity; Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser, and #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (05:15:06)

Peg Corley, LGBTQ Center Orange County, Executive Director, was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards; Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity; and Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (05:18:12)

Hera Poun, Huntington Beach High School Junior, was called to speak and asked that Councilmembers encourage questions and clear dialogue from themselves and the people they serve, and stated her interest in serving on the Youth Board. Mayor Strickland asked Ms. Poun to complete a blue card for staff follow-up. (05:21:38)

Unnamed Guest, Huntington Beach High School Senior, was called to speak and stated opposition to Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (05:24:29)

Dom Jones, Huntington Beach resident and California's 47th District Congressional Candidate, was called to speak, stated opposition to certain items on the agenda, and her concerns related to recent actions by the Council majority that in her opinion, undermine democracy and marginalize specific groups. (05:27:19)

Chris Dawson, a student at Huntington Beach High School and campus Turning Point USA President, was called to speak and stated his support for Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards. (05:30:32)

Megan Mend, Huntington Beach homeowner since 2008, was called to speak and stated opposition to Consent Calendar Item #16 (23-741) for actionable policy options regarding City library materials and safeguards, and Administrative Items #32 (23-734) regarding proposed Policy on Human Dignity. (05:32:52)

Chris Kluwe, 15+-year Huntington Beach resident, was called to speak and stated opposition to generally everything on the agenda, including Councilmember Items #33 (23-732) regarding proposal for e-bike licensure and use regulations, as long as the item remains so vague. He also shared his opinions regarding the many poor decisions the Council majority is making. (05:36:10)

Unnamed Guest was called to speak and stated support for Councilmember Items #35 (23-738) regarding resolution declaring City to be a "no mask and no vaccine mandate" city. (05:39:27)

Unnamed Guest was called to speak and stated opposition to Councilmember Items #34 (23-731) regarding proposal to censure Councilmember Moser. (05:42:56)

Steve Trevino, a 30-year Huntington Beach resident, was called to speak and shared his opinions and disappointment regarding the items that the Councilmember majority is choosing to focus on. (05:45:54)

Robin Estanislau, City Clerk, was called to speak and stated opposition to Administrative Items #30 (23-700) regarding three proposed Charter amendment ballot measures. (05:49:09)

Unnamed Guest was called to speak and shared his opinions and accusatory opinions on a number of issues. (05:52:26)

City Attorney Michael Gates noted for the public record that defamatory comments, such as calling someone a criminal, is not free speech and as announced by Mayor Strickland prior to inviting public speakers forward, such comments are not allowed during the Public Comments portion of Councilmember meetings. (05:55:55)

Frances Marquez, City of Cypress Councilmember, was called to speak and stated opposition to Administrative Items #31(23-693) regarding introduction of ordinances to amend the Municipal Code to streamline, consolidate, and/or dissolve a select number of boards, commissions, and committees; and Councilmember Item #34 (23-731) regarding proposal to censure Councilmember Moser. (05:56:39)

COUNCIL COMMITTEE APPOINTMENT ANNOUNCEMENTS — None

AB 1234 REPORTING

Mayor Pro Tem Van Der Mark and Mayor Strickland reported attending an event in Sacramento at the request of Senator Janet Nguyen and Assemblywoman Diane Dixon to receive a commendation honoring California Surf Day.

OPENNESS IN NEGOTIATION DISCLOSURES

Mayor Strickland reported meeting with members of the Huntington Beach Fire Association (HBFA).

CITY MANAGER'S REPORT

**10. 23-718 ~~Quarterly Homeless Report~~
Postponed to September 19, 2023**

11. 23-723 August update from Orange County Mosquito and Vector Control (OCMVC)

City Manager Al Zelinka noted that Orange County Mosquito and Vector Control Board Member Mike Posey submitted a report which was included in Supplemental Communications, and reminded everyone to ensure there is no standing water on their property in an effort to prevent mosquito breeding.

CITY ATTORNEY'S REPORT

12. 23-739 In response to Dec 20, 2022 City Council direction, report on history of authorized actions in the Moore v. City, Gates lawsuit and report on review of RWG involvement

City Attorney Michael Gates presented a PowerPoint communication titled *Response to H Item Part 2* with slides entitled: *McKeon H Item - Review of RWG (10)*; *Propriety of Craig Steele Retainer (11)*; *"Independent" Investigation (16)*; *History of Council Actions on Moore, Field (8)*; *Other Improprieties Involving Steele (8)*; *McKeon H Item - Review of RWG (11)*; and *Thank You*.

Councilmember McKeon and City Attorney Gates discussed illegal disclosure of emails relating to Closed Session from the City's server by former City Manager Oliver Chi, and referring such a breach out for further investigation.

Councilmember Kalmick shared his opinion that City Attorney Gates has not refuted a single fact in the RWG report. City Attorney Gates responded he would be happy to provide *Response to H Item Part 3*, and Councilmember Kalmick asked him to do that.

Councilmember Bolton requested Part 3 include a representative from RWG to defend their report. She made reference to what she believes are inaccurate items in City Attorney Gates' Part 1 and Part 2 reports, specifically statements contending that the "newly elected 2020 Council" suddenly settled a case that had been in litigation for two years, and asked what the reason was for this 180-degree change. Councilmember Bolton stated that Mr. Steele did not interview her about this case, and noted she only talked with Mr. Steele after she was assigned to the Ad Hoc Committee tasked to deal with the issue.

City Attorney Gates responded that he appreciates Councilmember McKeon bringing this Item forward because for two years everyone has listened to Councilmember comments and accusations on this issue, and he stated RWG has issued their 30+ page report which in the end found no wrong-doing by him or the City Attorney's Office, and he sees no reason to bring back any of the RWG attorneys.

Mayor Strickland stated that the law is violated when anyone illegally breaches any client/attorney communications.

CONSENT CALENDAR

Councilmember Kalmick pulled Consent Calendar Items #15, #16, #18, #19, #20 and #22;
Councilmember Burns pulled Items #13 and #25 for further discussion.

CITY CLERK

13. 23-694 ITEM WITHDRAWN ~~Approve and Adopt Minutes~~

Councilmember Burns pulled this item to request review of language in the August 1 minutes to accurately reflect a conversation between Councilmember Moser and Mayor Pro Tem Van Der Mark related to amending the Declaration of Policy on Human Dignity. He asked the item be withdrawn, and that revised minutes be submitted at the next meeting.

14. 23-719 August Update of Activities for Citizen Boards, Commissions, Committees (BCCs) and Regional Agencies

A motion was made by Van Der Mark, second Burns to receive and file.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

CITY MANAGER

15. 23-673 Approved Intergovernmental Relations Committee (IRC) recommendation to approve and authorize execution of Professional Services Contracts with Kahn, Soares, & Conway LLP for State Legislative Advocacy Services and with Stapleton & Associates for Federal Legislative Advocacy Services

Councilmember Kalmick pulled this item to share his concerns about approving a lowest-performing firm, and discussed with Mayor Strickland the history of how these two companies were selected by the Intergovernmental Relations Committee.

Councilmembers Bolton and Moser requested further clarification and Mayor Strickland stated he made these recommendations based on his experiences in Washington, DC and in Sacramento, as well as appearing in a Bloomberg report.

Councilmember McKeon and Mayor Pro Tem Van Der Mark stated support for Mayor Strickland's recommendation and how during a recent trip to Washington, DC, they became aware of Mayor Strickland's many relationships with politicians on both sides of the aisle.

A motion was made by McKeon, second Van Der Mark to, as recommended by the Intergovernmental Relations Committee, approve and authorize the Mayor and City Clerk to execute a Professional Services Contract between the City of Huntington Beach and Kahn, Soares, & Conway LLP for State Legislative Advocacy Services; and as recommended by the Intergovernmental Relations Committee,

approve and authorize the Mayor and City Clerk to execute a Professional Services Contract between the City of Huntington Beach and Stapleton & Associates for Federal Legislative Advocacy Services.

The motion carried by the following roll call vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

16. 23-741 Directed staff to return to City Council on October 17, 2023 with actionable policy options regarding City library materials and safeguards

Councilmember Kalmick stated he pulled this item in an attempt to abandon the entire endeavor and to maintain existing policies.

A motion was made by Kalmick, second Bolton to pull this item to maintain existing policies regarding City library materials and safeguards.

The motion failed by the following roll call vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

A motion was made by Strickland, second Burns to approve the June 20, 2023 Council direction by directing staff to return with actionable policy options related to safeguards over City library materials on October 17, 2023.

The motion carried by the following roll call vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Moser
ABSTAIN: Kalmick, and Bolton

17. 23-742 ~~ITEM WITHDRAWN Authorize the City Manager to approve a contract with Paradigm Management Services, LLC ("Paradigm") to undertake medical management responsibilities related to a workers' compensation claim~~

COMMUNITY DEVELOPMENT

18. 23-674 Approved the Huntington Beach Downtown Business Improvement District's Annual Report and Proposed Budget for Fiscal Year (FY) 2023-2024, and Adopted Resolution No. 2023-37 declaring the City's Intention to Levy an Annual Assessment for FY 2023-2024 at a public hearing scheduled for October 3, 2023

Councilmember Kalmick pulled this item to determine if Huntington Beach Downtown Business Improvement District Administrative Assistant Madeleine Gates is related to City Attorney Michael Gates. City Attorney Gates affirmed his daughter works part-time for the Business Improvement District.

Mayor Strickland and Councilmember Kalmick both thanked Huntington Beach Downtown Business Improvement District Executive Director Jamie Strong for an excellent Annual Report.

A motion was made by Kalmick, second Strickland to approve the Huntington Beach Downtown Business Improvement District Annual Report and Proposed Budget for FY 2023-2024; and, adopt Resolution No. 2023-37, "A Resolution of the City Council of the City of Huntington Beach Declaring the City's Intention to Levy an Annual Assessment for FY 2023-2024 within the Huntington Beach Downtown Business Improvement District", which sets a public hearing for October 3, 2023 to consider continuation of the Huntington Beach Downtown Business Improvement District; and, authorize the revenue appropriation of \$3,200 in account 71000710.40500 and an expenditure appropriation of \$3,200 in account 71080101.69505, for a net zero impact to the fund.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

19. 23-712 Approved Responses to the 2022-2023 Orange County Grand Jury Reports Related to Animal Welfare, School Safety, and Group Homes

Councilmember Kalmick pulled this item to amend it to include the last-minute staff memorandum submitted as supplemental communication.

A motion was made by Kalmick, second Strickland to approve the City's responses to findings and recommendations posed by the Orange County Grand Jury related to animal welfare, school shootings, and group homes; and approve not responding to the Orange County Grand Jury report on the California drought; and authorize the City Manager to submit the City's responses to the Presiding Judge of the Superior Court, **as amended by supplemental communication (amend language for clarity in subject and recommended actions; and, standardization of all draft responses)**.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

COMMUNITY AND LIBRARY SERVICES

20. 23-665 Approved and executed a five-year Memorandum of Understanding between the City of Huntington Beach and Friends of the Shipley Nature Center

Councilmember Kalmick pulled this item to recuse himself, in an abundance of caution under SB 1439, because of a campaign contribution and potential for conflict of interest. He left the room.

A motion was made by Van Der Mark, second Burns to authorize the Mayor and City Clerk to execute and approve a Memorandum of Understanding between the City of Huntington Beach and Friends of Shipley Nature Center.

The motion carried by the following roll call vote:

AYES: Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None
OUT OF ROOM: Kalmick

FINANCE

21. 23-727 Adopted Successor Agency Resolution No. 2023-03 approving an Amended Recognized Obligation Payment Schedule 23-24B for the FY 2023-24 Fiscal Period of January 1, 2024 to June 30, 2024, Subject to Submittal to, and Review by the Oversight Board and the State Department of Finance under California Health and Safety Code, Division 24, Part 1.85; and, Authorizing the Posting and Transmittal of the ROPS

A motion was made by Van Der Mark, second Burns to adopt Successor Agency Resolution No. 2023-03, "A Resolution of The Successor Agency to the Redevelopment Agency of the City of Huntington Beach Approving an Amended Recognized Obligation Payment Schedule 23-24B for the FY 2023-24 Fiscal Period of January 1, 2024 to June 30, 2024, Subject to Submittal to, and Review by the Oversight Board and the State Department of Finance under California Health and Safety Code, Division 24, Part 1.85; and, Authorizing the Posting and Transmittal of the ROPS."

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

22. 23-726 Authorized the Appropriation and Transfer of \$3,650,000 of Litigation Reserves and \$181,000 of FY 2023/24 General Fund Available Surplus to the General Liability Fund to fund the payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California

Councilmember Kalmick pulled this item to clarify case numbers which were not identified, and City Attorney Michael Gates clarified dates and described specifics on these cases.

A motion was made by Kalmick, second Strickland to approve the appropriation and transfer of \$3,831,000 from the General Fund to the General Liability Fund business unit no. 55240101 to fund the payment of attorney's fees for Kennedy Commission v. City of Huntington Beach and City of Huntington Beach v. the State of California.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

PUBLIC WORKS

23. 23-687 Accepted the lowest responsive and responsible bid, and authorized execution of a construction contract with Elegant Construction Inc. in the amount of \$1,680,000.00 for the Police Department Communications Center Renovation Project, CC-1677

A motion was made by Van Der Mark, second Burns to accept the lowest responsive and responsible bid submitted by Elegant Construction Inc. in the amount of \$1,680,000; and authorize the Director of Public Works to execute change orders not to exceed 20% of the contract costs, or \$336,000.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns

NOES: None

24. 23-699 Approved Amendment No. 1 to an Agreement with KOA Corporation for On-call Grant Writing and Administrative Consulting Services and Approved an Appropriation of \$50,000

A motion was made by Van Der Mark, second Burns to approve Amendment No. 1 to the agreement with KOA Corporation for on-call grant writing and administrative consulting services, extending the term by one year and increasing the not-to-exceed agreement amount by \$50,000; and appropriate \$50,000 from the undesignated Traffic Congestion Relief Prop 42 fund balance to Account 21985201.69365

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

25. 23-701 Approved the Execution of a Subdivision Agreement with NASH — Holland 18750 Delaware Investors, LLC and Accepted Securities for the 18750 Delaware Residential Project

Mayor Strickland recused himself in an abundance of caution because his wife owns property in the project area, and left the room.

Councilmember Burns pulled this item to confirm with staff that there was no public hearing on this item when it was presented in May 2020 because this project was part of the 2020 Housing Element Overlay, which was adopted by Council.

A motion was made by Kalmick, second Bolton to approve and authorize the Mayor and City Clerk to execute and record a Subdivision Agreement between the City and NASH — Holland 18750 Delaware Investors, LLC to construct public improvements for the 18750 Delaware residential project (Attachment 1); authorize the City Clerk to record the agreement; and accept the Faithful Performance Bond No. DVHNSU0832094 (Attachment 2), Labor and Material Bond No. DVHNSU0832094 (Attachment 3) and Monument Bond No. DVHNSU0832094 (Attachment 4), the securities furnished for installation of the required public improvements; and, instruct the City Clerk to file the bonds with the City Treasurer.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, McKeon, and Bolton
NOES: Burns
OUT OF ROOM: Strickland

26. 23-707 Rejected bid for the Admiralty Drive Bridge Rehabilitation Project, CC-1450 and approved re-advertisement of the project

A motion was made by Van Der Mark, second Burns to reject the bid received from Beador for the Admiralty Drive Bridge Rehabilitation Project, CC-1450 and to re-advertise the Project.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

27. 23-704 Canceled contract award for the Humboldt Sewer Lift Station Replacement Project, CC-1634; rejected all remaining bids and approved re-bid of the project in accordance with City Charter requirements and State Law

A motion was made by Van Der Mark, second Burns to cancel the award of construction contract to Mehta for the Humboldt Sewer Lift Station Replacement Project, CC-1634; reject all remaining bids and rebid the project in accordance with City Charter requirements and State Law.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

28. 23-733 Canceled contract award for the Fiscal Year 2022/23 Sewer Lining Project, CC-1728; rejected all remaining bids and approved re-bid of the project in accordance with City Charter requirements and State Law

A motion was made by Van Der Mark, second Burns to cancel the award of construction contract to Sancon Technologies, Inc. for the Fiscal Year 2022/23 Sewer Lining Project, CC-1728; reject all remaining bids and rebid the project in accordance with City Charter requirements and State Law.

The motion carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

ORDINANCES FOR INTRODUCTION

29. 23-708 ~~ITEM WITHDRAWN Approve for introduction Ordinance No. 4293 Amending the Huntington Beach Municipal Code (HBMC) by adding new Chapter 10.82 regarding pedestrian use of center medians~~

ADMINISTRATIVE ITEMS

30. 23-700 Alternate motion approved regarding the submission of 3 Charter amendment ballot measures for voter approval at the March 5, 2024 Statewide Primary Election, and the adoption of Resolution Nos. 2023-42, 2023-43, 2023-44 and 2023-45

Travis Hopkins, Assistant City Manager, and Catherine Jun, Deputy City Manager, presented a PowerPoint communication titled *Consideration of 3 Charter Amendment Ballot Measures for the March 5, 2024 Statewide Primary Election* with slides entitled: *Background; Fiscal Impact; Ballot Measure 1; Ballot Measure 1 - Overview; Ballot Measure 2; Ballot Measure 2 - Overview; Ballot Measure 3; Ballot Measure 3 - Overview; and Recommendation.*

Councilmember Burns stated this diligent and prudent effort is intended to increase governing efficiencies for Huntington Beach residents and businesses, and noted the voters will be the final decision makers.

Mayor Strickland and City Attorney Gates discussed the issue of whether or not it is legal to place these items on a primary election ballot. Elections Code Section 1415 specifically permits cities to place

charter amendments on a primary election ballot, and they noted there are several qualified staff involved in this process that would have stopped it if it was illegal. City Attorney Gates clarified the government codes being cited by many people are not applicable in this case, and there are a lot of laws for different circumstances and situations.

Councilmembers Kalmick, Bolton and City Attorney Gates discussed Kalmick's concern that the City Attorney's Office is providing legal advice on charter amendments that impact that office; details on Section 1415; ramifications, including costs, for defining election processes and procedures which differ from County regulations; concerns about redefining City Attorney authority and attorney/client relationship with the City Council; City Attorney's annual budget authority and restrictions; protecting attorney/client privilege and attorney work product information; how the 2027 effective date was determined; lowering qualifications for City Clerk position; investigation of malfeasance; referencing specific flags in the Charter; vague language regarding property transactions which could affect taxes collected, an issue which Kalmick believes could be handled through an ordinance; lack of staff analysis to determine if there are cost differences between placing these items on the primary vs. general election; amendments being rushed through without adequate citizen feedback; some amendments appear to be solving problems which don't exist; and the potential for triggering lawsuits and additional costs.

Mayor Strickland responded to some of the specific concerns raised such as municipal election options, clearing up ambiguity for City Clerk qualifications, primary election ballot usually not as overwhelming as the general election ballot; and stated proposed amendments consolidate associated items to reduce costs.

Councilmember Bolton shared her concern that no one knows how the County would respond if Huntington Beach implements municipal voter regulations, and she cannot support these changes until potential consequences are identified.

Councilmember McKeon stated his support for any proposed Charter amendments using a transparent process which maximizes public participation and using a Charter Review Committee/Commission, rather than going from an Ad Hoc Committee directly to the ballot.

Councilmember Kalmick stated his support for using a Charter Review Committee/Commission.

City Clerk Estanislau clarified that "ad hoc" committees are not bound to Brown Act meeting standards and recommended setting up a standing committee to address Charter recommendations.

Councilmember Moser stated support for Councilmember McKeon's comments on this issue, and added her support for including a third-party professional.

Mayor Strickland and City Attorney Gates discussed there are many options that Councilmembers have access to for getting an issue to the voters through the ballot.

Mayor Strickland confirmed with City Clerk Estanislau that everything must be ready by December 8, 2023, in order to be placed on the March 5, 2024 primary election ballot.

City Clerk Estanislau clarified procedure and timeline parameters needed in order to meet the December 8 deadline. She also shared that the cost savings would be approximately \$42,000 to \$56,000 to place these items on the November 2024 general election vs the March 2024 primary election ballot.

Councilmember Moser shared her concerns, including no one currently knows how the county could respond if Huntington Beach would implement municipal voter regulations, costs, proposed items need more clarity and definition, lack of data on the strength or weakness of the existing local election system, lack of staff input and recommendations, and lack of supporting legal information.

Councilmember McKeon, speaking as a member of the former Charter Review Commission, stated his expectation the process can maximize public participation, be legal, and meet the deadlines for completion by December 8 by utilizing the work of the former Charter Review Commission.

City Manager Al Zelinka confirmed that staff would step up and perform as directed by Council.

A motion was made by Kalmick, second Moser to ask staff to return at the next regular Council meeting with structure options and timelines for forming a Charter Review Committee, following the guidelines submitted when the prior Charter Review Committee was established.

The motion failed by the following roll call vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

An alternate motion was made by Strickland, second Burns to create a Council Charter Review Committee for public input, made up of the full City Council, to meet every Thursday for the next four weeks beginning Thursday, September 14, 2023, at 6 p.m.; and authorize hiring an outside consultant experienced in Charter review.

The alternate motion carried by the following roll call vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

31. 23-693 Adopted Resolution No. 2023-40 and approved for introduction Ordinance Nos. 4296, 4295, 4298, 4299, 4297, 4300, and 4301 to amend the Huntington Beach Municipal Code to streamline, consolidate, and/or dissolve a select number of the City's Boards, Commissions, and Committees and Council Committees

Travis Hopkins, Assistant City Manager, presented a PowerPoint communication titled *Board, Commission, & Committee (BCC) Reconfiguration*, with slides entitled: *Background; Recommended Actions (6); and Questions?*

Councilmember Kalmick confirmed with Assistant City Manager Hopkins that the Section 2.100 standard regarding local voter requirement is not being removed for the Fourth of July Board.

Mayor Pro Tem Van Der Mark clarified that the Youth Board is not being eliminated, rather, modifications are being made to increase participation and allow the Board to meet more often.

Councilmember Moser shared how the Human Relations Committee and Police Department have worked very closely on local issues, and Chief Parra agreed the relationship has been a successful cooperative effort. Chief Parra stated he believes specific community issues could be successfully addressed through County services.

A motion was made by Strickland, second Burns to A) approve the official dissolution of the City Council Short-Term Rentals Ad Hoc Committee, Housing/RHNA Ad Hoc Committee, and Cannabis Regulation and Policy Ad Hoc Committee by minute action; and/or B) approve renaming of the Urban Design Study Ad Hoc Council Committee to the Downtown and Beach Front Ad Hoc Council Committee and broadening their scope of work by minute action; and/or C) adopt Resolution No. 2023-40, "A Resolution of the City Council of the City of Huntington Beach repealing Resolutions 2002-106 and 2021-66, and dissolving the Human Relations Committee;" and/or D) after the City Clerk reads by title, approve for introduction Ordinance No. 4296, "An Ordinance of the City of Huntington Beach repealing Ordinance No. 4168 and delete Chapter 2.104 of the Huntington Beach Municipal Code dissolving the Jet Noise Commission;" and/or E) after the City Clerk reads by title, approve for introduction Ordinance No. 4295, "An Ordinance of the City of Huntington Beach repealing Ordinance No. 3332 and delete Chapter 2.112 of the Huntington Beach Municipal Code dissolving the Mobile Home Advisory Board;" and/or F) after the City Clerk reads by title, approve for introduction Ordinance No. 4298, "An Ordinance of the City of Huntington Beach deleting Chapter 2.102 of the Huntington Beach Municipal Code and dissolving the Environmental and Sustainability Board;" and/or G) after the City Clerk reads by title, approve for introduction Ordinance No. 4299, "An Ordinance of the City of Huntington Beach Amending the Huntington Beach Municipal Code by amending Chapter 2.111 thereof related to Citizen Infrastructure Advisory Board/Public Works Commission"; and approve the official dissolution of the Smart Cities and Technology Council Committee by minute action; and/or H) after the City Clerk reads by title, approve for introduction Ordinance No. 4297, "An Ordinance of the City of Huntington Beach deleting Chapter 2.108 of the Huntington Beach Municipal Code and dissolving the Huntington Beach Youth Board;" and/or I) after the City Clerk reads by title, approve for introduction Ordinance No. 4300, "An Ordinance of the City of Huntington Beach amending the Huntington Beach Municipal Code by amending Chapter 2.106 thereof related to Fourth of July Executive Board;" and/or J) after the City Clerk reads by title, approve for introduction Ordinance No. 4301, "An Ordinance of the City of Huntington Beach amending the Huntington Beach Municipal Code by amending Chapter 13.54 thereof related to Specific Events;" and/or K) approve the official dissolution of the City Council Boards, Commissions, and Committees Review Ad Hoc Committee upon approval of recommended actions above.

The motion carried by the following roll call vote:

Items B), H), I) and J):

AYES: Kalmick, Van Der Mark, Strickland, McKeon, and Burns

NOES: Moser, and Bolton

Items A), C), D), E), F), G), and K):

AYES: Van Der Mark, Strickland, McKeon, and Burns

NOES: Kalmick, Moser, and Bolton

32. 23-734 Approved the Ad Hoc Committee's proposed Policy on Human Dignity

Catherine Jun, Deputy City Manager, presented the historical timeline for this H Item originally introduced by Councilmember Burns.

Councilmember Burns stated that certain segments of society appear to be alienating themselves from the all-inclusive term "everyone" which is used in the Policy on Human Dignity to literally include everyone.

Councilmember Bolton stated that everyone is *not* under the same umbrella, and from her perspective the Policy on Human Dignity should acknowledge that fact through specific delineation.

Councilmember Moser stated she sees this action to remove the history, origin and references to hate crimes from the original declaration as detrimental, and suggested that Councilmember Burns may want to write up a "personal policy" document. She added that in her opinion, Council should not destroy the original Policy on Human Dignity in this way. She noted some of the topics included in the proposed document are issues that she doesn't believe are even under the purview of the City.

Councilmember McKeon shared his opinion that every rational person condemns acts of hate and it shouldn't be necessary for the government to document the fact that hate crimes are condemned.

Councilmember Kalmick stated he cannot support this item based on the poor grammar, and in his opinion, it looks like a mish mash of right-wing policies.

A motion was made by Burns, second Strickland to approve the Ad Hoc Committee's amended Policy on Human Dignity, and formally dissolve the Ad Hoc Committee.

The motion carried by the following roll call vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

COUNCILMEMBER ITEMS

33. 23-732 Approved as amended Item Submitted by Council Members McKeon and Burns — Develop Proposal for E-Bike Licensure and Use Regulations

Councilmember McKeon introduced the item and stated the intent is to coordinate with what the schools are doing to address safe operation and regulation of e-bikes.

Councilmember Kalmick stated support for this item, and asked staff to look into AB1909, amended Section 39002 of the vehicle code, which says cities can require a license but cannot prohibit anyone from riding a bike. He asked for more data, such as who are using e-bikes, review of possible engineering methods for control, consideration of safe school routes, and how e-bikes are being handled by other cities, and education options, before an actual proposal is requested from staff.

Councilmember Bolton suggested community meetings be part of the process to ensure community member concerns are also addressed.

A motion was made by Strickland, second Burns to approve directing the City Manager to work with the Police Department and the City Attorney to develop a proposal for e-bike licensure and use regulations. The proposal should return to City Council in November. The following concepts should be addressed, if possible, in the proposal that returns to Council:

- Require a city license to operate an electric bicycle within city limits unless the rider possesses a valid driver's license.
 - Establish a fee for license (akin to a business license)
- Mandate rental businesses to require customers renting e-bikes to view a safety video in order to have a one-day license or show proof of a valid driver's license.
- Explore enforcement options for PD
 - Revising current HBMC to assist officers with enforcement efforts - see if our HBMC can "follow" or "borrow" rules and enforcement from the California Vehicle Code.
 - New HBMC for "pocket bikes" (Surrans)
 - Higher fine structures, bike impounding

Amended to include ideas shared by Council at the dais.

The motion as amended carried by the following roll call vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

34. 23-731 Approved Item Submitted by Mayor Strickland and Council Members Burns and McKeon — Move to Censure Council Member Moser

Councilmember Burns introduced this item by playing a video clip from May 7, 2018, of Gracie Van Der Mark as a Public Speaker in the Council Chambers as evidence of Ms. Van Der Mark's public denial of the accusations against her. He stated the repeated false accusations on August 1, 2023, by Councilmember Moser were inappropriate, out of the lines of decorum, and a violation of the City's code of ethics. Councilmember Burns also noted that "censoring" really doesn't really do anything but document the fact that this type of accusation will not be tolerated.

Mayor Strickland stated decorum has to improve in order for Councilmembers to work together.

A motion was made by Burns, second Strickland to by Minute Order, or majority vote of City Council tonight, censure Councilwoman Moser for the aforementioned statements and hostile/personal escalation made at the Council Meeting on August 1, 2023; that those statements and hostile/personal escalation be deemed "inappropriate," declare that they are not the views/statements of the City Council, and serve as a reminder that those types of statements and hostile/personal escalations do not meet either professional decorum required at City Council nor the goals of the Declaration of Policy of Human Dignity.

The motion carried by the following roll call vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: None
OUT OF ROOM: Kalmick, Moser, and Bolton

35. 23-738 Approved Item Submitted by Mayor Pro Tem Van Der Mark — Resolution Declaring City to be a "No Mask and No Vaccine Mandate" City

Mayor Pro Tem Van Der Mark reviewed the history of COVID-19, including retrospective analysis, to support her position that mandating masks and proof of vaccine or booster unnecessarily restrict individual freedoms. She stated exceptions for this action would only apply to those who have tested positive. This item is an effort to ensure personal choice in Huntington Beach for wearing a mask or getting the vaccination, allowing for personal liberty, and taking a stand against government intrusion.

Councilmember Kalmick supplied his own statistical data to dispute Mayor Pro Tem Van Der Mark's statement, and explained that Huntington Beach didn't mandate anything but did follow the advice of the California Department of Public Health and the Orange County Health Agency. He further stated this action could impact implementing California Occupational Safety and Health Administration (CAL OSHA) rules.

Mayor Strickland clarified that if this action is approved, local businesses will have the option to determine whether or not they require people entering their premises to wear a mask or get vaccinated.

He stated it is on elected officials to look at the macro effects, not just the science, and to respect individual freedoms.

Councilmember Bolton stated her support for Councilmember Kalmick's comments, noted that no one has asked for the proposed action, and shared her opinion this discussion is a massive waste of time.

A motion was made by Van Der Mark, second Strickland to approve the City ban broad (universal) mask and vaccine mandates; City Manager to return to Council with a Resolution at the next regular meeting declaring the City to be a "no mask and no vaccine mandate City" as a response to COVID-19 or any variants. Individuals, whether at City Hall or in the private sector, should have a right to choose whether to wear a mask or get vaccinated or boosted.

The motion carried by the following roll call vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

ADJOURNMENT — At 2:49 AM on Wednesday, September 6, 2023, a motion was made by Burns, second by Van Der Mark, to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, September 19, 2023, in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

INTERNET ACCESS TO CITY COUNCIL/PUBLIC FINANCING AUTHORITY AGENDA AND
STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO CITY COUNCIL MEETINGS AT
<http://www.huntingtonbeachca.gov>



City Clerk and ex-officio Clerk of the City Council
of the City of Huntington Beach and Secretary of
the Public Financing Authority and Successor
Agency of the City of Huntington Beach,
California

ATTEST:



City Clerk-Secretary



Mayor-Chair

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EXHIBIT H

Minutes

City Council/Public Financing Authority City of Huntington Beach

Special Meeting

Thursday, September 14, 2023
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of this meeting
is on file in the Office of the City Clerk, and archived at
www.surfcity-hb.org/government/agendas/

6:00 PM — COUNCIL CHAMBERS

CALLED TO ORDER — 6:01 PM

ROLL CALL

Pursuant to Resolution No. 2002-54, Councilmember Burns requested and was granted permission to be absent; Councilmember Moser arrived late due to conflicting obligations.

Present: Kalmick, Moser (*arrived at 7:03 pm*), Van Der Mark, Strickland, McKeon, and Bolton
Absent: Burns

PLEDGE OF ALLEGIANCE — Led by Councilmember McKeon

INVOCATION — Mayor Strickland

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads:

Item #1 (31 email communications as of 9:00 AM)

Catherine Jun, Deputy City Manager, presented a brief verbal overview of the process to allow for public comments prior to and immediately after Councilmember discussion on proposed Charter amendments at this meeting. She also briefly outlined the expected process for the remaining three scheduled meetings.

Councilmember McKeon stated this process will provide transparency and public involvement in determining if Charter amendments are needed to promote good governance. He noted the costs can be covered by available funds for one-time expense projects such as this, and that the proposed process would ultimately allow voters to have the final say on March 5, 2024. Speaking as a member of the former Charter Review Commission, he stated that very few members of the public attended any of the Charter Review Commission meetings in 2022.

City Clerk Robin Estanislau described the proposed public comment process, and clarified that speakers would be called up in the order their Request to Speak forms are received.

PUBLIC COMMENTS (90-Second Time Limit) — 39 Public Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Unnamed Guest was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:12:01)

Shammy Dee was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:13:46)

Unnamed Guest was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:15:25)

Pat Goodman was called to speak and asked that a Charter amendment for appointment of City Attorney, City Clerk and City Treasurer positions, be considered. She stated support for the proposed two-year budget process, and park facility improvements, and opposition to the other proposed Charter amendments. (00:16:55)

Meg Robinson was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:18:17)

Linda Moon was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:19:32)

Wendy Rincon was called to speak and asked questions which she had already emailed to Councilmembers: 1) reasons the City should manage elections; 2) what disqualifies Orange County Registrar of Voters from managing the voting process; and 3) examples of voter fraud in Huntington Beach or Orange County to support the request for voter ID. (00:21:02)

Carol Daus, Huntington Beach resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:22:19)

Harry McLachlan, a long-time resident, was called to speak and stated his opposition to proposed Charter Amendment regarding the voting process. (00:24:06)

Paula Schaefer, a 30-year resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:25:50)

Ken Inouye, a resident for over 50 years, was called to speak and asked for disclosure of the Unrestricted Reserve budget balance at the next meeting so that informed decisions can be made. (00:27:49)

Mary Kyle, a 25-year resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election, specifically related to the voting process. (00:28:52)

Karen Jackle, a 50-year resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:30:34)

Tim Geddes was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:31:27)

Neal was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election, specifically related to the voting process. (00:32:55)

Amory Hanson was called to speak and suggested an additional Charter amendment to require a special election in the event of a Council vacancy, unless the Councilmember's term would soon expire and a general election would be held anyway. (00:33:46)

Laura Steingold, a long-time resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election, specifically related to the voting process. (00:34:40)

Kathryn Goddard was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:35:48)

Brad Bergeland, a 37-year resident of Huntington Beach, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:37:25)

Ryan Messick, a local drug and alcohol counselor, was called to speak and shared his opinions regarding local politics. (00:39:00)

Melanie Bergeland, a long-time resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:41:01)

Tony Duran, resident, local business owner, and Downtown Business Improvement District (BID) Executive, was called to speak, and speaking as a resident stated support for proposed Charter amendments for the March 5, 2024 statewide primary election related to requiring voter ID. (00:42:04)

Andrew Einhorn, Huntington Beach resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:43:42)

David Rynerson, long-time resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:45:16)

Unnamed Guest was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:46:38)

Mason Creyanfmiller was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:47:49)

Unnamed Guest was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:49:29)

Jeff Lebow, 37-year Huntington Beach home owner, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:51:07)

Bethany Webb, 40-year+ resident, was called to speak and thanked Councilmember McKeon for speaking up and representing all people in Huntington Beach, and encouraged Council to spend money on real issues. (00:52:37)

Jeanne Farrens was called to speak and shared her appreciation for Councilmember McKeon making these open meetings possible, and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (00:54:41)

Terry Rose was called to speak and shared her opinions that the newly-elected Councilmembers and City Attorney Gates are interested in personal agendas, not serving the residents of Huntington Beach. (00:56:24)

Jerry Donohue, a 40-year resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election, specifically related to the voting process. (00:57:58)

Diana Lithgow, 41-year resident, was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election, specifically related to the voting process, changed requirements for the City Clerk position, and making it easier to cancel City Council meetings. (00:58:50)

Mary Jo Baretich was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (01:00:27)

Unnamed Guest, a 40-year resident, was called to speak and stated support for proposed Charter amendments for the March 5, 2024 statewide primary election, specifically requiring voter ID. (01:02:08)

Ann Palmer, 30+-year resident, was called to speak and voiced concerns regarding petitioners collecting signatures within any City building, and shared her support for amendments related to 2344 Section 5 regarding acquisition of property that would restrict or eliminate property taxes, local elections, and eliminating some exceptions for development related to housing. (01:03:48)

Unnamed Guest was called to speak and stated support for proposed Charter amendments for the March 5, 2024 statewide primary election. (01:05:26)

Unnamed Guest was called to speak and stated support for voter ID. (01:07:05)

Ellen Riley was called to speak and stated opposition to proposed Charter amendments for the March 5, 2024 statewide primary election. (01:08:40)

ADMINISTRATIVE ITEM

- 1. 23-765 Discussion Presentation of Potential Charter Amendments for the March 5, 2024 Statewide Primary Election**

Catherine Jun, Deputy City Manager, presented a PowerPoint communication titled *Discussion of Potential Charter Amendments for the March 5, 2024, Statewide Primary Election* with slides entitled: *Background (3); Timeline Leading Up to Today; and 2023 Charter Review Process (4)*.

Councilmembers Kalmick, Bolton and McKeon as well as Mayor Strickland shared their opinions on the proper way to proceed with this meeting to maximize opportunities for public speaking as well as properly utilize the time of assembled Councilmembers.

Councilmembers Moser and Bolton asked for a written legal opinion on the proposed Charter amendments at the next meeting, as well as a response from the Orange County Registrar of Voters regarding the proposed voting process.

City Clerk Robin Estanislau noted for the record that the title for Agenda Item #1 (23-765) stated "discussion" of potential Charter amendments and her belief the public expected to hear Councilmember discussion on the items just shared by the public speakers. Mayor Strickland responded he directed the City Manager's office to prepare for the presentation that described the process for the four scheduled meetings.

City Clerk Estanislau noted that the Orange County Registrar of Voters has been unwilling to respond to proposed Charter amendments impacting the election process without having all the details.

Councilmember Kalmick asked that written response from the District Attorney and Attorney General be presented confirming whether or not they have capacity or authority to handle the types of referrals as listed in the proposed Charter amendment regarding malfeasance, i.e., all investigations of elected officials would be referred to the District Attorney.

A motion was made by Kalmick, second Bolton to abandon all proposed Charter amendments for the March 5, 2024 Statewide Primary Election, and/or assemble a Charter Review Commission to determine whether or not any Charter amendments are needed.

The motion failed by the following roll call vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, and McKeon
ABSENT: Burns

PUBLIC COMMENTS — Round Two (90-Second Time Limit) — 21 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Unnamed Guest was called to speak and expressed her disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers pertaining to the proposed Charter amendments. (01:30:02)

Unnamed Guest was called to speak and expressed her disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers pertaining to the proposed Charter amendments. (01:31:52)

Ken Inouye was called to speak and shared his opinion that most people are interested in the price tag for the proposed election process and implementation, as well as Reserve balance. He also expressed appreciation for knowing there will be a legal opinion coming from the City Attorney's Office. (01:33:00)

Karen Jackle was called to speak and asked that Ad Hoc Committees include all Councilmembers with their expertise, not just a select few. (01:33:59)

Mary Kyle was called to speak and recommended establishing a committee consisting of all Councilmembers, as well as members of the community, to address proposed Charter amendments. She noted her questions have not been addressed, specifically related to the proposed voting changes. (01:34:34)

Tim Geddes was called to speak and urged Councilmembers to take actions based on the comments shared by the public, and provide the community with facts and figures. (01:36:15)

Paula Schaefer was called to speak and shared her observation that a majority of public speakers do not support the proposed changes, asked who is expected to benefit from the proposed changes, and asked that Councilmembers abandon the proposed Charter amendments. (01:37:03)

Linda Moon, a 49-year resident, was called to speak and requested a return to a deliberate and thoughtful process for Charter amendment changes, and suggested that anyone questioning the security of the current voting process take a tour of the Orange County Registrar of Voters facilities. (01:38:22)

Tony Duran, resident, business owner and Downtown Business Improvement District (BID) Executive, speaking as a resident, was called to speak and offered his time to assist Councilmembers in the Charter review process, as well as to address e-bike issues. (01:40:04)

David Rynerson was called to speak and asked that Councilmembers listen to what people are saying, and expressed disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers. (01:40:50)

Terry Rose was called to speak and shared her opinion that the latest changes to the Policy on Human Dignity will allow and promote hate crimes, and that Mayor Pro Tem Van Der Mark should be removed from City Council based on previous actions and statements. (01:41:54)

Unnamed Guest was called to speak and expressed her disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers. (01:43:32)

Unnamed Guest was called to speak and expressed her disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers. (01:44:58)

Unnamed Guest was called to speak and expressed her disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers. She also shared her opinion related to inappropriate Councilmember statements at the last City Council meeting. (01:46:34)

Unnamed Guest was called to speak and expressed embarrassment and disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers pertaining to the proposed Charter amendments. (01:48:16)

Zachary Stevens, a new resident of two months, was called to speak and expressed disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers pertaining to the proposed Charter amendments. (01:49:52)

Unnamed Speaker was called to speak and expressed disappointment there was no Councilmember discussion this evening regarding questions raised by the first round of public speakers pertaining to the proposed Charter amendments. (01:51:28)

Diana Brinkley, a longtime resident, was called to speak, and shared her expectation when attending City Council meetings is to hear discussions to learn details regarding the proposed Charter amendments. She thanked Councilmembers for their service, and stated interest in meeting them personally. Mayor Pro Tem Van Der Mark asked her to complete a blue card for follow-up. (01:52:28)

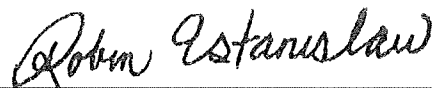
Unnamed Guest was called to speak and shared his opinion that Councilmembers have a lot of homework to do after hearing tonight's speakers and he looks forward to upcoming meetings regarding the proposed Charter amendments. (01:54:16)

Ellen Riley was called to speak and encouraged Councilmembers to spend their time focused on the City's business such as roads, housing, public safety, and prudent spending. Councilmember McKeon asked her to complete a blue card for follow-up. (01:55:19)

Unnamed Guest was called to speak and shared his confusion as to how it was determined to group items for the proposed Charter amendments, noting that they appear unrelated and most people couldn't be expected to support all items that have been grouped together. (01:56:19)

ADJOURNMENT — 8:00 PM, a motion was made by McKeon and second by Van Der Mark to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, September 19, 2023, in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

INTERNET ACCESS TO CITY COUNCIL/PUBLIC FINANCING AUTHORITY AGENDA AND
STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO CITY COUNCIL MEETINGS AT
<http://www.huntingtonbeachca.gov>



City Clerk and ex-officio Clerk of the City Council
of the City of Huntington Beach and Secretary of
the Public Financing Authority of the City of
Huntington Beach, California

ATTEST:



City Clerk-Secretary



Mayor-Chair

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EXHIBIT I

Minutes

City Council/Public Financing Authority City of Huntington Beach

Special Meeting

Thursday, September 28, 2023
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of the 6:00 PM portion of this meeting is on file in the Office of the City Clerk, and archived at www.surfcity-hb.org/government/agendas/

6:00 PM - COUNCIL CHAMBERS

CALLED TO ORDER — 6:00 PM

ROLL CALL

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
Absent: None

PLEDGE OF ALLEGIANCE — Led by Councilmember Burns

INVOCATION

1. 23-814 Huntington Beach Fire and Police Chaplain Roger Wing

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads:

Administrative Items #2 — 55 email communications, 3 letters; Councilmember Items #3 — 3 email communications.

PUBLIC COMMENTS (90-Second Time Limit) — 39 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas/>.

Shammy Dee was called to speak and stated her opposition to proposed voting changes. (00:06:08)

Delaine Bailey was called to speak and stated her support for voter ID and surveillance of ballot drop boxes. (00:07:51)

Frank Zappia was called to speak and expressed his appreciation for the integrity of the new Council majority. (00:09:30)

Jeanne Paris, 27+ year resident, was called to speak and stated her support for all proposed Charter amendments, and appreciation for the Council majority. (00:11:10)

Ann Palmer, 30-year resident, was called to speak and suggested a Charter amendment addressing the issue of high-density housing, and asked if there is a flood mitigation plan. (00:12:39)

Dennis Pappas, a resident for over 50 years, was called to speak and stated appreciation for the Council majority and support for the proposed Charter amendments. (00:14:16)

Patricia Pappas was called to speak and stated support for the proposed Charter amendments. (00:15:23)

Don Kennedy, Candidate for City Council in 2024, was called to speak and stated support for the Councilmembers, and for the proposed Charter amendments. (00:16:08)

Unnamed Guest, a resident, was called to speak and stated opposition to requiring voter ID in Huntington Beach. (00:17:44)

Dennis, 40-year resident, was called to speak and stated support for the proposed flag amendment, handling Council vacancies, biennial budget cycle, voter ID, waiver or forgiveness regarding the collection of taxes, minimal changes to Measure "C", addressing the issue between the former Council and City Attorney; and opposition for allowing the Mayor the ability to cancel meetings, and proposed changes for City Clerk qualifications. He stated all proposed Charter amendments should stand on their own and not be bundled. (00:20:19)

Buzz McCord was called to speak and stated his opposition to any proposed Charter amendments related to voting. (00:21:55)

Mary Kyle, 25-year resident, was called to speak and stated her opposition to the proposed Charter amendments. (00:23:37)

Andrew Einhorn was called to speak and stated his opposition to all proposed Charter amendments, as well as the recent "no mask, no vaccine mandate" resolution. He thanked staff and Lt. Archer for their efforts to address e-bike issues. (00:25:09)

Linda Moon, 49-year resident, was called to speak and stated elected Councilmembers are expected to make informed decisions and shared her opinion the information received in the letter from the California Attorney General and Secretary of State regarding elections should have been thoroughly reviewed before the hasty, ill-considered decision to proceed with the amendment process. (00:26:43)

David Rynerson, 25-year resident, was called to speak and thanked the minority Councilmembers for reaching out to State officials and stated it appears that nothing has changed in spite of what most speakers are saying. (00:28:16)

Neal Kuster was called to speak and shared his opinion this process doesn't work with the time allotted for comment given the massive number of Charter proposals; shared his concerns regarding how proposed amendments may, or may not, be bundled; and urged a focus on why a Charter amendment is being used rather than an ordinance to determine flag policy. (00:29:36)

Kane Durham was called to speak and stated his support for Neal Kuster's comments regarding the flag policy and shared his opinion the proposed voting amendments will make it harder for people to vote. (00:31:08)

Connie Boardman, former Mayor and 8-year Councilmember, was called to speak and stated opposition to proposed amendments that would take City Attorney work product and budget away from the Council. (00:32:46)

Wendy Rincon was called to speak and stated her opposition to the speed which this process is being pushed through considering the many and varied proposed amendments. (00:34:16)

Tim Geddes, 40-year resident, was called to speak and stated his main concern is the tinkering with local elections and voter ID, and asked that these proposed amendments be removed from consideration. (00:36:06)

Lisa was called to speak and stated her support for the proposed Charter amendment to allow the taxpayers to determine appropriate flags to fly on City buildings and thanked Councilmember McKeon for suggesting the four additional meetings to work out the details and listen to residents. (00:37:38)

Mary Jo Baretich, 40-year resident, was called to speak and stated her opposition to proposed amendments related to the voting process and the plan to bundle unrelated items for the ballot. She also shared her opinion much more time is needed to get needed legal opinions on the proposed amendments. (00:38:58)

Butch Twining, Planning Commissioner and Candidate for City Council in 2024, was called to speak and shared his appreciation for the Councilmembers and City officials who attended the ceremony today at the Los Alamitos Joint Forces Training Base to pay tribute to military patriots. He also thanked the Air Show producer for ensuring another event. (00:40:38)

Unnamed Guest, Huntington Beach voter and resident, was called to speak and stated her opposition to proposed voting changes that only affects 20% of 2022 voters and asked that tax dollars be spent on increased library hours, street improvements, and more meals for vulnerable seniors. She stated Measure "C" is important and deserves to be a standalone ballot issue. (00:42:17)

Steve Wells was called to speak and asked that Councilmembers focus on reaching an agreeable middle ground on issues before placing them on a ballot and encouraged people to listen to each other and taking time for proper dialogue rather than rushing through the process. (00:43:50)

Amory Hanson was called to speak and stated his support for a proposed Charter amendment regarding how to address a potential Council vacancy. (00:45:30)

Kathryn Goddard, 30-year resident, was called to speak and stated her support for Councilmember Items #3 seeking an opinion from the California Attorney General on eligibility for the Primary Election ballot for proposed Charter amendments involving elected officials. (00:46:16)

Harry McLachlan, a resident, was called to speak and shared his opposition to the revised Policy on Human Dignity and urged Council to leave the original document alone. (00:47:24)

Guest P was called to speak and shared examples to support her statement that newly elected 2022 Council candidate campaign signs clearly stated "No Changes to our City Charter". (00:48:37)

Perry Clitheroe was called to speak and stated his opposition to any proposed amendments related to the voting process, especially in light of the letter received today from the California Attorney General and Secretary of State. (00:50:23)

Joseph Shapiro, a resident for over 40 years, was called to speak and stated his opposition to the proposed Charter amendments and encouraged Councilmembers to truly listen to the public speakers rather than just voting their pre-determined decision. (00:52:28)

Irene Briggs, a resident, was called to speak and stated her opposition to banning library books. (00:53:22)

Mason Creyanfmiller was called to speak and stated his opposition to any proposed Charter amendments related to local control over the voting process. (00:55:02)

Unnamed Guest was called to speak and stated her support for taking more time to ensure any amendments related to voting issues are based on facts. (00:56:40)

Mira Dujanovic, a resident, was called to speak and stated her opposition to the salary increase for City Attorney Michael Gates, and proposed Charter amendment related to City Clerk candidate requirements. (00:58:19)

B. Channel, 35-year resident, was called to speak and shared her concerns related to the bundling of proposed Charter amendments and asked that each proposal stand on its own. (01:00:00)

Unnamed Guest was called to speak and noted the *Orange County Register* just announced that Huntington Beach is the Best Place to Live in Orange County, has the Best Downtown in O C, and the Best Beaches in O C, and tomorrow the world's pre-eminent Air Show starts in Huntington Beach. He also stated support for voter ID. (01:01:25)

Jaeden, a Huntington Beach high school student choosing to complete his education on-line, called to speak and stated his appreciation for the newly elected Councilmembers and their attempts to help Huntington Beach. He stated he looks forward to the opportunity of serving on the Youth Board. (01:03:03)

Synde, a resident, was called to speak and asked that the proposed Charter amendment regarding voter ID clarify if it really applies to all voters and suggested that rather than arbitrarily determining a specific number of added voter locations, a formula be used, or ways listed that the City could implement to increase voter access to polling locations in the years ahead. (01:04:21)

ADMINISTRATIVE ITEMS

- 2. 23-835 City Council discussed and considered potential amendments to the Charter; conducted straw votes to place certain amendments on the March 5, 2024 Statewide Primary Election ballot**

Section 702, Procedure for Holding Elections, and Section 705, Special Provisions Relating to Municipal Elections — Straw vote approved — Mayor Strickland asked City Attorney Michael Gates and Acting Chief Assistant City Attorney Paul D'Alessandro to respond to the letter received from California Attorney General Bonta and Secretary of State Webster.

City Attorney Gates noted that California Attorney General Bonta's communication stated his objections to voter ID and monitoring of ballot drop boxes. City Attorney Gates explained that the cases cited in the letter to support the objections had nothing to do with voter ID or monitoring of ballot boxes and reads largely as a "policy" concern. He explained that "matter of concern for the State" is a legal term which is identified by legislature and ratified or validated by a court.

City Attorney Gates read from a cited case between Redondo Beach and the State of California in 2020 where Redondo Beach prevailed against California Attorney General Bonta regarding election law as it relates to local municipal elections. In summary, the court ruled that a city's charter supersedes state law when the issue is a municipal affair. He noted that California Attorney General Bonta appealed the ruling, and the State Supreme Court denied Bonta's request for a review.

Mayor Strickland and Acting Chief Assistant City Attorney D'Alessandro briefly reviewed the San Francisco Charter City and County case which allowed San Francisco to run their own elections under the State Constitution.

Regarding additional polling locations, Mayor Strickland asked staff to change the wording "... the City to provide at least 20 residential voting locations which are ADA compliant for in-person voting ..." in the proposed amendment.

Councilmember McKeon suggested changing "shall" to "may" throughout Section 705. Special Provisions Relating to Municipal Elections.

Mayor Strickland confirmed for the benefit of the public that if the voters approve the proposed amendment, it does not take effect until 2026.

Councilmember Kalmick disagreed on the effective date for implementing voter ID, and Mayor Strickland asked that the phrase, "beginning in 2026" be moved to the beginning of Section 705.

Councilmember Bolton shared her concern about municipal elections being consolidated with state and federal elections, as noted in California Attorney General Bonta's letter, that consolidated elections are to be conducted in accordance with state law. She stated at this point there is still no clear direction from the Orange County Registrar of Voters, nor has a realistic cost been determined.

Councilmember Bolton, City Attorney Gates and Mayor Strickland briefly reviewed the Redondo Beach case and the opinions expressed in California Attorney General Bonta's letter.

Councilmember McKeon stated that if the amendment language is changed to "may" it will provide an option to proceed, or not, in 2026.

City Attorney Gates noted that addressing voter issues in the Charter is asserting the right to local control per the California constitution.

Councilmember Kalmick asked if it would be possible to have a general statement in the Charter that Huntington Beach City Council will create ordinances to manage their own local affairs. City Attorney Gates confirmed that could be one way to maintain local control.

Councilmember Kalmick noted his interpretation of California Attorney General Bonta's letter is Huntington Beach should expect to be in court if this item proceeds, and the assumption Huntington Beach would be hosting their own municipal elections. He added that currently there is no idea what the cost could be, and he believes just the IT costs will increase over time as security continues to get more complicated. He stated his opinion that these efforts would make voting harder, rather than safer.

Councilmember Kalmick shared previous local election statistics on number of voters to support his disagreement with the claim that the November ballot has so many items it can create voter fatigue, and therefore the attempt to place these amendments on the March ballot. He further stated his opinion it is going to be very costly to solve for a problem that he believes does not exist.

Councilmember Moser asked what problem this proposed amendment is trying to solve, and the issues she has heard discussed are access, security, and potential fraud. She stated that elections are currently run by a stellar organization with many mechanisms to manage for potential fraud. She also stated she believes there are better ways to spend money on things the City really needs. She believes it would be less expensive to utilize existing transportation options to increase voter access for in-person voting. She stated localizing election rules may not only disrupt the current robust voting system but will ultimately result in high costs which the community would bear. The prudent and fiscally responsible approach, in her opinion, would be to work within existing state law and County Registrar structure.

Mayor Strickland called for a straw vote that proposed Charter amendments, Elections, Section 702 — Procedure for Holding Elections, and Section 705 — Special Provisions Relating to Municipal Elections, be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

Section 309, City Attorney Powers and Duties, and Section 315, Charter Offices Budget — Straw vote failed

Councilmember Kalmick asked for clarification on why limiting changes to the City Attorney Office budget is proposed at 3%, and stated he does not support any Charter policy that ties the hands of the City Council when it comes to a department head's budget, especially if it does not also contain a relief valve.

Mayor Pro Tem Van Der Mark stated the attempt is to prevent a repeat of the situation when City Council stripped the City Treasurer responsibilities and budget, and to ensure that does not happen to any of the elected officials.

City Attorney Gates noted there is already a guardrail of 15% for infrastructure built into the Charter and stated that the combined budgets for the three elected officials does not exceed \$6M within the \$350M annual budget. He added that lawsuits do not go away because there is no money to defend the City. If the City Attorney Office budget was cut, then the lawsuits would have to go to outside legal counsel at a much higher cost.

Councilmember Burns stated he is very supportive of this item because he doesn't support City Council having control over another elected official and their departments.

Councilmember McKeon stated he can't support this amendment at this time because more clarification is needed.

Councilmember Bolton stated it hasn't even been confirmed that this type of amendment can legally appear on a Primary Election ballot because it relates to personnel or employees. City Attorney Gates stated that three attorneys have reviewed these proposed amendments and noted that a subsection of Election Code Section 1415 specifically allows this type of amendment.

Councilmember Kalmick asked staff to play a video clip of then State Senator Padilla bringing to the floor a concurrent vote on SB311 stating which type of issues can be brought forth in General elections v. Primary elections.

City Attorney Gates and Acting Chief Assistant Attorney D'Alessandro stated this clip supports the City Attorney Office conclusion that issues related to employees with collective bargaining rights can only be placed on a General Election ballot. They noted that elected officials are not part of collective bargaining units, and therefore are exempt from that restriction. The fact that retirees and bargaining units were listed specifically, but not elected officials, lends support to the City Attorney Office decision this proposed amendment is allowed on a Primary Election ballot.

Councilmember Moser shared her concerns about the fact that the Ad Hoc Committee originally presented a proposed amendment addressing only the City Attorney Office, but through the course of discussions added the history of how a former City Council miss-handled the Treasurer position, and now the discussion is including the City Clerk as well. She stated the importance of allowing future City Councils to make budgetary decisions based upon the circumstances they find themselves in.

Mayor Strickland called for a straw vote on proposed Charter amendments, Section 309 — City Attorney Powers and Duties, and Section 315 — Charter Offices Budget to be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Van Der Mark, Strickland, and Burns
NOES: Kalmick, Moser, McKeon, and Bolton

Section 310. City Clerk Powers and Duties — Straw vote failed — Mayor Pro Tem Van Der Mark stated this is an effort to clean up the language and make it accurate, and clarified the proposed change in wording does not reduce or downgrade the requirements for the City Clerk position.

Councilmember McKeon stated he supports removing the ambiguity, but the whole issue has been tainted and therefore he cannot support it.

Mayor Strickland stated he will continue to push this in the future because of the ambiguity that should be cleared up.

Councilmember Burns stated he supports removing the ambiguity, and now is as good a time as any.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 310, City Clerk Powers and Duties be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Van Der Mark, Strickland, and Burns
NOES: Kalmick, Moser, McKeon, and Bolton

Section 314. Investigation of Malfeasance — Withdrawn — Councilmember McKeon stated that this issue can be addressed through a resolution and withdrew the item.

Section 806. Display of Flags — Straw vote approved — Councilmember Burns stated he doesn't like identity politics and would like to lock into the Charter that Huntington Beach is one community under government flags. He added this also confirms that there is no need to identify any particular group to stand out, or potentially be discriminated against.

Councilmember Kalmick stated there is nothing else in the Charter that requires a unanimous vote, and setting the bar this high for flags is peculiar and is not good public policy in his opinion.

Councilmembers Bolton and Moser stated their support for Councilmember Kalmick's comments, and noted this is not something that should go into the Charter. It is already law through an ordinance. Councilmember Moser asked if City libraries could continue to display other flags to commemorate cultural heritages or Pride month. Councilmember Burns responded no, they would not, and added residents could read about any flag of their choice in the books at the library. Councilmember Moser stated this amendment should not be bundled with any other proposed Charter amendment. Mayor Strickland responded that is the discussion for next week's meeting.

Mayor Strickland stated that if the people do not want this issue addressed in the Charter, they will have the opportunity to vote it down, but it is really up to the people and not the Council to decide.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 806, Display of Flags, to be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

Sections 401, 601, 602, 603, 604 and 605, Biennial Budget — Straw vote approved — Mayor Strickland stated this effort is to make the budget process easier for staff, build in more predictability, provide better planning for future expenses and identifying revenue streams. He noted this item is supported by Chief Financial Officer Han and is not adding anything new to the Charter.

Councilmember Bolton clarified for the record that if she supports an item through a straw vote, it means she is agreeing to further discussion on the item.

Mayor Strickland called for a straw vote on proposed Charter amendment Sections 401, 601, 602, 603, 604 and 605, Biennial Budget be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

Section 300, City Council, Attorney, Clerk and Treasurer Election Cycle — Withdrawn — Mayor Strickland pulled this item from further consideration.

Section 618, Voter Approval Required for Matters Affecting the Collection of Property Tax — Withdrawn — Councilmember McKeon stated he brought this item forward to prevent another situation like Elan and Breakwater purchases which created the foregoing of property taxes without voter approval. Upon review, he believes that because of the details required this would be best handled through an Ordinance, and withdrew the item.

Section 612. Measure "C" Public Utilities, Parks and Beaches Update — Straw vote approved — Councilmember McKeon stated that in conversations with Community and Library Services Director Ashley Wysocki this item needs more work and suggested postponing further discussion until next week to allow staff additional time on this proposal.

City Attorney Gates stated for the benefit of the public that Measure "C" was a community-driven initiative which was championed by certain Councilmembers at the time, noted the wording is a little difficult and there was not much legislative consideration. He noted that staff may bring back some tweaks to the current version, or another version through repeal and replace while maintaining the original intent for further Council discussion, as it has been difficult to interpret and enforce.

Councilmember Moser made a motion to move forward on this item with a Measure "C" Charter Review Committee since it was originally a community-driven initiative, to ensure proper community input, as well as review by staff to be prepared for the General Election ballot in November 2024 as a stand-alone amendment. After hearing Councilmember McKeon's suggestion to wait another week to actually see what staff is able to provide, Councilmember Moser agreed to withdraw her motion.

Councilmember Kalmick stated he would be reticent to completely replace what the voters originally approved, and suggested an appropriate action might be to consider stopping the rushed effort now.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 612, Measure "C" to continue discussion to October 5, 2023, and to consider whether or not it should be placed on the March 5, 2024 Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

Section 300, City Council, Attorney, Clerk and Treasurer Terms, and Section 303, Meetings and Location — Straw vote approved — Mayor Strickland stated this is basically clerical clean-up, and he is trying to move forward what the 2022 Council presented.

Councilmember Kalmick asked that language be somewhere in the Charter that stipulates at least one regular City Council meeting each month, referencing previous Measure L language.

Mayor Strickland called for a straw vote on proposed Charter amendments, Sections 300 (reference to "Monday" meetings) and 303, Meetings and Location to continue discussion to October 5, 2023, and consider whether or not it should be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

ACTION TAKEN ON NEW PROPOSALS:

Considered and Failed Section 307, Non-Interference with Administration — Councilmember Bolton introduced her item by stating that Governor Newsom just signed AB 1078 to ban book bans and textbook censorship in California schools. She stated her interest is to keep politicians out of the business of libraries and not allow politicians to make choices about what can be in a library and where it can be placed. She supports letting parents decide what books their children can read with the assistance of professionals who are trained to help them.

Mayor Pro Tem Van Der Mark clarified her efforts have never been about banning any books, but rather to protect kids from books with certain sexually explicit language and empowering parents to have control over when that type of material is available to their child through book placement in libraries.

Assistant City Manager Travis stated that the City Manager's Office and Community and Library Services staff have been working with Library staff to develop policies and procedures which will be available for City Council review on October 17th.

Mayor Pro Tem Van Der Mark stated the proposed Charter amendment is premature and reiterated that not a single book will be banned by the policies and procedures being developed.

Councilmember McKeon stated that he agrees the proposed Charter amendment is premature until the work in process is completed and everyone has the opportunity to review the proposed policies and procedures.

Councilmember Burns stated individual Councilmembers have no authority to direct any staff unless it is through inquiry or request to the City Manager.

Councilmember Kalmick stated he sees this proposed amendment as not just about City Council making changes, but rather City Council or other elected officials making determinations on collections in the libraries. He believes if City Council has an issue with how librarians manage, they can bring the issue up to the City Manager and direct his actions.

Mayor Strickland stated his support for allowing the current effort to be completed and reviewed before proceeding with the proposed amendment.

Councilmember Kalmick requested a straw vote on proposed Charter amendment Section 307, Non-Interference with Administration, regarding the business of City libraries and to consider further discussion at the October 5, 2023, meeting and whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Considered and Approved Section 313, Conflict of Interest, Nepotism — Councilmember Bolton introduced her item by stating she is addressing concerns from some people that some of the proposed Charter amendments are motivated by a desire to have this City Council appoint Attorney Gate's wife to

the role of City Clerk. She noted there currently is a loophole in Section 313 which could allow that to happen and this is her attempt to close that loophole. She requested that if this proposed Charter amendment change is approved by Council, staff find a suitable way to avoid having any appearance of an ethical conflict and allow another law firm to draft the appropriate language.

Councilmember Burns stated he has never heard this concern expressed before and asked Councilmember Bolton where she heard it. She responded this has been expressed by several public speakers, but believes it is a rumor.

Mayor Strickland shared he heard the City Attorney's wife was considering running for the City Clerk position, and noted this proposed amendment would not preclude the decision of the voters.

Councilmember Bolton stated this proposed change only relates to appointment. Mayor Strickland stated his opinion that any appointment should not be determined by who a person is married to but rather should be based on their qualifications. He does agree that the City Manager should not be coerced or forced to hire anyone.

City Attorney Gates clarified for the record that when it was made known a few months ago that it is likely to be City Clerk Robin Estanislau's last term, his wife was asked by several people to consider running for the position. After thinking about it his wife agreed to consider running. When Councilmember McKeon shared his concerns about the relationship between a potential Charter change for City Clerk qualifications and his wife running for the position, she made it very clear publicly she wanted no part of that or to cloud the decision making.

City Attorney Gates stated he thinks it is peculiar that proposals are being advanced that have no basis in reality, but rather appear to be aimed at corruption seen in prior Councils when a pass was taken in those situations. He added he had never heard of a current plan to appoint a replacement for the City Clerk, and suggested that Council's discussion be based on fact, not hearsay or rumor.

Councilmember Kalmick shared his opinion that the current Charter allows for the appointment of the spouse of a deceased councilmember if the spouse is truly qualified. He added he doesn't understand from a policy standpoint why there is resistance to preclude appointing a qualified City Council spouse to a vacated City Attorney, City Clerk or City Treasurer elected position.

Councilmember Moser stated it really is about the appearance of impropriety, and Section 313 should be clear and strong, and she supports this amendment change without any concern for rumors that may be going around.

Councilmember McKeon stated he believes the wording may need to be tweaked a bit, and suggested bringing it back next week to allow for language clean-up.

Mayor Strickland called for a straw vote on proposed Charter amendment Section 313, Conflict of Interest, Nepotism, to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Kalmick, Moser, McKeon, and Bolton
NOES: Van Der Mark, and Burns
ABSTAIN: Strickland

Considered and Approved Measure L (2022), minus Measure "C" — Councilmember Kalmick stated the proposed changes are non-substantive in that they clarify or update language in the Charter regarding outdated phrases, syntax, dates, pronouns and titles. He noted that any reference to Measure "C" would be pulled from Measure L as that is being addressed as a separate amendment. Regarding Section 804, he clarified his intent is to only require that City Council address the issue every ten years of whether or not a Charter Review is necessary, not to stipulate a Charter Review is required every ten years.

Councilmembers McKeon and Kalmick agreed these changes would be bundled with Section 303, Meetings and Locations.

Councilmember Kalmick called for a straw vote on proposed Charter changes (previously Measure L, 2022) to continue to October 5, 2023, for further discussion and whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

Considered and Failed Section 401, Powers Related to Councilmember-directed Staffing — Councilmember Kalmick introduced his item by noting that Irvine and Anaheim have paid staff positions that directly report to individual City Councilmembers and provide policy, administrative and field support. He explained the process that Santa Ana uses which is to provide a budget amount for councilmembers to use for hiring independent contractors. He suggested more of an Administration position as opposed to a Technical Analyst. He sees this item as allowing future City Councils to budget for such positions if they choose to.

Councilmember McKeon stated his opinion there is not enough clarity to move forward on this item.

Councilmember Moser stated appreciation for flexibility, noted her support for Councilmember McKeon's clarity concerns, and her support for putting this topic in the Charter.

Councilmember Kalmick called for a straw vote on proposed Charter amendment Section 401, Powers related to Councilmember-directed Staffing to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Considered and Failed Section 302, Council Compensation — Councilmember Kalmick introduced his item by describing the types of people who usually have the time and finances to serve on City Council which precludes individuals with full-time jobs, and noted current City Council compensation is not enough to allow someone to quit their job in order to serve the community. He stated his intent is to allow the possibility for more Council diversity. He noted there hasn't been enough time to allow for complete wording but is seeking approval to allow staff to move ahead on the concept. Councilmember Kalmick added this would not go into effect until well into the future, such as after the terms of currently sitting Councilmembers.

Councilmember Burns stated he cannot support this item.

Councilmember Moser stated her support for a more diverse City Council, and clarified if the intent was to immediately implement this policy, she would not support it.

Councilmember McKeon, as an individual with a full-time business and baby at home, stated he is philosophically against this item because he believes in serving the community, and noted he did not seek the position for the pay it provides.

Councilmember Kalmick called for a straw vote on proposed Charter amendment Section 302, Compensation, to continue to October 5, 2023, for further discussion and consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Ethics Commission Section 406 Withdrawn (Kalmick) – to be handled by Ordinance.

Considered and Failed Sections 300, 401, 406, 407, and 408 Appointed versus Elected Charter Officers - City Attorney, City Clerk and City Treasurer – Councilmember Kalmick introduced his item by stating the polarizing nature of elected positions has potentially broken the government for Huntington Beach, and he understands why there are very few cities that have these elected positions. He suggested that the City Clerk and City Treasurer be appointed by the City Manager, and City Attorney by the City Council.

Mayor Pro Tem Van Der Mark stated she would rather continue to let the voters decide who fills these positions.

Councilmember Kalmick called for a straw vote on proposed Charter amendment to appoint rather than elect City Attorney, City Clerk and City Treasurer to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Considered and Failed Section 309, City Attorney Political Participation — Councilmember Kalmick introduced his item by stating he found it odd that the City Attorney campaigned in 2018 and 2022 with a client. Councilmember Kalmick used as an example the City of Oakland (which has an elected City Attorney) text: “During the City Attorney's tenure, the City Attorney shall not make or solicit contributions to, publicly endorse or urge the endorsement of or otherwise participate in a campaign for a candidate for City elective office, other than for the City Attorney, or of a City ballot measure, or be an officer, director or employee of or hold a policy decision-making position in an organization that makes political endorsements regarding candidates for City elective office.” He offered this text to de-politicize the system in Huntington Beach.

City Attorney Gates stated this is a free speech issue that has yet to be challenged in court, and confirmed with Mayor Strickland that this has nothing to do with his compensation.

Councilmember Kalmick objected to the response of City Attorney Gates because the item under consideration is directly related to his position.

Mayor Pro Tem Van Der Mark stated that no candidate or elected official gives up their right to free speech.

Councilmember Bolton stated her support for the effort to de-politicize a lot of what goes on in Huntington Beach and supports maintaining a strict ethical policy of not allowing campaigning against your client.

City Attorney Gates stated for the benefit of disclosing all the information that the client he represents is the City of Huntington Beach, and the City's "Board of Directors" are the Councilmembers. He added if there was any concern about an attorney involved in nefarious or wrong-doing against the client, it could easily be reported to the California State Bar.

Councilmember Moser shared her opinion it was the appearance of impropriety.

Councilmember Kalmick called for a straw vote on proposed Section 309, City Attorney Political Participation to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Considered and Failed New Section 408, Office of Legislative Counsel — Councilmember Kalmick introduced his item by stating he sees this proposal as potentially resolving some of the conflict experienced by the previous City Council by allowing the City Attorney to do City Attorney business, and allowing City Council to appoint a legal resource for discussing regulation policy, and things of that nature.

Councilmember Bolton stated her support for this proposal.

Councilmember McKeon stated at this point this proposal is too muddled to ask the voters to make a decision on it.

Councilmember Moser stated she would appreciate having such a resource when deciding whether or not to move forward on certain items.

Councilmember Kalmick called for a straw vote on proposed new Section 408 related to providing for an office of legislative counsel to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Considered and Failed Section 300, City Council, Attorney, Clerk and Treasurer, Term Limits — Councilmember Bolton introduced her item by stating she used to be opposed to term limits to prevent

only staff from having expertise and control; however, times have changed and there is now a lot of movement in states to adopt term limits. She added that having term limits tends to address legitimate concerns about corruption, cronyism, and concentrating too much power in the hands of one person. She believes it is more difficult to attract candidates when it appears the position can last for a lifetime.

Councilmember McKeon noted that the Attorney, Clerk and Treasurer are paid career positions, whereas Councilmembers do not get paid enough to eliminate another job.

Councilmember Burns stated his opinion that term limits already exist in that these office holders are routinely up for election and the people determine whether or not they continue to hold the position.

Mayor Strickland related his experience that in Sacramento, before term limits, there was more congeniality, institutional knowledge among the members, a lot more give-and-take, and state government functioned better. He stated his support for the comment made by Councilmember Burns.

Councilmember Moser stated she has heard time and again that the people do not want career politicians.

Mayor Pro Tem Van Der Mark stated her support for the comment made by Councilmember Burns.

Councilmember Bolton called for a straw vote on Section 300, City Council, Attorney, Clerk and Treasurer, Term Limits to continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024 Primary Election ballot.

The proposal failed by the following straw vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

Considered and Approved Section 312, Council Vacancies, Forfeitures and Replacement — Mayor Strickland noted this item was recently recommended by Mr. Amory Hanson. He stated that for good governance, Councilmember vacancy appointments should last until the next election, not for a full term.

Councilman Kalmick clarified this is the same language that was presented in the last proposed Charter amendments, and stated this action would prevent the need for a Primary Election.

Councilmember Moser thanked Mr. Hanson for ensuring this issue was re-considered, and stated her support.

Mayor Strickland called for a straw vote on Section 312, Council Vacancies, Forfeitures and Replacements continue to October 5, 2023, for further discussion and to consider whether or not this should be placed on the March 5, 2024, Primary Election ballot.

The proposal carried by the following straw vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
NOES: None

COUNCILMEMBER ITEMS

3. 23-837 Failed — Item Submitted by Councilmembers Kalmick and Moser — Seek an opinion from the California Attorney General on eligibility for the primary ballot for Charter amendments involving City Clerk, City Attorney, and investigations of elected officials

Councilmember Kalmick stated this item is a result of the earlier conversation at this meeting regarding the murky legislative record. Explaining that while some points are now moot as Council has already polled the item calling for voter ID, he noted if it had been approved it would substantially alter the duties of the City Clerk and therefore should not be placed on a Primary election ballot. He continued that this effort is to ask the California Attorney General for a legal opinion on interpretation of Election Code Section 1415 that was amended by SB311 in 2011.

Councilmember Moser stated her interest in getting the highest-level input possible before making a decision that will cost more money if it is placed on the ballot when it should not have been.

Mayor Strickland noted that the California Attorney General represents the State of California and Huntington Beach already has an attorney that represents it, and case law already exists where the California Attorney General lost in court two times with two different cities. Mayor Strickland stated his opposition to this item.

City Attorney Michael Gates noted for the record that California Attorney General Bonta is presently suing the City of Huntington Beach in a housing case, and several times has targeted Huntington Beach with his rhetoric. City Attorney Gates stated if the concern is conflict of interest, it seems exceedingly unwise to pursue an opinion from our adversary.

Councilmember Moser asked who could provide an opinion who is above the City Attorney, and City Attorney Gates responded that information from the City Attorney's Office has been incredibly clear, and it appears that some Councilmembers just do not like the answer.

Councilmember Bolton stated part of the concern is because for the Charter review process in 2022 Council was told they could not put on the Primary Election ballot anything that has to do with employment issues. But now, Council is being advised they can place employment related matters on the Primary Election ballot.

City Attorney Gates clarified that the previous process was shepherded by an outside consultant, not by the Office of the City Attorney.

Councilmember Kalmick noted that not receiving a written decision or any information to review, analyze or try to understand from the Office of the City Attorney, is what is driving his current concern. In his opinion there has been a lot of "tell", but no "show", regarding this topic.

City Attorney Gates stated that the statutes in Election Code Section 1415 were specifically cited and read two meetings prior to this. He added if a Council majority would like to see a confidential written opinion, he would do that, but he will not issue legal essays publicly.

A motion was made by Kalmick, second Moser to direct the City Manager to work with the City Attorney to seek an opinion from the California Attorney General on the question of SB311 (2013 Padilla), portions of which were chaptered as Election Code Section 1415, applying to the proposed charter amendments making changes to the roles of the City Clerk, City Attorney, City Council and City Manager, HR Department Head and/or Police Chief.

The proposal failed by the following roll call vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

PUBLIC COMMENTS (90-Second Time Limit) — 13 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

David Rynerson was called to speak and stated appreciation for at least some amicable discussion this evening, and his opposition to any proposed Charter amendments regarding any non-existent voting issues, and suggested the money would be better spent on voter education. (03:58:38)

Tim Geddes was called to speak and shared his opinions on the process and stated his opinion the Council majority's credibility is in tatters regarding the election issue, and it is time to punt on this until the November election, if at all. (04:00:17)

Mary Kyle was called to speak and shared her opinion that some comments made by Mayor Pro Tem Van Der Mark and Councilmember Burns demonstrate lack of congeniality, and it appears to her this is not a team effort. She asked the Council to do better. (04:01:32)

Wendy Rincon was called to speak and thanked Councilmember McKeon for his independent thinking, and shared her opinions on the performance of various Councilmembers. (04:02:26)

Unnamed Guest was called to speak and stated support for Section 302, Councilmember Compensation, and opposition to Section 313, Conflict of Interest, Nepotism as proposed Charter amendments. (04:04:01)

Unnamed Guest was called to speak and shared his opinions related to the definition of book bans, agreed that Charter amendments are more permanent and harder to change, shared his perspective on nepotism and on Councilmember compensation. (04:05:37)

Unnamed Guest was called to speak and stated there is no place for hate speech in Huntington Beach referring to comments by Councilmember Burns at the September 5th meeting. (04:07:03)

Zachary Stevens was called to speak and stated his support for proposed Charter amendments related to voter ID, which flags to allow on government property, and term limits. (04:08:35)

Unnamed Guest was called to speak and stated opposition to voter changes and requested that all proposed Charter amendments be listed separately on the ballot. (04:10:10)

Unnamed Guest, a 35-year resident, was called to speak and thanked Councilmember McKeon for standing up for what is right, and shared some issues and costs that she believes Redondo Beach faced when they took over their election process. (04:11:16)

Harry McLachlan, a resident, was called to speak and stated his opposition to any proposed voting changes. (04:12:49)

Unnamed Guest was called to speak and shared her opinions regarding voting and nepotism. (04:13:57)

Synde, a resident, was called to speak and shared her concerns related to proper procedures for this meeting, opposition to changing "shall" to "may", and opposition to term limits. (04:15:37)

ADJOURNMENT — at 10:16 PM, a motion was made by Burns, second by Kalmick, to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, October 3, 2023, in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

INTERNET ACCESS TO CITY COUNCIL/PUBLIC FINANCING AUTHORITY AGENDA AND
STAFF REPORT MATERIAL IS AVAILABLE PRIOR TO CITY COUNCIL MEETINGS AT
<http://www.huntingtonbeachca.gov>



City Clerk and ex-officio Clerk of the City Council
of the City of Huntington Beach and Secretary of
the Public Financing Authority of the City of
Huntington Beach, California

ATTEST:



City Clerk-Secretary



Mayor-Chair

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EXHIBIT J



State of California
Office of the Attorney General

ROB BONTA

ATTORNEY GENERAL

September 28, 2023

VIA EMAIL AND U.S. MAIL

The Honorable Tony Strickland
Mayor of Huntington Beach
Tony.Strickland@surfcity-hb.org

Dan Kalmick
Councilmember
Dan.Kalmick@surfcity-hb.org

The Honorable Gracey Van Der Mark
Mayor Pro Tem
Gracey.VanDerMark@surfcity-hb.org

Natalie Moser
Councilmember
Natalie.Moser@surfcity-hb.org

Pat Burns
Councilmember
Pat.Burns@surfcity-hb.org

Rhonda Bolton
Councilmember
Rhonda.Bolton@surfcity-hb.org

Casey McKeon
Councilmember
Casey.McKeon@surfcity-hb.org

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

RE: Proposed Charter Amendments Requiring Voter Identification at the Polls and Monitoring of Ballot Drop Boxes in Municipal Elections

Dear Mayor Strickland and Councilmembers:

The Attorney General is California's chief law officer, with the authority and duty to ensure the uniform and adequate enforcement of state law, and to protect public rights and interests under the state and federal constitutions. (Cal. Const. art. V, § 13.) The Secretary of State is the chief elections officer (Elec. Code, § 10), and is broadly charged with protecting the integrity of the electoral process, preventing voter confusion, and promoting public confidence in elections. (E.g., *Timmons v. Twin Cities Area New Party* (1997) 520 U.S. 351.)

We write regarding the City’s proposal to amend its charter to add section 705, titled “Special Provisions Relating to Municipal Elections.” Specifically, the City’s proposal to require voter identification at the polls in municipal elections conflicts with state law and would only serve to suppress voter participation without providing any discernible local benefit. Accordingly, we respectfully urge you to reject this proposed charter amendment. If the City moves forward and places it on the ballot, we stand ready to take appropriate action to ensure that voters’ rights are protected, and state election laws are enforced.

The pending proposal to require the City to “monitor ballot drop boxes located within the City” also touches on an area governed by state law. The Elections Code and related regulations already direct county elections officials to monitor drop boxes by video surveillance or internal cameras. The Elections Code also prohibits anyone, with the intent of dissuading another person from voting, from video recording a voter within 100 feet of a polling place or other outdoor site at which a voter may cast a drop off ballot. At present, no details about how the City’s proposal would be implemented have been made available, and thus it is unclear whether or how the proposal might conflict with state law. This lack of detail also calls into question the City Attorney’s previous assurances to the City Council and the public that the proposal is legal. Although the potential waste of local resources on a redundant ballot box monitoring system is the City’s concern, please be advised that, in the event this proposal moves forward, our Offices will act to ensure it is not implemented in a way that interferes with the right to vote or otherwise conflicts with state law.

A. The Voter ID Proposal Conflicts with State Law on a Matter of Statewide Concern

The City’s proposal to require voter identification at the polls squarely conflicts with state law and is invalid, notwithstanding a charter city’s “home rule” authority to legislate on municipal affairs.¹ (See, e.g. *Cal. Federal Savings & Loan Assn. v. City of Los Angeles* (1991) 54 Cal.3d 1; *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781; *City of Huntington Beach v. Becerra* (2020) 44 Cal.App.5th 243.)

Under state law, identifying information, as well as other specified information, is required when registering to vote and must be validated by elections officials. (Elec. Code, §§ 2188, subd. (b), 2196, subd. (a)(7); Cal. Code Regs. tit. 2, §§ 19073, 20107.) An applicant must certify to the truth and correctness of the content of the application, under penalty of perjury. (Elec. Code, § 2188, subd. (e).) An individual who registers to vote knowing that they are ineligible to do so is subject to criminal penalties. (Elec. Code, § 18100.)

¹ While this proposal would expressly govern only “municipal” elections, it is not clear this would be the case in practice, given that most local elections are consolidated with the state and federal ballots. Consolidated elections are to be conducted in accordance with state law. (Elec. Code, §§ 10418, 10403.)

The Elections Code further provides that, at the time of voting, a registered voter wishing to vote in person need only provide their name and address; no further identification is required. (Elec. Code, § 14216, subd. (a).) The Elections Code also sets forth a detailed process for resolving questions of voter identity or eligibility at the polls. A voter's identity or eligibility to vote may only be questioned by election workers on narrow grounds, and only with evidence constituting probable cause to justify such a challenge. (*Id.* § 14240.) A challenged voter need only take a sworn oath of affirmation to remedy the challenge. (*Id.*, §§ 14243, 14244, 14245, 14246.) All doubts are to be resolved in favor of the challenged voter. (*Id.*, § 14251.) And any person who illegally casts a ballot is subject to criminal prosecution. (*Id.*, § 18500.)

This framework strikes a careful balance: it guards the ballot box against ineligible and/or fraudulent voters, while at the same time simplifying and facilitating the process of voting so as to avoid suppressing turnout and disenfranchising qualified voters. It also makes clear that the job of local elections officials is to supervise voting at the polls, not to take over voter-eligibility functions performed by the county registrar and the Secretary of State.

Huntington Beach's voter ID proposal would destroy this careful balance by placing the onus on the voter to establish their identity and right to vote with some form of identification at the time they cast their ballot. By requiring additional documentation to establish a voter's identity and eligibility to vote at the time of voting—a higher standard of proof than set out in the Elections Code—Huntington Beach's proposal conflicts with state law. Indeed, the City's proposal would arguably constitute “mass, indiscriminate, and groundless challenging of voters,” in violation of Elections Code section 18543.

The state laws outlined above address a matter of statewide concern: ensuring the fundamental right to vote without imposing unnecessary obstacles that may reduce voter participation or disproportionately burden low-income voters, racial and ethnic minorities, the elderly, or people with disabilities. Courts have long recognized that protecting the integrity of the electoral process, at both the state and local level, is a matter of statewide concern (*Jauregui v. City of Palmdale, supra*, 226 Cal.App.4th at p. 801), as is “the protection of the constitutional rights of California residents.” (*City of Huntington Beach v. Becerra, supra*, 44 Cal.App.5th at p. 275.)

While there are obvious and significant statewide concerns at issue here, the City has not identified *any* basis for its voter ID proposal, much less a basis supported by uniquely local concerns. As noted, state law already requires prospective voters to verify their identity—at the registration stage. It also sets forth a detailed process for resolving disputes over a voter's identity or eligibility at the polls, and contains ample provisions for dealing with rare cases of fraudulent or otherwise illegal voting. Abstract or hypothetical concerns about voter fraud, or concerns that state law does not strike an appropriate balance in this area, are insufficient to justify the City's proposal.

Accordingly, we respectfully urge you to reject the voter ID proposal currently under consideration. If necessary, our Offices stand ready to take appropriate action to ensure that state law is upheld and voters' rights are protected.

B. The Ballot Drop Box Monitoring Proposal May Impinge on the County's Authority, and May Conflict with State Law, Depending on How It Is Implemented

Huntington Beach's proposal to "monitor ballot drop boxes located within the City for compliance with all applicable laws," may also conflict with state law, depending on how it would be implemented. State law provides that county elections officials—not city officials—are responsible for establishing the number and location of ballot drop boxes, setting ballot collection and chain of custody procedures, and maintaining security at such locations. (See Elec. Code, § 3025.) Regulations specify, among other things, that "[i]f feasible, drop boxes shall be monitored by a video surveillance system, or an internal camera that can capture digital images and/or video." (Cal. Code Regs. tit. 2, § 20135, subd. (e).) State law also expressly prohibits—with the intent of dissuading another person from voting—photographing, video recording, or otherwise recording a voter within 100 feet of a polling place or outdoor site at which a voter may cast or drop off a ballot. (Elec. Code, § 18541.) Until the City provides further details about how this proposal would be implemented, it is not clear that the City even has the authority to enact such a measure,² or whether or how it might conflict with existing law and regulations. Accordingly, we respectfully urge you to reject this proposal. If the proposal moves forward and is ultimately passed, we will take action to ensure that any monitoring system implemented by the City does not interfere with the right to vote or otherwise violate state law.

Sincerely,



Shirley N. Weber, Ph.D.
California Secretary of State

Sincerely,



ROB BONTA
California Attorney General

cc: Michael Gates, Esq., City Attorney, Michael.Gates@surfcity-hb.org
Cathy Fikes, Senior Administrative Assistant, CFikes@surfcity-hb.org

² Only county elections officials may establish ballot drop boxes, designate their location and hours of operation, and provide for the security and chain of custody of the ballots deposited in them. (Elec. Code, § 3025; Cal. Code Regs. tit. 2, §§ 20133, 20137.) Among other unanswered questions, it is not clear whether the City contemplates establishing its own ballot drop boxes in addition to those already in existence and, if so, what security and chain-of-custody procedures the City intends to use, or what impact there may be on state or federal elections.

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EXHIBIT K

Moore, Tania

From: Julia Gomez <JGomez@aclusocal.org>
Sent: Thursday, October 5, 2023 1:20 PM
To: CITY COUNCIL (INCL. CMO STAFF); supplementalcomm@surfcity-hb.org
Cc: Strickland, Tony; Van Der Mark, Gracey; Burns, Pat; Bolton, Rhonda; Kalmick, Dan; McKeon, Casey; Moser, Natalie; Gates, Michael; Fikes, Cathy; Paul Spencer Contact
Subject: Public Comment re Oct. 5 Special Meeting, Agenda No. 2
Attachments: 2023.10.05 Letter to Huntington Beach from DRC and ACLU re Item No. 2.pdf

Attached please find correspondence from Disability Rights California and the ACLU of Southern California opposing the proposed charter amendment relating to municipal elections.

Best,

Julia

Julia Gomez, Staff Attorney
ACLU of Southern California
1313 W 8th Street, Suite 200
Los Angeles, CA 90017
(o) 213.977.5258

aclusocal.org || [facebook](https://www.facebook.com/aclusocal) || [twitter](https://twitter.com/aclusocal) || [blog](https://www.aclusocal.org/blog) || [app](https://aclusocal.org/app)

ACLU SoCal: STAND FOR JUSTICE >> Download our mobile app at mobilejusticeca.org

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**SUPPLEMENTAL
COMMUNICATION**

Meeting Date: 10/5/2023

Agenda Item No.: 2 (23-844)



Sent via email

October 5, 2023

Huntington Beach Mayor and City Council
Council Chambers
2000 Main Street
Huntington Beach, CA 92648
SupplementalComm@Surfcity-hb.org
City.Council@surfcity-hb.org

**Re: October 5, 2023 Special City Council Meeting, Agenda Item No. 2
Opposition to Proposed Charter Amendment Relating to Municipal Elections**

Dear Mayor Strickland and Members of the City Council:

We have serious concerns about the legality and negative implications of the proposal to add Section 705 to the city charter relating to municipal elections (“proposed charter amendment”). Section 705’s voter identification (“voter ID”) provision violates state law. What’s more, the voter ID, drop box monitoring, and voting location provisions will likely result in voter suppression. We urge you to reject the proposed charter amendment to avoid voter disenfranchisement and to avoid the waste of taxpayer resources on an election, implementation, and unnecessary litigation.

I. The Voter ID Provision Violates State Law

Charter cities like Huntington Beach have home rule authority over certain local issues, including municipal elections. *Jauregui v. City of Palmdale*, 226 Cal. App. 4th 781, 794-96 (2014). This authority, however, is not unlimited, and a charter provision must yield to state law where, as here: 1) the provision conflicts with state law; 2) the subject of the provision is a matter of statewide concern; and 3) the conflicting state law is narrowly tailored and does not unnecessarily interfere with municipal governance. *Id.* at 795-96; *see also City of Huntington Beach v. Becerra*, 44 Cal. App. 5th 243, 256 (2020) (holding that even issues listed in the California Constitution as municipal affairs “must give way to inconsistent state laws addressing issues of statewide concern”).

As to the first factor, a local voter ID law that imposes requirements on top of the state’s process conflicts with the state’s detailed voter verification framework which, as laid out in the Attorney General’s September 28 letter, strikes a careful balance between guarding elections and ensuring that voters can successfully cast a ballot. *See* September 28, 2023, Letter from Attorney General Rob Bonta and Secretary of State Shirley N. Weber, Ph.D., to the Huntington Beach City Council at 2-3 (“Sept. 28 Attorney General Letter”); *see also City of Huntington Beach*, 44 Cal. App. 5th at 270 (“Charter city law is contradictory to state law when it is inimical thereto”) (quotation marks omitted). With respect to the second factor, it is well settled that the issues implicated by the proposed charter amendment—voting rights and the integrity of local elections—are matters of statewide concern. *See, e.g., Johnson v. Bradley*, 4 Cal. 4th 389, 409 (1992) (holding that “the integrity of the electoral process, at both the state and local level, is undoubtedly a statewide concern”); *Jauregui*, 226 Cal. App. 4th at 799-801 (voting rights,

including protections against voting restrictions and vote dilution, are state interests “that go to the legitimacy of the electoral process”). Finally, the state’s conflicting provisions are narrowly tailored to enhance the integrity of the electoral process and to ensure that eligible individuals can cast a ballot free of unnecessary burdens. *See* Sept. 28 Attorney General Letter at 2-3. The only way these provisions could possibly interfere with municipal governance is if the City adopted voter restrictions like the voter ID law. *See Jauregui*, 226 Cal. App. 4th 781 (the California Voting Rights Act (“CVRA”) “can necessarily only interfere with municipal governance when vote dilution is present”).

The city attorney’s heavy reliance on the *Redondo Beach* case is misplaced. In *Redondo Beach*, the court held that the Voter Participation Rights Act (“VPRA”), which requires consolidated local and state elections, does not apply to charter cities. *City of Redondo Beach v. Padilla*, 46 Cal. App. 5th 902, 906 (2020). The court came to this conclusion because the Elections Code exempts charter cities from following the state’s established election dates, and the Legislature did not demonstrate a clear intent to depart from this exemption and apply the VPRA to charter cities. *Id.* at 910-11, 918. The same is not true here—there is no language in the Elections Code that exempts charter cities from the state’s voter verification and voting rights provisions. Indeed, the California Constitution entrusts the Legislature with enacting legislation to protect election integrity and the rights of voters irrespective of where they live, Cal. Const. art. II, §§ 3 & 4, and courts have consistently ruled in favor of the state where, as here, a conflicting charter provision infringes on these rights, *see, e.g., Jauregui*, 226 Cal. App. 4th at 802 (holding that a charter city’s at-large election system that resulted in vote dilution and implicated election integrity was unlawful under state law); *People ex rel. Devine v. Elkus*, 59 Cal. App. 396, 407-08 (1923) (holding that a charter city’s voting restriction was unlawful under the California Constitution notwithstanding the city’s home rule authority over city council elections); *cf. Lacy v. City and Cnty. of San Francisco*, 94 Cal. App. 3d 391, 410 (2023) (clarifying that the court’s holding that charter cities have home rule authority to expand the right to vote does not mean that charter cities can narrow the electorate).

Changes made by city staff to Section 705 to provide that the city “may” instead of “shall” require voter ID does not save the proposed charter amendment because a grant of authority alone is sufficient to raise a conflict with state law and render a charter provision invalid. *Huntington Beach*, 44 Cal. App. 4th 243 at 271 (quoting *Johnson*, 4 Cal. 4th 389 at 339 (“A ‘conflict’ may exist between state and local authority even though the city has not specifically legislated on that point through its charter, or by other ‘enactment’”). Because the voter ID provision conflicts with narrowly tailored state law on issues of statewide concern, the City Council should reject the proposed charter amendment.¹

II. The Proposed Charter Amendment is Likely to Result in Voter Suppression

The voter ID proposal is illegal for a second reason—it will likely disenfranchise Huntington Beach voters. The same is true for the drop box monitoring and voting location provisions in Section 705.

Voter ID requirements disproportionately impact voters of color, voters who are low income, voters with disabilities, and voters who have limited mobility.² Additional voter ID requirements could

¹ The state also regulates the monitoring of drop boxes and the siting of voting locations to ensure voter access and the integrity of elections. *See, generally*, Sept. 28 Attorney General Letter at 2-4 (providing an overview of relevant Elections Code and regulatory provisions). For the same reasons discussed in this section, these provisions likely conflict with and violate state law. *See id.*

² Research over the past decade consistently shows that, when implemented, voter ID laws reduce turnout for individuals without proper identification, and these individuals are often voters of color, voters with disabilities, and elderly voters. *See, e.g., The Impacts of Voter Suppression on Communities of Color*, Brennan Center for Justice (Jan. 10, 2022), <https://www.brennancenter.org/our-work/research-reports/impact-voter-suppression-communities-color> (collecting studies); Vanessa M. Perez, Ph.D., *Americans with Photo ID: A Breakdown of Demographic Characteristics*, Project Vote (Feb. 2015), <https://www.projectvote.org/wp-content/uploads/2015/06/AMERICANS->

also result in improper ballot challenges. *See* Sept. 28 Attorney General Letter at 3. Drop box monitoring by individuals other than trained poll workers can likewise result in voter suppression through voter intimidation, improper ballot challenges, or the misapplication of the state's laws. And although we commend the City's desire to increase the number of voting locations, more goes into siting locations than simply dispersing them evenly throughout the City. The Registrar of Voters selects voting locations to maximize accessibility by considering the proximity of voting locations to voters with disabilities, language minority communities, public transportation, communities with low rates of vehicle ownership, and communities with historically low vote by mail usage. Elec. Code § 4005(a)(10)(B).

The suppressive and disproportionate impact that Section 705 will no doubt have on certain voters raises serious equal protection concerns. While the U.S. Supreme Court has weakened voter protections in recent years, California's more robust equal protection and voting rights guarantees remain strong safeguards against voter disenfranchisement. *See* Cal. Const., art. I, § 24 ("Rights guaranteed by this Constitution are not dependent on those guaranteed by the United States Constitution"); *see also Vergara v. State of California*, 246 Cal. App. 4th 619, 648 n.13 (2016) (holding that California's equal protection clause proscribes policies that have discriminatory *effect*, regardless of motive or intent).

* * *

We urge the City Council to reject the proposed charter amendment because it violates state law and will no doubt result in voter suppression. If you have any questions, please do not hesitate to contact us at jgomez@acusocal.org or paul.spencer@disabilityrightsca.org.

Sincerely,



Julia A. Gomez
Senior Staff Attorney
ACLU of Southern California



Paul R. Spencer
Senior Attorney
Disability Rights California

Cc: Tony Strickland, Mayor, Tony.Strickland@surfcity-hb.org
Gracey Van Der Mark, Mayor Pro Tem, Gracey.VanDerMark@surfcity-hb.org
Pat Burns, Councilmember, Pat.Burns@surfcity-hb.org
Rhonda Bolton, Councilmember, Rhonda.Bolton@surfcity-hb.org
Dan Kalmick, Councilmember, Dan.Kalmick@surfcity-hb.org
Casey McKeon, Councilmember, Casey.McKeon@surfcity-hb.org
Natalie Moser, Councilmember, Natalie.Moser@surfcity-hb.org
Michael E. Gates, City Attorney, Michael.Gates@surfcity-hb.org
Cathy Fikes, Senior Administrative Assistant, CFikes@surfcity-hb.org

[WITH-PHOTO-ID-Research-Memo-February-2015.pdf](#) (finding that voters of color and low-income individuals are less likely to have photo ID); *Impact of Voter ID Laws on People with Disabilities*, Vote Riders (Oct. 2019), <https://www.voteriders.org/impact-of-voter-id-laws-on-people-with-disabilities/> (citing studies showing that the elderly and voters with disabilities are less likely to have photo ID).

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EXHIBIT L

Minutes

City Council/Public Financing Authority City of Huntington Beach

Special Meeting

Thursday, October 5, 2023
6:00 PM — Council Chambers
Civic Center, 2000 Main Street
Huntington Beach, California 92648

A video recording of this meeting
is on file in the Office of the City Clerk, and archived at
www.surfcity-hb.org/government/agendas/

6:00 PM — COUNCIL CHAMBERS

CALLED TO ORDER — 6:00 PM

ROLL CALL

Present: Kalmick, Moser, Van Der Mark, Strickland, McKeon, Bolton, and Burns
Absent: None

City Attorney Gates requested permission to be absent pursuant to City Charter Section 309(d), and Acting Chief Assistant City Attorney Paul D'Alessandro attended this meeting in his place.

PLEDGE OF ALLEGIANCE — Led by Councilmember McKeon

INVOCATION

In permitting a nonsectarian invocation, the City does not intend to proselytize or advance any faith or belief. Neither the City nor the City Council endorses any particular religious or form of invocation.

1. 23-813 Huntington Beach Police and Fire Chaplain James Pike

ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS (Received After Agenda Distribution)

Pursuant to the Brown "Open Meetings" Act, City Clerk Robin Estanislau announced supplemental communications that were received by her office following distribution of the Council Agenda packet, which were all uploaded to the City's website and Councilmember iPads:

Administrative Items #2 (76 email communications, and 1 letter)

PUBLIC COMMENTS (90-Second Time Limit) — 41 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas/>.

Shirley Dettloff, resident since 1964 and Mayor in 1997, was called to speak, requesting that the process for placement of proposed Charter amendments on the March 5, 2024 ballot be abandoned and replaced by creation of a Charter Review Committee composed of citizens before proceeding. (00:03:56)

Shammy Dee was called to speak and shared her opinions on the proposed Charter amendments regarding elections which she believes would result in voter suppression if implemented. (00:05:39)

Terry Rose was called to speak and stated her opposition to the proposed Charter amendments and suggested the creation of a Charter Review Committee composed of citizens and the Council minority before proceeding. (00:07:19)

Paul Horgan, a resident, was called to speak and stated his opposition to proposed Charter amendment Section 105, Special Provisions Relative to Municipal Elections. (00:08:50)

Unnamed Guest was called to speak and stated his opposition to the proposed Charter amendments for the March 5, 2024 election. (00:09:40)

Mary Ann Celinder, a resident of 48 years, was called to speak and stated opposition to all of the proposed Charter amendments for the March 5, 2024 election. (00:11:17)

Luanne Shoup was called to speak and stated support for the proposed amendment to require voter ID. (00:12:27)

Diane Bentley, a 22-year resident, was called to speak and stated opposition to proposed Charter amendments regarding municipal elections. (00:13:40)

Laura Sire was called to speak and thanked Councilmembers Bolton, Kalmick and Moser for consistently standing for all residents, and stated opposition to proposed Charter amendments regarding municipal elections. (00:15:09)

Synde Manion, a resident, was called to speak and recommended the National Council of State Legislators (NCSL.ORG) website for accurate information about voter ID requirements across the United States. (00:16:50)

Pat Goodman was called to speak and stated her opposition to proposed Charter amendments related to municipal elections and flags on government property and played a 2012 public service video of Tito Ortiz encouraging people to volunteer with the Orange County Registrar of Voters. (00:19:06)

Mary Jo Baretich was called to speak and stated her opposition to proposed Charter amendments regarding voter ID for elections and asked that unrelated items not be bundled on the ballot. (00:20:45)

David Rynerson, 27-year resident, was called to speak and stated opposition to all proposed Charter amendments except for Measure "C" and asked that Councilmembers focus on what is good for all residents. (00:22:18)

Dennis, a long-time resident, was called to speak and asked that the proposed Charter amendment list both Primary and General Elections as voter opportunities to fill Council vacancies, and voiced opposition to any Measure "C" changes. (00:23:40)

T.J. England was called to speak, shared concerns about nepotism and stated opposition to proposed Charter amendments regarding municipal elections. (00:25:19)

Unnamed Guest was called to speak and expressed his appreciation to Councilmember McKeon for breaking the majority vote on a couple of issues, and asked that he use his laser focus to determine potential election costs as he did last week in discussing the reduced income for the Art Fair. (00:26:58)

Mary Kyle, 25-year resident, was called to speak and stated opposition to the proposed Charter amendment regarding voter ID. (00:27:53)

Unnamed Guest, a resident since 1985, was called to speak and stated opposition to proposed Charter amendments regarding municipal elections and asked that each proposed Charter amendment stand on its own for the March 5, 2024 Primary Election ballot. (00:29:29)

Ann Palmer, 30+-year homeowner, was called to speak and asked that Measure "C", 612(c)(7) regarding playgrounds, be restricted to ten percent (10%) within a ten-year period with a cap of one-hundred percent (100%) growth from date of resolution in perpetuity. (00:30:49)

Unnamed Guest was called to speak and stated opposition to all proposed Charter amendments and asked that the Councilmembers begin focusing on solutions to crime and affordable housing. (00:32:18)

Connie Boardman, former Mayor and Councilmember, was called to speak and stated opposition to the proposed Charter amendment regarding flags allowed on City facilities because of the "unanimous" vote requirement. She announced a grassroots effort to defeat proposed amendments they deem harmful: protecthb.org (00:35:09)

Mark Tonkovich, a resident, was called to speak and stated his support for proposed Charter amendments regarding voter ID. (00:35:13)

Tim Geddes, a 40-year resident, was called to speak and shared his opinion that the Council majority is failing to adequately plan for the proposed Charter amendments regarding municipal elections. (00:36:40)

Unnamed Guest was called to speak and asked why Council is proposing a flag flying Charter amendment when they can't even impose the flag ordinance that exists as evidenced by the flying of the Canadian and Australian flags this past weekend for the Pacific Air Show. (00:38:13)

Kathryn Goddard, a resident, was called to speak and asked her fellow voters to do their homework, pay attention and do their research in preparation for the March 5, 2024, Primary Election. (00:39:21)

Ken Inouye, a 50-year resident, was called to speak and shared some financial facts from the recently approved 2023–2024 Budget, requested that Councilmembers look at the facts and oppose proposed Charter amendments regarding municipal elections. (00:40:56)

Unnamed Guest was called to speak and reiterated his list of actions that require individuals have an ID in response to an email that Councilmember Kalmick sent regarding the "disingenuous" list Mr. Twining presented at the previous Special Meeting. (00:42:14)

Unnamed Guest was called to speak and shared his opinions regarding flying flags at the Pacific Air Show, and noted the American flag represents all Americans. (00:43:52)

Harry McLachlan, a resident, was called to speak and stated opposition to proposed Charter amendment regarding flying of flags on municipal property unless "unanimous" vote is replaced with "majority" vote. (00:45:25)

Julia Gomez, Staff Attorney, ACLU, Southern California, was called to speak and stated opposition to adding Section 705 to the Charter as presented in a letter sent earlier today dated October 5, 2023. (00:46:41)

Senator Dave Min was called to speak and shared his concerns about proposed Charter amendment Section 705. As outlined in his letter of August 1, 2023, he stated it is illegal to propose anything that interferes with county, state or federal elections, and it will end up being very costly for the taxpayers if this proposal goes forward. (00:48:22)

Unnamed Guest was called to speak and stated his opposition to the proposed Charter amendment on nepotism. (00:49:50)

Jeanne Farrens was called to speak and thanked Councilmember McKeon for being responsible and bringing the Charter review process out from behind closed doors and being open to reconsidering his positions on proposed amendments. She stated her opposition to the proposed Charter amendments regarding municipal elections. (00:52:10)

Amory Hanson was called to speak and stated his support for a new Charter amendment requiring a Special Election in the case of a City Council vacancy. (00:53:46)

David Cowen, a 35-year resident, was called to speak and stated his opposition to proposed Charter amendments related to municipal voting and bundling amendments for the ballot. (00:54:38)

Unnamed Guest was called to speak and stated her opposition to any proposed Charter amendment related to municipal elections. (00:56:11)

Briana Lee was called to speak and stated her opposition to any proposed Charter amendment related to municipal elections. (00:57:49)

Hera Poon, Huntington Beach High School Junior, was called to speak and stated opposition to any proposed Charter amendment related to municipal elections. (00:59:22)

Dina Chavez was called to speak and stated her opposition to banning library books. (01:00:41)

Perry Clitheroe was called to speak and stated his opposition to any proposed Charter amendment related to municipal elections. (01:01:53)

Valentina Bankhead, a resident, was called to speak and stated her support for the proposed Charter amendments. (01:03:14)

ADMINISTRATIVE ITEMS

2. 23-844 Held City Council discussion for potential Charter amendments to be considered for the March 5, 2024, Statewide Primary Election

Councilmember Kalmick clarified the process for moving ahead with Mayor Strickland which involves an official roll call vote tonight on which proposed Charter amendments have a Council majority, followed by

a roll call vote on how the approved proposed amendments are to be bundled for the ballot, then a final vote to direct staff to return on October 17 with language for submittal to the ROV for City Council consideration.

Biennial Budget

A motion was made by Strickland, second Burns to approve proposed Biennial Budget (Sections 401(b), 601, 602, 603, 604, 605) changes for March 5, 2024, ballot.

The motion carried by the following vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Burns
NOES: Bolton

Election Procedures

Mayor Pro Tem Van Der Mark, speaking as a person of Hispanic heritage, noted how offensive it is to hear that poor people or people of color are not capable of getting an ID.

Councilmember McKeon noted the wording change in these proposals from "shall" to "may" will provide the opportunity for acting, or not, on the election proposals.

Councilmember Kalmick referenced the ACLU letter which noted the change in wording from "shall" to "may" does not protect the proposed Charter amendment from being illegal because of conflict with state law. He also noted that "ADA" is not defined anywhere when it comes to describing ADA-compliant polling locations. Acting Chief Assistant City Attorney D'Alessandro confirmed if this item is approved, Americans with Disabilities Act would be spelled out, as well as consideration of whether or not California could approve even stricter requirements.

Mayor Strickland confirmed with Acting Chief Assistant City Attorney D'Alessandro that the City Attorney's Office believes the State Constitution provides the City authority over local elections.

Councilmember Moser asked if any Councilmembers who received voter questions about potential voter fraud had reached out to the Registrar of Voters.

Councilmember McKeon responded that this item is not about voter fraud, but an opportunity to increase faith in elections and increasing voter turnout.

Councilmember Moser shared her opinion it is disingenuous to say this will increase voter turnout when the opposite is most likely to happen, and she believes it will also place the City in potential legal jeopardy in a number of ways.

An Ami Horowitz Digital Short video was played at the request of Mayor Pro Tem Van Der Mark which compared how people on the street responded to questions related to voter ID in Berkeley, California and East Harlem.

Councilmember Kalmick noted there are actual researched reports that document how difficult it is for poor people to get IDs, regardless of what this anecdotal video shows.

A motion was made by Strickland, second Burns to approve new Charter Sections 702 — Procedure for Holding Elections, and 705 — Special Provisions Relating to Municipal Elections for March 5, 2024, ballot.

Councilmember Kalmick stated his reasons for not moving forward on any further proposed Charter amendments at this time, and suggested the November 8, 2024, election as more appropriate when elected official positions will be on the ballot.

Councilmember Bolton shared facts she researched related to voter ID, control of polling places, lack of language help for people who are not native English speakers and the unknown costs to implement as her reasons to oppose this item.

A substitute motion was made by Kalmick, second Bolton to table all Charter amendments until 2024 and direct staff to return with recommendations for the best way to gain public input for Measure "C" for the next City Council meeting on October 17, 2023.

The substitute motion failed by the following vote:

AYES: Kalmick, Moser, and Bolton
NOES: Van Der Mark, Strickland, McKeon, and Burns

The motion made by Strickland, second Burns to approve new Charter Sections 702 — Procedure for Holding Elections, and 705 — Special Provisions Relating to Municipal Elections for March 5, 2024, ballot, carried by the following vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

Display Of Flags

Councilmember Bolton stated her opinion there is no need to place this item in the Charter as there already exists an ordinance which can be easily changed by Councilmembers. She added that the only reason she voted against the Biennial Budget is because of the illegitimate process being used.

Councilmember McKeon, speaking as a member of the former Charter Review Commission, noted that the public did not show up for Commission meetings to observe or participate in the discussion, except for those interested in placing a mobile home issue on the ballot. He believes the current process has provided much more transparency. Regarding the display of flags, he noted the proposed amendment states "... the City shall only fly or display at or on any of the City's properties the following flags: ..." It does not state permit holder, or private company, or private residence.

A motion was made by Strickland, second Burns to approve new Charter Section 806. Display of Flags for March 5, 2024, ballot.

The motion carried by the following vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

Conflict Of Interest, Nepotism

Councilmember Bolton stated she is interested in prohibiting cronyism, or participating in any employment decision that may be viewed as a conflict of interest such as involving a close friend, a business partner, and/or professional political or commercial relationship that would lead to preferential treatment or compromise the appearance of fairness. This policy should apply to all elected officials in Huntington Beach.

Councilmember McKeon stated he believes this topic is already covered in the Charter and creating a new Charter amendment is not necessary.

A motion was made by Bolton, second Kalmick to approve new Charter Section 313. Conflict of Interest, Nepotism.

The motion failed by the following vote:

AYES: Kalmick, and Moser
NOES: Van Der Mark, McKeon, and Burns
ABSTAIN: Strickland, and Bolton

2022 Measure L - Council Vacancies; Cancellation of Meetings

Staff confirmed they removed reference to changing the title of Mayor Pro Tem from Measure L and stated the updated language in Council Vacancies Section 312 needs to be updated to reflect "four affirmative votes" in the Vacancy Section.

A motion was made by Strickland, second Kalmick to approve 2022 Measure L/Council Vacancies (as amended with exclusions and discrepancies in Sections 303 and 312 incorporated) / Cancellation of Meetings (Sections 300, 303, 304, 311, 312, 400, 601, 604, 801, 804) for March 2024 Ballot.

The motion carried by the following vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Burns
NOES: None
ABSTAIN: Bolton

Measure "C"

Councilmember McKeon thanked staff for working on this complicated issue, and stated his support for continued effort at City Council meetings over the coming months to include input from the residents who initially proposed Measure "C".

Director Wysocki presented a brief overview of the proposed changes to date for Measure "C".

Councilmember Moser stated her support for Councilmember McKeon's recommendation to continue review of Measure "C", however she would like to see this addressed through special Measure "C" Review meetings with a professional facilitator.

Councilmember Burns suggested asking the Community and Library Services Commission to review and return through a Study Session with their recommendations.

Councilmember Kalmick recommended moving forward by starting with community input, including the Community and Library Services Commission review and then revisiting at a Study Session

By consensus, with no objections, Councilmembers agreed to table Measure "C" (Section 612) to be considered at a later date.

Bundle Proposed Charter Amendments

A motion was made by Strickland, second Burns to bundle amendments into 3 Measures: 1) Sections 702 and 705 — Elections; 2) Section 806 — Display of Flags; and 3) Former 2022 Measure L items (including amended language for Section 303, Cancellation of Meetings and Section 312, Vacancies) and Section 401 (b), 601-605 — Biennial Budget for March 5, 2024, ballot

The motion carried by the following vote:

AYES: Kalmick, Moser, Van Der Mark, Strickland, McKeon, and Burns
NOES: Bolton

Direct Staff

A motion was made by Strickland, second Burns to direct the City Attorney and City staff to prepare and return ballot measure language on approved amendments and all other materials required for submittal to the ROV for City Council consideration at the regular meeting on October 17, 2023.

The motion carried by the following vote:

AYES: Van Der Mark, Strickland, McKeon, and Burns
NOES: Kalmick, Moser, and Bolton

PUBLIC COMMENTS (90-Second Time Limit) — 20 Speakers

The number [hh:mm:ss] following the speakers' comments indicates their approximate starting time in the archived video located at <http://www.surfcity-hb.org/government/agendas>.

Unnamed Guest was called to speak and shared his opinion this process was just a sham. (02:03:10)

Tim Geddes, a 40-year resident, was called to speak and shared his disappointment in this process and lack of proper direction from City Attorney Michael Gates. (02:03:37)

Unnamed Guest was called to speak and thanked Councilmember Bolton for her proposed items and shared his opinions on the proposed Flags Charter amendment. (02:04:32)

Synde Manion, a resident, was called to speak and shared her disappointment at how the Council majority plowed through the process and obviously didn't listen to a majority of residents. (02:05:16)

Unnamed Guest was called to speak and shared his personal experience for the process and cost to get an ID as a white guy. (02:06:33)

Mary Kyle was called to speak and stated her opposition to the proposed Flags Charter amendment. (02:08:05)

Unnamed Guest was called to speak and shared her opinion this whole process is flawed from the beginning. (02:09:34)

Unnamed Guest was called to speak and stated she would like to see respect returned by Councilmembers and see them focused on protecting all citizens of Huntington Beach. (02:10:23)

Unnamed Guest was called to speak and stated her opposition to the proposed Charter amendment related to elections. (02:11:39)

Unnamed Guest was called to speak and shared examples of racism from the previous generations that might have material impacts on people even today. (02:12:25)

Harry McLachlan, a resident, was called to speak and stated Councilmembers failed to listen to a majority of their constituents, and in fact acted against them. He thanked Councilmembers Bolton, Kalmick and Moser for using intelligence and reason during these discussions. (02:14:04)

Ann Palmer, over 30-year resident, was called to speak and thanked Mayor Strickland for allowing public discourse and noted that these proposed Charter amendments will ultimately return to the public for their vote. She also stated her support for voter ID and e-verify. (02:14:59)

Unnamed Guest was called to speak and thanked Mayor Strickland, Mayor Pro Tem Van Der Mark and Councilmembers Burns and McKeon for standing up to the fire. (02:16:31)

Ken Inouye was called to speak and asked Councilmembers why they support spending taxpayer money on a proposed election Charter amendment when in his opinion it is not needed. (02:17:55)

Pat Goodman was called to speak and stated opposition to the proposed voter ID and flags Charter amendments. (02:18:44)

Laura Sire was called to speak and stated her opposition to the proposed Charter amendment related to elections. (02:20:19)

Unnamed Guest was called to speak and suggested returning to the days of fingerprint and paper ballot to eliminate opportunity for election fraud. (02:21:20)

Shirley Dettloff was called to speak and shared her opinion if the process had started properly with a citizen Charter Review Committee it would not have resulted in the division and potential expense which she believes ultimately will negatively affect business and tourism. (02:22:01)

Unnamed Guest was called to speak and shared her opposition to the proposed Charter amendment related to elections. (02:23:49)

Valentina Bankhead was called to speak and stated her support for the proposed Charter amendments that will benefit all residents. (02:25:13)

ADJOURNMENT — At 8:27 PM a motion was made by Strickland, second by Burns, to adjourn to the next regularly scheduled meeting of the Huntington Beach City Council/Public Financing Authority on Tuesday, October 17, 2023, in the Civic Center Council Chambers, 2000 Main Street, Huntington Beach, California.

Robin Estanislau

City Clerk and ex-officio Clerk of the City Council
of the City of Huntington Beach and Secretary of
the Public Financing Authority of the City of
Huntington Beach, California

ATTEST:

Robin Estanislau

City Clerk-Secretary

Tom Blum

Mayor-Chair

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EXHIBIT M



A

City of Huntington Beach, Charter Amendment Measure No. 1

Shall proposed Charter Amendment No. 1, which provides that commencing in 2026, for all municipal elections, the City: may require Voter Identification for elections; provide more in-person voting locations; and monitor ballot drop-boxes, be approved?

What your vote means

YES	NO
A "yes" vote on this measure would add new Section 705 to the Charter, and add the conflict resolution language to current Section 702.	A "no" vote on this measure would not add new Section 705, and leave Section 702 in place as it currently exists.

For and against

FOR	AGAINST
Tony Strickland Mayor Gracey Van Der Mark Mayor Pro Tem	Dan Kalmick Councilmember Natalie Moser Councilmember Rhonda Bolton Councilmember

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 Ballot Measures-AFull Text of Measure A
City of Huntington BeachEXHIBIT A
CHARTER AMENDMENT MEASURES
PROPOSED ADDITIONS SHOWN AS UNDERLINED
PROPOSED DELETIONS SHOWN AS ~~STRIKETHROUGH~~

Charter Amendment Measure No. 1

Section 702. PROCEDURE FOR HOLDING ELECTIONS.

All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter. In the event of such conflict, the provisions of this Charter shall control and prevail, in accordance with Section 103 of this Charter.

Section 705. SPECIAL PROVISIONS RELATING TO MUNICIPAL ELECTIONS

As in Section 300, the City Charter shall determine the term of the City's elective officers, the length of term, and the election cycle in which the election for those offices occur for the City's elective officers.

(a) Beginning in 2026, for all municipal elections:

(1) "Elector" means a person who is a United States citizen 18 years of age or older, and a resident of the City on or before the day of an election.

(2) The City may verify the eligibility of Electors by voter identification.

(3) The City may provide at least 20 Americans with Disabilities Act compliant voting locations for in-person voting dispersed evenly throughout the City, in addition to any City facility voting locations.

(4) The City may monitor ballot drop boxes located within the City for compliance with all applicable laws.

Impartial Analysis
City of Huntington Beach
Measure A

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE 1

This proposed Charter amendment, if adopted, would amend the Charter related to City elections. Huntington Beach is a Charter City which is authorized by the State Constitution to determine how it conducts City elections. The Charter currently provides that all elections shall be held in accordance with the provisions of the California Elections Code, so far as they do not conflict with the Charter.

This ballot measure proposes to amend Section 702 of the Charter to provide that in the event of a conflict between the Elections Code and the Charter, the provisions of the Charter shall control and prevail. This ballot measure also proposes to add new Section 705 to the Charter, which would: reaffirm the Charter's authority over the term of the City's elective officers, their length of term and their election cycle; and beginning in 2026, define the qualifications of an Elector in a City election as a United States citizen at least 18 years of age, and a resident of the City on or before the day of an election.

This ballot measure would also authorize, but not require, the City to: verify the eligibility of Electors by voter identification; provide at least 20 ADA compliant voting locations for in-person voting dispersed throughout the City, in addition to any City facility voting locations; and monitor ballot drop boxes located within the City for compliance with all applicable laws.

The adoption of this Measure may result in additional, currently undetermined costs to the City, because the City does not currently perform the described election activities; if the Measure is adopted, and the City chooses to implement the described election activities, it will increase the City's election related costs in an amount that cannot be precisely determined at this time.

A "yes" vote on this measure would add new Section 705 to the Charter, and add the conflict resolution language to current Section 702. A "no" vote on this measure would not add new Section 705, and leave Section 702 in place as it currently exists.

This Measure was placed on the ballot by the City Council.



Ballot Measures-A

Argument in Favor of Measure A

Rebuttal to Argument in Favor of Measure A

Huntington Beach voters deserve the right to know that our elections are secure. It is crucial for our democracy that voters have faith in our election results. That trust in the outcome of elections comes into question when we can't always be certain who is voting.

Our elections are ALREADY SECURE, overseen by the award-winning, ISO-certified Orange County Registrar of Voters. Measure 1 misleads voters, threatening this security by potentially forcing Huntington Beach to conduct its own elections, a task for which the city is **UNPREPARED** and **LACKS INFRASTRUCTURE**. This could cost millions, an unnecessary financial burden.

California's Constitution gives Charter Cities like Huntington Beach the power to govern how local elections are conducted. Some cities, like San Francisco, have used that power to let illegal immigrants cast ballots. And now those extreme policies have been spreading and are being pushed as close as Santa Ana.

Claims that this measure requires government-issued photo identification are **MISLEADING**; this requirement is absent from the amendment. Federal law already requires accessibility at all polling places for those with disabilities, making additional ADA-compliant locations **REDUNDANT**. The proposed monitoring of ballot drop boxes is a form of **VOTER INTIMIDATION**, creating fear and uncertainty. These items are all subject to challenge under state and federal law. Again, more of our money flowing out of the city, spent on needless court costs.

This Charter Amendment Measure would permanently protect the election process in Huntington Beach by requiring three things. It would require voters to provide any government issued photo identification, it adds more handicapped accessible polling locations throughout the City so everyone has a polling place nearby, and it requires monitoring of all ballot drop boxes up through Election Day.

The argument that San Francisco allows non-citizens to vote in municipal elections is **FACTUALLY INCORRECT**. Non-citizens are only permitted in school board elections. This misrepresentation reveals the true intent of Measure 1: rooted in **FEAR** and **DIVISIVENESS**, not in enhancing election security.

Enshrining these simple steps into our City Charter would forever protect Huntington Beach's elections. There are no excuses for failing to protect our votes.

Using the term "illegal immigrant" is outdated and indicative of the measure's intent—to sow division. Our current election system is secure, efficient, and cost-effective. There is **NO EVIDENCE** of voter fraud in Huntington Beach that justifies such a drastic, costly, and risky overhaul.

Please, vote YES on Charter Amendment Measure 1.

For our city's stability, fiscal responsibility, and the integrity of our elections, **VOTE NO** on Measure 1.

s/ Tony Strickland
Mayor

s/ Dan Kalmick
City Council Member

s/ Gracey Van Der Mark
Mayor Pro Tem

s/ Natalie Moser
City Council Member

s/ Rhonda Bolton
City Council Member

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Ballot Measures-A

Argument Against Measure A

Rebuttal to Argument Against Measure A

VOTE NO on Measure 1. Here are the issues every citizen should understand before casting their vote:

COSTLY and RISKY: Our city is UNPREPARED for this shift. The Orange County Registrar of Voters implied Huntington Beach may have to manage its OWN separate elections. With NO prior experience, this could become a logistical NIGHTMARE.

LEGAL CONCERNS: California's Attorney General and Secretary of State have ALERTED Huntington Beach that this measure could be UNLAWFUL. This uncertainty poses legal and financial RISKS for our city.

UNCERTAIN COSTS: With the rush to put this on the ballot, very little financial analysis was completed. The financial implications remain UNKNOWN. The potential for costs running into the MILLIONS looms large. Is a move away from our current RELIABLE and economical system worth this?

AMBIGUOUS TERMS: The term "voter identification" is GLARINGLY undefined in this measure. Such vagueness is a DANGEROUS precedent and could COMPROMISE our citizens' constitutional right to vote.

POLITICAL MANEUVERING: Mayor Tony Strickland's recent arrival and quick push for this change raises eyebrows. Is this truly for the betterment of Huntington Beach, or a POLITICAL PLAY?

WHY FIX WHAT ISN'T BROKEN?: There has been NO evidence of voter fraud presented to justify this drastic shift. Our current system is SECURE and PROVEN. Why fix what's NOT BROKEN?

WASTEFUL SPENDING: The Council Majority has already SPENT nearly \$500,000 just to place this measure on the ballot. Is it WORTH further uncertain costs?

For the sake of Huntington Beach's STABILITY and FISCAL RESPONSIBILITY, **VOTE NO on Measure 1.**

s/ Dan Kalmick
Councilmember

s/ Natalie Moser
Councilmember

s/ Rhonda Bolton
Councilmember

Opponents of ensuring safe and fair elections in Huntington Beach have exposed just how weak their arguments are. Instead of sticking to the facts, they've resorted to lies and attempts to mislead voters. It makes you wonder whose side they're on?

The truth is the Registrar of Voters has made NO such comments about the future of governing elections in Huntington Beach. Not a word on cost. Not a word on managing our own elections. Not a word, period.

The opponents of Voter ID are simply making this up, shamefully lying to Huntington Beach voters. The best they can do is cite that the Bay Area liberal Attorney General disagrees with us is in itself incredibly telling. Of course he disagrees; he's someone who has long advocated letting felons vote!

Instead of protecting our elections from potential fraud, would opponents rather we follow Bonta's lead and let felons vote in Huntington Beach?

Another way to tell that opponents have nothing is all the equivocation they display: "Implied," "may have to," "could become," "could be," "potential," "could compromise." These are all just ways of avoiding making any concrete arguments against Voter ID.

The truth is that voters in Huntington Beach deserve to know, without question, that their elections are secure. And that is what Measure 1 is about.

Please join Mayor Tony Strickland, Mayor Pro-Tem Gracey Van Der Mark, Councilmember Casey McKeon, Councilmember Pat Burns, and City Attorney Michael Gates in supporting Voter ID for Huntington Beach.

More information, please visit: www.yesonhbcharter.com

s/ Tony Strickland
Mayor

s/ Gracey Van Der Mark
Mayor Pro Tem

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EXHIBIT N



City of Huntington Beach

2000 Main Street ♦ Huntington Beach, CA 92648

(714) 536-5227 ♦ www.huntingtonbeachca.gov

**NOTICE OF EXTENSION
PUBLIC REVIEW PERIOD FOR CHARTER AMENDMENT MEASURES 1 AND 2
FOR THE MARCH 5, 2024 SPECIAL ELECTION**

On Tuesday, November 21, 2023, an error in the web-posted version of Exhibit A to Resolution No. 2023-42 was discovered and corrected (see attached). The language included in Exhibit A of Resolution No. 2023-42 demonstrates how Council-adopted Charter Amendment Measures 1, 2 and 3, if approved by the voters, would modify existing Charter language. Charter language related to Measures 1 and 2 was inadvertently omitted from the web-posted version of Exhibit A, while Charter language for Measure 3 was included twice.

With the public having access to an incomplete version of Resolution No. 2023-42 during the previously established 10-day review periods of November 2-13 for Direct Arguments, and November 14-27 for Rebuttals, the City is providing an additional 10 calendar days to provide the public with an opportunity to examine a corrected copy of Resolution No. 2023-42.

The previously web-posted versions of the Impartial Analysis, Direct Arguments and Rebuttals to Direct Arguments in Favor of and Against Direct Charter Amendment Measures 1 and 2 remain unchanged.

Robin Estanislau, CMC
City Clerk

Att: Resolution No. 2023-42

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CITY CLERK
CITY OF
HUNTINGTON BEACH, CA

Sister Cities: Anjo, Japan

RESOLUTION NO. 2023-42

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024, FOR THE SUBMISSION TO THE VOTERS QUESTIONS RELATING TO CITY CHARTER AMENDMENTS.

WHEREAS, pursuant to authority provided by the California Constitution, Article XI and the Government Code, Title 4, Division 2, Chapter 2 (commencing at § 34450) and the Election Code Division 9, Chapter 3, Article 3 (commencing at § 9255) of the State of California, and under the provisions of the laws relating to Charter cities in the State of California, the City Council desires to hold a Special Municipal Election on March 5, 2024 to submit to the voters three questions relating to City Charter amendments; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed charter amendment(s) to the voters,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to Charter Cities, and pursuant to the California Constitution, Article XI and the Government Code, Title 4, Division 2, Chapter 2 (commencing at § 34450) and the Election Code Division 9, Chapter 3, Article 3 (commencing at § 9255) of the State of California, there is called and ordered to be held in the City of Huntington Beach, California, on Tuesday, March 5, 2024, a Special Municipal Election for the purpose of submitting to the voters the following questions relating to City Charter amendments:

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CITY OF
HUNTINGTON BEACH

"Shall proposed Charter Amendment No. 1, which provides that commencing in 2026, for all municipal elections, the City: may require Voter Identification for elections; provide more in-person voting locations; and monitor ballot drop-boxes, be approved?"	Yes
	No
"Shall proposed Charter Amendment No. 2, which provides that the only flags to be displayed by the City on City property are the United States Flag, the State of California Flag, the County of Orange Flag, the City of Huntington Beach Flag, the POW-MIA Flag, the six Armed Forces Flags, the Olympic Flag during the Summer Olympic Games, and any other flag if authorized by a unanimous vote of the City Council, be approved?"	Yes
	No
"Shall proposed Charter Amendment No. 3 to: commencing in 2026, require the City to adopt a two-year budget; update the procedures to cancel a regular City Council meeting; update the process to fill a City Council vacancy; and amend outdated phrases, syntax, dates, pronouns, and titles be approved?"	Yes
	No

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 CITY OF HUNTINGTON BEACH

SECTION 2. That the complete text of the Charter Amendments submitted to the voters is attached as Exhibit A.

SECTION 3. That the vote requirement for the measures to pass is a majority (50%+1) of the votes cast.

SECTION 4. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 5. That the City Clerk is authorized, instructed and directed to coordinate with the County of Orange Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 6. That the polls (vote centers) for the election shall be open at seven o'clock

a.m. of the day of the election and shall remain open continuously from that time until 8 o'clock p.m. of the same day when the polls (vote centers) shall be closed, pursuant to Election Code § 10242, except as provided in §§ 14212, 14401 of the Elections Code of the State of California.

SECTION 7. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 8. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 9. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 10. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

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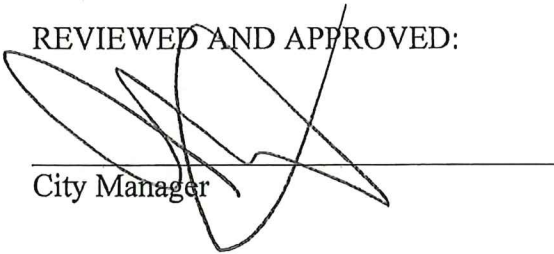
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CITY OF
HUNTINGTON BEACH

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 17th day of October, 2023.




Mayor

REVIEWED AND APPROVED:



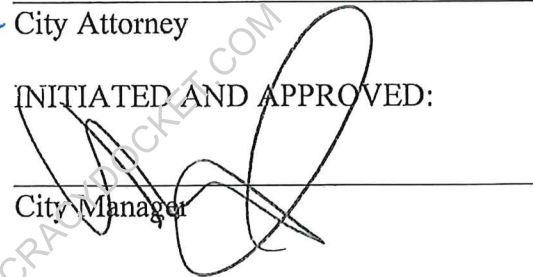
City Manager

APPROVED AS TO FORM:



City Attorney

INITIATED AND APPROVED:



City Manager

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EXHIBIT A
CHARTER AMENDMENT MEASURES
PROPOSED ADDITIONS SHOWN AS UNDERLINED
PROPOSED DELETIONS SHOWN AS ~~STRIKETHROUGH~~

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HUNTINGTON BEACH

Charter Amendment Measure No. 1

Section 702. PROCEDURE FOR HOLDING ELECTIONS.

All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exists or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter. In the event of such conflict, the provisions of this Charter shall control and prevail, in accordance with Section 103 of this Charter.

Section 705. SPECIAL PROVISIONS RELATING TO MUNICIPAL ELECTIONS

As in Section 300, the City Charter shall determine the term of the City's elective officers, the length of term, and the election cycle in which the election for those offices occur for the City's elective officers.

(a) Beginning in 2026, for all municipal elections:

(1) "Elector" means a person who is a United States citizen 18 years of age or older, and a resident of the City on or before the day of an election.

(2) The City may verify the eligibility of Electors by voter identification.

(3) The City may provide at least 20 Americans with Disabilities Act compliant voting locations for in-person voting dispersed evenly throughout the City, in addition to any City facility voting locations.

(4) The City may monitor ballot drop boxes located within the City for compliance with all applicable laws.

Charter Amendment Measure No. 2

SECTION 806. DISPLAY OF FLAGS.

Except as otherwise provided herein, the City shall only fly or display at or on any of the City's properties the following flags: the American flag, the POW/MIA flag, the State of California flag, the Huntington Beach City flag, the County of Orange flag, or any of the flags of the six branches of service: the Army, Navy, Air Force, Coast Guard, Marine Corps, and Space Force. During the Summer Olympic Games, the Mayor is authorized to order the display of the official Olympic flags for four weeks prior to the dates of the games, and for up to two weeks thereafter. The City may display any other flag in addition to those already enumerated, but only if authorized by a unanimous vote of all members of the City Council.

Charter Amendment Measure No. 3

Section 300. CITY COUNCIL, ATTORNEY, CLERK AND TREASURER. TERMS. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify. Subject to the provisions of this Charter, the members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified. Consistent with the staggered election process established in the new Charter in 1966 and reaffirmed in 2024, four members of the City Council shall be elected at the general municipal election held in ~~1966~~ 2022, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in ~~1968-2024~~, and each fourth year thereafter. No person shall be elected as a member of the City Council for more than two consecutive terms and no person who has been a member for more than two years of a term to which some other person was elected a member shall be elected to the City Council more than one further consecutive term. Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. Consistent with the staggered election process established in the new Charter in 1966 and reaffirmed in 2024, a City Clerk and City Treasurer shall be elected at the general municipal election held in ~~1968~~ 2024, and each fourth year thereafter. A City Attorney shall be elected in ~~1966~~ 2022, and each fourth year thereafter.

The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first ~~Monday~~ regular City Council meeting following the certification of the election. Ties in voting among candidates for office shall be settled by ~~the easting of lots~~ random drawing process conducted by the City Manager during the first regular City Council meeting following the certification.

If no candidate meets the qualifications for office of the City Clerk, City Treasurer, or City Attorney, the City Council shall fill that position by appointment until the next municipal general election in which a qualified candidate is elected.

Section 303. MEETINGS AND LOCATION.

(a) **Regular Meetings.** The City Council shall hold regular meetings at least twice each month, unless it lacks a quorum or is canceled by the Mayor or a majority of City Council Members, at such time as it shall fix by ordinance or resolution. In no event shall the City Council meet less than once each month, and The City Council may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment, and when so adjourned Each re-adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

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(b) **Special Meetings.** A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice or current technology to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally, ~~or~~ by mail or by current technology at least twenty-four hours before the time of such meeting as specified in the notice.

The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. If any person entitled to such written notice files a written waiver of notice with the City Clerk, it may be dispensed with. This notice requirement shall be considered fulfilled as to any person who is actually present at the meeting at the time it convenes. In the event of an emergency affecting the public peace, health or safety, a special meeting may be called as provided in this section with less than twenty-four hours written notice by the Mayor Pro Tem in the Mayor's absence or by any member of the City Council in the absence of both the Mayor and Mayor Pro Tem provided that the nature of the emergency is set forth in the minutes of the meeting.

(c) **Place of Meetings.** All regular meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if ~~he~~ the Mayor should fail to act, by a majority of the members of the City Council.

(d) **Open Meetings.** All regular and special meetings of the City Council shall be open and public, and all persons shall be permitted to attend such meetings, except that the provisions of this section shall not apply to executive closed sessions. Subject to the rules governing the conduct of City Council meetings, no person shall be denied the right to be heard by the City Council.

(e) **Dissemination of Information.** The City Council shall adopt rules to ensure thorough and timely dissemination of information via current technology by resolution.

Section 304. QUORUMS, PROCEEDINGS AND RULES OF ORDER.

(a) **Quorum.** A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally, ~~or~~ by mail or by current technology to each Council member at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council.

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Section 311. CITY TREASURER. POWERS AND DUTIES.

(d) Prepare and submit to the ~~Director of Finance~~ Chief Financial Officer monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Manager and City Council.

Section 312. VACANCIES, FORFEITURES AND REPLACEMENT.

(a) **Vacancies.** A vacancy in the City Council or in any other office designated as elective by this Charter, from whatever cause arising, shall be filled by appointment by the City Council with at least four affirmative votes.

(b) **Forfeiture.** If a member of the City Council is absent from all regular meetings of the City Council for a period of thirty consecutive days from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, the office shall become vacant. If an elected City officer pleads guilty or no contest to or is convicted of a felony or any crime of moral turpitude, or ceases to be an elector of the City, the office shall become vacant. The City Council shall declare the existence of such vacancy. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated the office under the City Government.

(c) **Replacement.** In the event it the City Council shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term. If the City Council fills the vacancy by appointment, such appointee shall hold office until an election to fill the remainder of the unexpired term at the next general municipal election. Should the appointment occur after the filing deadline for the next general municipal election, the seat shall be deemed vacant upon the certification of the general municipal election, and the vacancy shall be filled in accordance with Sections 312(a) and 312(c).

Section 400. CITY MANAGER. COMPOSITION, TERM, ELIGIBILITY, REMOVAL.

(d) **Removal.** The City Manager shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Manager may be removed only at a regular meeting of the City Council and upon the affirmative vote of a majority of the members of the City Council. At least thirty days prior to the effective date of removal, the City Manager shall be furnished with a written notice stating the Council's intentions and, if requested by the City Manager, the reasons therefor. Within seven days after receipt of such notice, the City Manager may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place

before the expiration of the thirty-day period above referred to. The City Manager shall appear and be heard at such hearing. After furnishing the City Manager with written notice of the intended removal, the City Council may suspend the City Manager from duty, but his the City Manager's compensation shall continue until removal as herein provided. In removing the City Manager, the City Council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City Manager to present to each other and to the public all pertinent facts prior to the final action of removal.

Section 401. POWERS AND DUTIES.

(b) Prepare the budget ~~annually~~ as required by this Charter, submit it to the City Council, and be responsible for its administration upon adoption.

Section 601. BIENNIAL ANNUAL BUDGET, PREPARATION BY THE CITY MANAGER.

At such date as the City Manager shall determine, each board or commission and each department head shall furnish to the City Manager, personally, or through the ~~Director of Finance~~ Chief Financial Officer, estimates of the department's, board's or commission's revenue and expenditures for the ensuing two fiscal years, detailed in such manner as may be prescribed by the City Manager. In preparing the proposed budget, the City Manager shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as may be deemed advisable.

Section 602. BIENNIAL ANNUAL BUDGET. SUBMISSION TO THE CITY COUNCIL.

The City Manager shall submit the proposed budget to the City Council at least thirty days prior to the beginning of each even numbered fiscal year beginning in 2026. After reviewing the proposed budget and making such revisions as it may deem advisable, the City Council shall hold a public hearing thereon at least fifteen days prior to the beginning of each even numbered fiscal year and shall cause to be published a notice thereof not less than ten days prior to said hearing. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

Section 603. BIENNIAL ANNUAL BUDGET. PUBLIC HEARING.

At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Section 604. BIENNIAL ANNUAL BUDGET. FURTHER CONSIDERATION AND ADOPTION.

At the conclusion of the public hearing the City Council shall further consider the

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HUNTSVILLE

proposed budget and make any revisions thereof that it may deem advisable and on or before the last day of the fiscal year it shall adopt the budget with revisions, if any, by the affirmative vote of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing two fiscal years. Copies thereof, certified by the City Clerk, shall be filed with the City Manager, ~~Director of Finance~~ Chief Financial Officer, City Treasurer and the person retained by the City Council to perform the post audit function, and a further copy shall be placed, and shall remain on file in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

Section 605. BIENNIAL ANNUAL BUDGET APPROPRIATIONS.

From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named; provided, however, that the City Manager may transfer funds from one object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the second fiscal year to the extent that they shall not have been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative vote of at least a majority of the total members of the City Council.

Section 801. DEFINITIONS. Unless the provisions or the context otherwise requires, as used in this Charter:

- (a) "Shall" is mandatory, and "may" is permissive.
- (b) "City" is the City of Huntington Beach and "department," "board," "commission," "agency," "officer," or "employee" is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach.
- (c) "County" is the County of Orange.
- (d) "State" is the State of California.
- (e) ~~The masculine includes the feminine and the feminine includes the masculine.~~
- (f) The singular includes the plural and the plural the singular.
- (g) "Person" includes firm and corporation.

Section 804. CHARTER REVIEW. The City Council shall determine if there is a need to convene a citizen's Charter Review Commission to conduct a review of the City Charter no less frequently than every ten years from the most recent formal Charter review conducted by a Charter Revision Commission, City Council, or City staff.

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 CITY OF
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STATE OF CALIFORNIA
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, ROBIN ESTANISLAU, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing resolution was passed and adopted by the affirmative vote of at least a majority of all the members of said City Council at a **Regular** meeting thereof held on **October 17, 2023** by the following vote:


- AYES:** Van Der Mark, Strickland, McKeon, Burns
- NOES:** Kalmick, Moser, Bolton
- ABSENT:** None
- RECUSE:** None

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Robin Estanislau

City Clerk and ex-officio Clerk of the
City Council of the City of
Huntington Beach, California

I declare, under penalty of perjury, that I am employed by the City of Huntington Beach, in the Office of the City Clerk and that I posted this public notice on the outside posting bulletin board at the Civic Center on Thursday at 3:10 a.m./p.m.
Date 11/28/23

Signature 
Senior Deputy City Clerk

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EXHIBIT O

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

Central Justice Center
700 W. Civic Center Drive
Santa Ana, CA 92702

SHORT TITLE: Bixby vs. Estanislau

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

CASE NUMBER:
30-2023-01366664-CU-WM-CJC

I certify that I am not a party to this cause. I certify that the following document(s), Minute Order dated 12/28/23, was transmitted electronically by an Orange County Superior Court email server on December 28, 2023, at 3:48:30 PM PST. The business mailing address is Orange County Superior Court, 700 Civic Center Dr. W, Santa Ana, California 92701. Pursuant to Code of Civil Procedure section 1013b, I electronically served the document(s) on the persons identified at the email addresses listed below:

BROWER LAW GROUP, APC
LEE@BROWERLAWGROUP.COM

OFFICE OF THE CITY ATTORNEY CITY OF
HUNTINGTON BEACH
PEGGY.HUANG@SURFCITY-HB.ORG

REBECCA S. LEEDS, SENIOR DEPUTY COUNSEL
REBECCA.LEEDS@COCO.OCGOV.COM

Clerk of the Court, by:

Jocelyne Abarca

, Deputy

CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 12/28/2023

TIME: 10:00:00 AM

DEPT: C25

JUDICIAL OFFICER PRESIDING: Supervising Judge Nico Dourbetas

CLERK: J. Abarca

REPORTER/ERM: Jenny Craig CSR #11094

BAILIFF/COURT ATTENDANT: F. Camandang

CASE NO: **30-2023-01366664-CU-WM-CJC** CASE INIT.DATE: 11/22/2023

CASE TITLE: **Bixby vs. Estanislau**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT ID/DOCUMENT ID: 74176268

EVENT TYPE: Ex Parte

MOVING PARTY: Mark Bixby

CAUSAL DOCUMENT/DATE FILED: Ex Parte Application - Other, 12/18/2023

APPEARANCES

Peggy Z. Huang from The City of Huntington Beach, Real Party In Interest (Rpii), present.

Mark Bixby, Petitioner, present remotely.

Rebecca S. Leeds, Deputy County Counsel present remotely.

Lee Fink from Brower Law Group present.

**PETITIONERS EX PARTE APPLICATION FOR WRIT OF MANDATE OR ORDER SHORTENING TIME,
AND FOR A TEMPORARY RESTRAINING ORDER**

Hearing held, participants appearing remotely and in person.

Privately retained court reporter is present in person.

Ex Parte Application is read and considered.

Opposition and declaration are read and considered.

Oral argument heard.

The Court having read the moving papers and heard oral argument now rules as follows:

The Petition is DENIED.

The Court finds that Petitioner has standing to bring this petition. He is a registered voter and resident of the City of Huntington Beach (City). (See Elec. Code, § 13314, subds. (a)(1); Elec. Code, § 9295, subd. (b)(1); Amd. Pet. ¶ 1.).

Petitioner's argument that the Charter Amendments Nos. 1 and 2 should not be included on the March 5, 2024 ballot because they do not comply with Cal. Elec. Code §§ 9200, et seq., fails to account for the notice of extension of time for public review that was submitted when the corrected version of the Charter Amendments were made available to the public.

Petitioner's argument seeking pre-election review of the charter amendments falls short. The general rule

is that “it is usually more appropriate to review constitutional and other challenges to ballot propositions or initiative measures after an election rather than to disrupt the electoral process by preventing the exercise of the people’s franchise, in the absence of some clear showing of invalidity.” (Brosnahan v. Eu (1982) 31 Cal. 3d 1, 4.) Departure from this general rule is not warranted where “an initiative is [argued to be] unconstitutional because of its substance.” (Brosnahan, Supra. at p. 6.)

Here, Petitioner makes a substantive challenge to the constitutionality of the Resolution, rather than a jurisdictional challenge. Petitioner seeks to have the judiciary serve as an auditor of what the electorate may consider for the supposed purpose of preserving democracy. This runs counter to the general rule counseling against pre-election review of the contents of the ballot. The Petition presents no circumstances that warrant departure from the general rule or circumvention of ordinary democratic processes.

As such, this Court declines to intervene at this stage, and holds that the issues raised in the Resolution should be allowed to proceed. If this measure were to pass, and if its implementation raises an issue of constitutionality, at that point, it may be appropriate for judicial review.

At this point, the Petition seeks nothing more than an advisory opinion. Generally, it is not appropriate to seek purely advisory opinions from courts in California. (Pacific Legal Foundation v. California Coastal Com. (1982) 33 Cal. 3d 158, 170-171.). This is precisely what the Petition attempts to do. Since it is currently unknown (1) whether the Resolution will even be passed; (2) how the City will go about implementing the voter identification requirement; and (3) what effect this implementation may have on voters, the issue is not ripe for adjudication. The Court can only speculate about the potential results of a requirement for voter identification to vote in a Huntington Beach City election may have. Thus, the issue is not justiciable at this stage.

Clerk is ordered to give notice.

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EXHIBIT P

CERTIFIED STATEMENT OF THE VOTES CAST

at the

PRESIDENTIAL PRIMARY ELECTION

MARCH 5, 2024

in the

County of Orange, State of California

FILED _____, 2024

SHIRLEY N. WEBER, SECRETARY OF STATE

BY _____ DEPUTY

State of California)

) ss

County of Orange)

I, Bob Page, Registrar of Voters of Orange County, do hereby certify that the within is a true and correct statement of the votes cast in this county at the Presidential Primary Election, as determined by the canvass of the returns of said election.

WITNESS my hand and Official Seal

THIS 22nd DAY OF March, 2024

 _____, REGISTRAR OF VOTERS



CITY/UNINCORPORATED AREA CODES FOR PRECINCTS

Use this list to determine precincts within cities. These numbers are the digits immediately following the 2 zeros in the precinct numbers.

02	ANAHEIM
05	BREA
06	BREA-OLINDA
07	BUENA PARK
10	CYPRESS
11	LA PALMA
13	FULLERTON
14	GARDEN GROVE
16	KATELLA
17	LA HABRA
18	NORTH LA HABRA
21	MAGNOLIA
22	ORANGETHORPE
23	PLACENTIA
25	LAGUNA WOODS
26	EAST PLACENTIA
27	STANTON
28	YORBA
29	YORBA LINDA
31	FOUNTAIN VALLEY
32	HUNTINGTON BEACH
33	LOS ALAMITOS
34	MIDWAY CITY
35	ROSSMOOR
36	SEAL BEACH
37	SUNSET BEACH
38	LAGUNA HILLS
39	WESTMINSTER
40	TALEGA
41	DANA POINT
42	NORTH LAGUNA
43	EMERALD BAY
44	LAGUNA BEACH
45	ALISO VIEJO
47	MISSION VIEJO
48	SAN CLEMENTE
49	SAN JUAN CAPISTRANO
50	TRABUCO
51	BAY VIEW
52	COSTA MESA
53	NEWPORT BEACH
54	RANCHO SANTA MARGARITA
56	LAKE FOREST
57	DIAMOND
58	LAGUNA NIGUEL
59	IRVINE
62	OLIVE
63	ORANGE
65	EAST ORANGE
68	SANTA ANA
67	LADERA RANCH
69	ORTEGA
70	SILVERADO
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Vote Center Total, Vote-by-Mail Total and Grand Total Recaps are shown at the end of each section. Each recap includes a breakdown by Congressional District, Senatorial District, Assembly District, Supervisorial District, School District, Special District, and City.

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A-City of Huntington Beach - Non-Partisan

Vote Center Totals

District	Party Member Registration	Party Member Ballots Cast	Turnout (%)	Yes	No
Orange County	132,535	10,714	8.1	7,838	2,651
Orange County	132,535	10,714	8.1	7,838	2,651
47th Congressional District	132,535	10,714	8.1	7,838	2,651
36th Senate District	132,535	10,714	8.1	7,838	2,651
70th Assembly District	10,668	822	7.7	553	242
72nd Assembly District	121,867	9,892	8.1	7,285	2,409
1st Supervisorial District	132,535	10,714	8.1	7,838	2,651
Huntington Beach	132,535	10,714	8.1	7,838	2,651
State Board of Equalization (4th District)	132,535	10,714	8.1	7,838	2,651
4th District Court of Appeal	132,535	10,714	8.1	7,838	2,651
County Board of Education Trustee Area 2	132,535	10,714	8.1	7,838	2,651
Coast Community College District	132,535	10,714	8.1	7,838	2,651
Coast Community College District Trustee Area 1	36,636	2,660	7.3	1,978	650
Coast Community College District Trustee Area 3	78,053	6,520	8.4	4,723	1,641
Coast Community College District Trustee Area 4	17,846	1,534	8.6	1,137	360
Fountain Valley School District	11,864	931	7.8	694	220
Huntington Beach City School District	59,725	5,265	8.8	3,832	1,293
Huntington Beach City School District Trustee Area 1	12,425	1,051	8.5	773	255
Huntington Beach City School District Trustee Area 2	11,685	1,068	9.1	748	289
Huntington Beach City School District Trustee Area 3	11,646	1,034	8.9	759	240
Huntington Beach City School District Trustee Area 4	11,750	971	8.3	698	252
Huntington Beach City School District Trustee Area 5	12,219	1,141	9.3	854	257
Ocean View School District	55,441	4,121	7.4	3,007	1,054
Westminster School District Trustee Area 5	5,310	384	7.2	295	81
Westminster School District Trustee Area 5	5,310	384	7.2	295	81
Huntington Beach Union High School District	132,340	10,701	8.1	7,828	2,648
Los Alamitos Unified School District	195	13	6.7	10	3
Los Alamitos Unified School District Trustee Area 4	195	13	6.7	10	3
Municipal Water District Of Orange County	132,535	10,714	8.1	7,838	2,651
Municipal Water District of Orange County Division 4	132,535	10,714	8.1	7,838	2,651
Orange County Water District	132,535	10,714	8.1	7,838	2,651
Orange County Water District Division 6	132,535	10,714	8.1	7,838	2,651
Sunset Beach Sanitary District	607	58	9.6	40	15
Historical 2010 - 48th Congressional District	132,535	10,714	8.1	7,838	2,651
Historical 2010 - 34th Senate District	61,369	4,582	7.5	3,358	1,157
Historical 2010 - 37th Senate District	71,166	6,132	8.6	4,480	1,494
Historical 2010 - 72nd Assembly District	64,847	4,871	7.5	3,567	1,228
Historical 2010 - 74th Assembly District	67,688	5,843	8.6	4,271	1,423
Historical 2010 - State Board of Equalization (4th District)	132,535	10,714	8.1	7,838	2,651
Historical 2010 - 2nd Supervisorial District	132,535	10,714	8.1	7,838	2,651

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Vote Center Totals

District	Party Member Registration	Party Member Ballots Cast	Turnout (%)	Yes	No
Historical 2010 - County Board of Education Trustee Area 2	132,535	10,714	8.1	7,838	2,651
Vote Center Totals	132,535	10,714	8.1	7,838	2,651

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Vote by Mail
Totals

District	Party Member Registration	Party Member Ballots Cast	Turnout (%)	Yes	No
Orange County	132,535	52,429	39.6	25054	26050
Orange County	132,535	52,429	39.6	25054	26050
47th Congressional District	132,535	52,429	39.6	25054	26050
36th Senate District	132,535	52,429	39.6	25054	26050
70th Assembly District	10,668	3,140	29.4	1473	1541
72nd Assembly District	121,867	49,289	40.4	23581	24509
1st Supervisorial District	132,535	52,429	39.6	25054	26050
Huntington Beach	132,535	52,429	39.6	25054	26050
State Board of Equalization (4th District)	132,535	52,429	39.6	25054	26050
4th District Court of Appeal	132,535	52,429	39.6	25054	26050
County Board of Education Trustee Area 2	132,535	52,429	39.6	25054	26050
Coast Community College District	132,535	52,429	39.6	25054	26050
Coast Community College District Trustee Area 1	36,636	13,967	38.1	6777	6830
Coast Community College District Trustee Area 3	78,053	31,148	39.9	14813	15537
Coast Community College District Trustee Area 4	17,846	7,314	41.0	3464	3683
Fountain Valley School District	11,864	4,815	40.6	2278	2404
Huntington Beach City School District	59,725	24,352	40.8	11561	12195
Huntington Beach City School District Trustee Area 1	12,425	5,498	44.2	2863	2515
Huntington Beach City School District Trustee Area 2	11,685	4,649	39.8	2196	2326
Huntington Beach City School District Trustee Area 3	11,646	4,384	37.6	1981	2298
Huntington Beach City School District Trustee Area 4	11,750	4,731	40.3	2136	2465
Huntington Beach City School District Trustee Area 5	12,219	5,090	41.7	2385	2594
Ocean View School District	55,441	21,092	38.0	10134	10429
Westminster School District	5,310	2,063	38.9	1025	973
Westminster School District Trustee Area 5	5,310	2,063	38.9	1025	973
Huntington Beach Union High School District	132,340	52,322	39.5	24998	26004
Los Alamitos Unified School District	195	107	54.9	56	46
Los Alamitos Unified School District Trustee Area 4	195	107	54.9	56	46
Municipal Water District Of Orange County	132,535	52,429	39.6	25054	26050
Municipal Water District of Orange County Division 4	132,535	52,429	39.6	25054	26050
Orange County Water District	132,535	52,429	39.6	25054	26050
Orange County Water District Division 6	132,535	52,429	39.6	25054	26050
Sunset Beach Sanitary District	607	256	42.2	116	136
Historical 2010 - 48th Congressional District	132,535	52,429	39.6	25054	26050
Historical 2010 - 34th Senate District	61,369	23,735	38.7	11516	11622
Historical 2010 - 37th Senate District	71,166	28,694	40.3	13538	14428
Historical 2010 - 72nd Assembly District	64,847	25,020	38.6	12172	12209
Historical 2010 - 74th Assembly District	67,688	27,409	40.5	12882	13841
Historical 2010 - State Board of Equalization (4th District)	132,535	52,429	39.6	25054	26050
Historical 2010 - 2nd Supervisorial District	132,535	52,429	39.6	25054	26050

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Vote by Mail
Totals

District	Party Member Registration	Party Member Ballots Cast	Turnout (%)	Yes	No
Historical 2010 - County Board of Education Trustee Area 2	132,535	52,429	39.6	25054	26050
Vote by Mail Totals	132,535	52,429	39.6	25,054	26,050

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A-City of Huntington Beach - Non-Partisan

Grand Totals

District	Party Member Registration	Party Member Ballots Cast	Turnout (%)	Yes	No
Orange County	132,535	63,143	47.6	32892	28701
Orange County	132,535	63,143	47.6	32892	28701
47th Congressional District	132,535	63,143	47.6	32892	28701
36th Senate District	132,535	63,143	47.6	32892	28701
70th Assembly District	10,668	3,962	37.1	2026	1783
72nd Assembly District	121,867	59,181	48.6	30866	26918
1st Supervisorial District	132,535	63,143	47.6	32892	28701
Huntington Beach	132,535	63,143	47.6	32892	28701
State Board of Equalization (4th District)	132,535	63,143	47.6	32892	28701
4th District Court of Appeal	132,535	63,143	47.6	32892	28701
County Board of Education Trustee Area 2	132,535	63,143	47.6	32892	28701
Coast Community College District	132,535	63,143	47.6	32892	28701
Coast Community College District Trustee Area 1	36,636	16,627	45.4	8755	7480
Coast Community College District Trustee Area 3	78,053	37,668	48.3	19536	17178
Coast Community College District Trustee Area 4	17,846	8,848	49.6	4601	4043
Fountain Valley School District	11,864	5,746	48.4	2972	2624
Huntington Beach City School District	59,725	29,617	49.6	15393	13491
Huntington Beach City School District Trustee Area 1	12,425	6,549	52.7	3636	2770
Huntington Beach City School District Trustee Area 2	11,685	5,717	48.9	2944	2615
Huntington Beach City School District Trustee Area 3	11,646	5,418	46.5	2740	2538
Huntington Beach City School District Trustee Area 4	11,750	5,702	48.5	2834	2717
Huntington Beach City School District Trustee Area 5	12,219	6,231	51.0	3239	2851
Ocean View School District	55,441	25,213	45.3	13141	11483
Westminster School District	5,310	2,447	46.1	1320	1054
Westminster School District Trustee Area 5	5,310	2,447	46.1	1320	1054
Huntington Beach Union High School District	132,340	63,023	47.6	32826	28652
Los Alamitos Unified School District	195	120	61.5	66	49
Los Alamitos Unified School District Trustee Area 4	195	120	61.5	66	49
Municipal Water District Of Orange County	132,535	63,143	47.6	32892	28701
Municipal Water District of Orange County Division 4	132,535	63,143	47.6	32892	28701
Orange County Water District	132,535	63,143	47.6	32892	28701
Orange County Water District Division 6	132,535	63,143	47.6	32892	28701
Sunset Beach Sanitary District	607	314	51.7	156	151
Historical 2010 - 48th Congressional District	132,535	63,143	47.6	32892	28701
Historical 2010 - 34th Senate District	61,369	28,317	46.1	14874	12779
Historical 2010 - 37th Senate District	71,166	34,826	48.9	18018	15922
Historical 2010 - 72nd Assembly District	64,847	29,891	46.1	15739	13437
Historical 2010 - 74th Assembly District	67,688	33,252	49.1	17153	15264
Historical 2010 - State Board of Equalization (4th District)	132,535	63,143	47.6	32892	28701
Historical 2010 - 2nd Supervisorial District	132,535	63,143	47.6	32892	28701

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A-City of Huntington Beach - Non-Partisan

Grand Totals

District	Party Member Registration	Party Member Ballots Cast	Turnout (%)	Yes	No
Historical 2010 - County Board of Education Trustee Area 2	132,535	63,143	47.6	32,892	28,701
Vote Center Totals	132,535	10,714	8.1	7,838	2,651
Vote by Mail Totals	132,535	52,429	39.6	25,054	26,050
Grand Totals	132,535	63,143	47.6	32,892	28,701

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EXHIBIT Q

Overview

The Help America Vote Act of 2002 (HAVA) is now more than seven years old. The decision by Congress to provide new HAVA money to states gives California the opportunity to take stock of the efforts to make it easier for people to participate in democracy here and throughout the nation.

The events that took place in Florida during the 2000 Presidential election brought a number of concerns about the electoral process to the forefront, including:

- The difficulty in determining a voter's intent on punch-card voting systems because ballot cards contained hanging, dimpled or pregnant chads
- Lack of uniform standards in some states for determining voter intent when ballot cards contained hanging, dimpled or pregnant chads
- Voter registration list maintenance practices that affected voter eligibility
- Long lines at polling places
- Inconsistent pollworker training

HAVA attempted to address these concerns and focus attention on reducing ballot errors and improving access for voters with disabilities and those with alternative language needs by promoting the use of a new generation of voting systems.

The effort to create HAVA may have been driven by events in the 2000 Presidential election, but California took action before Congress adopted HAVA. Then-Secretary of State Bill Jones banned the use of pre-scored punch card voting systems, used then by more than half of the state's voters in September, 2001, and the State Legislature placed the Voting Modernization Bond Act, Proposition 41, on the March 5, 2002, ballot. This \$200 million bond act was supported by voters and provided California counties with money to upgrade their voting systems. By June of 2002, the Voting Modernization Board, created by Proposition 41 to oversee administration of the bond act, began meeting. On October 29, 2002, HAVA was signed into law.

The 161 pages that make up HAVA represent what is arguably the most extensive federal election law rewrite ever enacted. Whereas previous efforts appropriately extended the vote to more people and removed barriers to participation, HAVA was directed at the very mechanics and technology being used to conduct elections. It accelerated the movement toward a new era of voting technology, including the use of direct-recording electronic (DRE) voting equipment. It required states to establish new, statewide voter registration databases to serve as the official list for elections, and fundamentally altered the voter registration process with new voter identification and verification requirements. Finally, it reinforced or expanded practices regarding provisional voting, voter education and poll worker training, reforms that California had led the nation in implementing prior to HAVA's enactment.

Following the adoption of HAVA, states that moved quickly, in some cases even before HAVA's enactment, to implement many of its provisions soon found themselves

effectively “beta testing” voting systems that presented new, and unknown challenges. Questions about the security of voting systems, particularly DRE voting equipment, came to the fore. Decades-old testing and approval processes were challenged by the need to examine new, fundamentally different equipment that presented new questions that few had previously entertained or had experience answering. The deployment of new equipment raised practical, logistical and procedural difficulties. At the heart of the issue was the question of transparency. The reliance on proprietary source code for computerized, DRE voting units, precluded open, public examination of the entirety of voting systems and many questioned the ability of these voting systems to protect the security of the vote. To strengthen the electoral process, critics of DRE voting systems called for a transparent, auditable mechanism to add greater accountability to the process – the voter-verified paper audit trail (VVPAT).

Following a 2004 incident in California in which source code changes made by a voting system vendor were implemented without going through the required state testing and approval process, state law was amended to strengthen the Secretary of State’s approval authority. The Legislature also adopted a requirement that, beginning in 2005, all DRE voting systems be equipped with an “accessible voter-verified paper audit trail” (AVVPAT) before they could be approved for use in California. Additionally, no DRE voting system could be approved for use that had not first received federal qualification, a process during which voting system source code would be examined. DRE voting systems already in use were required to be retrofitted with an AVVPAT by January 1, 2006. Soon thereafter, more than half of the states in the nation enacted VVPAT requirements of their own for DRE voting systems, but it is not yet a requirement of federal law or HAVA.

As California addressed these issues, it exercised the option to extend the HAVA implementation deadline from January 1, 2004 to January 1, 2006.

During this time, the Election Assistance Commission (EAC), created by HAVA to oversee and guide the implementation of the Act, was established and belatedly began to assume its duties. So-called “early” HAVA funding that was to be distributed even before the EAC was established was not made available to states until April 29, 2003 – more than four months after HAVA required the money to be made available and just eight months prior to HAVA’s January 1, 2004, compliance deadline.

The EAC itself was established more than 10 months after HAVA required it to be established, and at the time of its inception, it had no funding for its operations. Consequently, a domino effect occurred that affected the ability of California and other states to implement HAVA’s requirements. States had difficulty requesting and securing the federal funding intended to help them meet HAVA’s requirements to deploy new voting systems, statewide voter registration databases and improve voter education programs. According to the EAC, in April 2004, four months after HAVA’s initial January 1, 2004, deadline, less than 20 percent of this money had been disbursed to states. Furthermore, the EAC failed to provide states with guidance on how to implement HAVA. EAC guidance on how to establish a voter registration database was issued two

years later than HAVA required. The EAC's voluntary voting system guidelines (VVSG), the most definitive explanation of HAVA's voting system standards, were issued nearly two years later than the time provided for in HAVA, and just weeks before the ultimate January 1, 2006, deadline for states to comply with all of HAVA's requirements. On September 21, 2005, just three months before the EAC issued the VVSG, the United States Government Accountability Office (GAO) – the investigative arm of Congress – issued a report on the security and reliability of electronic voting systems being deployed to meet HAVA requirements. In that report, the GAO raised numerous concerns, stating:

“In light of the recently demonstrated voting system problems; the differing views on how widespread these problems are; and the complexity of assuring the accuracy, integrity, confidentiality and availability of voting systems throughout their life cycles, the security and reliability concerns raised in recent reports merit the focused attention of federal, state, and local authorities responsible for election administration.” (Page 23, GAO report issued September 21, 2005: “Federal Efforts to Improve Security and Reliability of Electronic Voting Systems are Under Way, but Key Activities need to be Completed”)

Controversy over the deployment of new voting systems was not the only challenge faced by states. HAVA's requirement to establish a statewide voter registration database resulted in enforcement action, or the threat of enforcement action, by the U.S. Department of Justice (US DOJ) in more than a handful of states – including California. California had already engaged the US DOJ in discussions in early 2005 that culminated in the adoption of a November 2, 2005, Memorandum of Agreement (MOA) jointly executed between the Secretary of State and US DOJ. Pursuant to the MOA, California upgraded its CalVoter system – used previously for list maintenance purposes – to achieve “interim compliance” with HAVA's requirements. Under the MOA, the Secretary of State further committed to pursuing “full compliance” by deploying the new “VoteCal” system. That project was under way until April 19, 2010, when the Secretary of State's office discovered the vendor hired to develop and deploy the VoteCal project had not obtained a performance bond, which is a requirement of the contract the state executed with the vendor. On May 4, 2010, the Secretary of State sent the vendor a letter documenting, among other things, the vendor's lack of a performance bond, and required the vendor resolve the issue within 30 days. The letter offered the vendor an opportunity to meet with Secretary of State personnel to discuss the issues. During subsequent discussions with the vendor, the Secretary of State's office and the vendor mutually agreed to terminate the contract. A settlement to terminate the contract was executed on May 21, 2010.

The Secretary of State is committed to completing the VoteCal project. The state is also bound to complete the project pursuant to the terms of the MOA executed with the US DOJ on November 2, 2005. The work done to date on the project will facilitate those efforts. That work includes:

- Development of an RFP that documents in great detail the business requirements of the VoteCal project – all of the necessary functions the system must be capable of performing.
- Extensive, documented communication with stakeholders, including county elections officials, voting rights advocates, representatives of voters with disabilities and others who provide valuable input on the VoteCal business requirements.
- Experience gained with state oversight agencies, including procurement experts at the Department of General Services and technology experts at the Office of the Chief Information Officer.
- Input and advice from independent oversight contractors required by state law for technology projects, including an Independent Project Oversight Consultant and an Independent Verification and Validation consultant.
- Insight from county elections officials and vendors on the functions and operation of county election management systems, which must be integrated into the functions of VoteCal.

The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to build and deploy the VoteCal system. On July 19, 2010, a Special Project Report (SPR) was submitted to state agencies that must approve the project before it can move forward to be advertised for bid in a Request for Proposal (RFP). The project will also be submitted to the Legislature for final approval following the procurement process and award of the bid to a system integrator vendor. The SPR contains a preliminary estimated deployment of the VoteCal voter registration system statewide by June 2014. However, that preliminary timeline is subject to change, and a final timeline for development, testing and statewide deployment will be determined after a vendor is selected for the project. The estimated timeline for completion of the bidding process and award of the contract to the system integrator vendor under the state's solution-based procurement process is September 2011. Additional historical information about the VoteCal project, which includes a description of the business requirements for the project, is available on-line at www.sos.ca.gov/elections/votecal/.

The Secretary of State and county elections officials did not have the flexibility to wait until the controversy surrounding voting systems and database requirements abated before beginning to implement HAVA. HAVA implementation was pursued by the Secretary of State and county elections officials based on the requirement to meet the January 1, 2006, deadline.

Through the 2008 election cycle, California's elections officials implemented HAVA to the fullest extent possible, including:

- Creating the complaint procedures required as a prerequisite to receiving HAVA funding
- Expanding the capacity and languages available on the Secretary of State's toll-free voter information hotline

- Establishing the Secretary of State as the single statewide office to serve as a resource for military and overseas voters and for the counties that serve those voters
- Ensuring that provisional voters can, at no cost, check the status of their provisional ballot to determine if their ballot was counted, and if not, why not
- Creating a uniform definition of a vote cast on voting systems in use in California
- Establishing an “interim solution” statewide voter registration database that integrated and synchronized the 58 county election management systems containing California’s voter rolls into a single, statewide system, pursuant to the MOA negotiated with the US DOJ
- Testing and approving voting systems intended to be HAVA-compliant, so California counties could acquire and deploy those voting systems
- Allocating HAVA funds to counties to defray the costs of Title III requirements and to improve polling place accessibility
- Working with counties to ensure that voting systems with the functionality required by HAVA voting system standards, including accessibility for voters with disabilities, were deployed at every polling place
- Making voter materials more accessible at the state and local level by providing them in alternative formats and improving the accessibility of websites
- Executing contracts with counties for federal grant funds to improve polling place accessibility and conducting outreach to voters with disabilities
- Providing statewide training in conjunction with the Department of Rehabilitation to elections officials on surveying polling places for accessibility during 2005 and 2006
- Establishing a Voting Accessibility Advisory Committee to recommend to the Secretary of State ways to improve accessibility to the electoral process
- Developing, pursuant to state law, poll worker training guidelines, which included training on HAVA requirements
- Providing guidance to counties on all aspects of HAVA, including developing and publishing a HAVA compliance manual

Following the 2006 election cycle, HAVA implementation has continued to evolve. In 2007, California undertook the most comprehensive review of voting systems ever conducted. Consistent with state legislative direction, the review included a top-to-bottom examination of voting system source code and a review of voting system accessibility for voters with disabilities. Three voting systems, deployed in 44 of California’s 58 counties, were subject to the initial review. That review, conducted under the auspices of the Secretary of State’s office by nationally recognized computer security experts from the University of California, other academic institutions and the private sector, uncovered numerous vulnerabilities that reviewers and “Red Team” testers documented and demonstrated. In response to these findings, the Secretary of State withdrew approval and approved with conditions certain voting systems on August 3, 2007, and, in collaboration and cooperation with vendors and elections officials, created new use procedures, including rigorous security and post-election auditing requirements for those voting systems.

Some voting systems were not reviewed where the manufacturer stated it would bring forward new, upgraded systems for testing and approval. In cases where the manufacturer did not bring forward a new system, the existing voting system was subjected to equally stringent security and auditing requirements.

There was also a great deal of change that occurred at the Secretary of State's office between the submission of California's last State Plan update in 2004 (published by the EAC in the Federal Register on September 30, 2004) and 2008. In addition to four changes of administration at the California Secretary of State's office since 2004, nine statewide elections were conducted between 2002 and 2008. There have also been changes in law – most notably the requirement for an AVVPAT for DRE voting systems and budgetary decisions – that have impacted HAVA implementation. Finally, EAC guidance on the use of HAVA funding has clarified the allowable use of resources in ways that significantly affect the ability to implement HAVA as envisioned in the initial State Plan. The EAC guidance may be found online at www.eac.gov/election/advisories%20and%20guidance (see FAO 08-011). That guidance could be reconsidered by the EAC. The Secretary of State will continue to monitor EAC guidance to ensure that its HAVA program is structured accordingly.

With that overview and status report on HAVA implementation in mind, California is proposing to adopt the following update to its HAVA State Plan. This State Plan acknowledges the progress made to date to implement HAVA requirements and builds upon that progress. Pursuant to HAVA requirements, this State Plan, following publication and public comment in California, will be submitted to the EAC for publication in the Federal Register.

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HAVA California Final State Plan Update

Introduction

In California's initial 2003 State Plan, which was incorporated into its 2004 State Plan update, a set of goals were articulated. Some progress has been made, and continues to be made, toward these ambitious goals. With seven years of experience administering HAVA in California, the Secretary of State is re-stating and adding to the goals it will pursue during future HAVA implementation efforts. These goals will inform future expenditures of HAVA funds as outlined in Section 6 of this plan:

- Every eligible citizen, including voters with disabilities or language assistance needs, will be afforded the opportunity to vote privately, securely and independently
- Every elections official and poll worker will be thoroughly trained and committed to treating every eligible voter with respect and courtesy, and help them to vote easily and securely
- Every eligible voter will be provided ongoing, easily accessible information regarding candidates, measures and the voting process in simple, accurate terms and in a language and format that she or he can best understand
- Voters will be informed of their rights prior to voting, as they vote at the polls and after they vote
- California will pursue removing artificial barriers that preclude eligible citizens from registering to vote
- Voting equipment and ballots will be easy to use, accessible and flawlessly capture and report voter intent
- All voters, especially those who are new to voting, will be encouraged to actively participate in the electoral process as voters, poll workers, and interested citizens, with education regarding the voting process beginning as early as possible
- Overseas and military voters will be allowed to register and to vote conveniently and safely wherever they might be
- No eligible citizen will be turned away at a polling place on Election Day without being able to vote a regular or provisional ballot
- Counties and the State will share best practices in election administration to improve the efficiency, service, accuracy, and security of elections

- The Secretary of State will ensure the statewide voter registration database required by HAVA is designed and operated in a manner that is consistent with HAVA Section 303 requirements to ensure that every legally registered voter is included in the VoteCal system and that no eligible voters be removed from the list

It is important to understand the historical, legal, demographic and logistical environment in which these goals will be pursued because this environment provides both challenges and opportunities.

California's history is filled with leadership in electoral reform and innovation. Over decades, proactive policies and programs intended to help and encourage people to exercise their right to self-governance have been enacted. Implementation of those policies and programs has been directly affected by the state's size and diversity.

California's total population grants the state 53 seats in the House of Representatives and more than 10 percent of the seats in the Electoral College. Federal elections are conducted by the state's 58 counties under the direction of the California Secretary of State, who serves as the state's Chief Elections Officer.

California's most populous county, Los Angeles, is also the country's largest voting jurisdiction with a voting age population of 5,775,838, while the state's smallest county, Alpine, is home to 901 people of voting age. The most recent U.S. Census data available indicates that California, with a voting age population of 23,208,710, has as many as 10 million more citizens eligible to vote than the next most populous state, Texas. Los Angeles County alone is home to a voting age population that is larger than the voting age population in 38 states.

There is virtually no public process that rivals a statewide election in its magnitude or its importance. On Election Day, millions of people participate in a process that defines the core of our democracy. Conducting flawless elections is the goal of every elections official, but in California meeting that goal is particularly challenging because of an array of unique circumstances and because the reforms designed to further the opportunity for citizen participation in the political process have grown in number and complexity. These factors include:

- **Thousands of Voting Precincts** – For a regularly scheduled statewide election, California has some 25,000 election precincts. Staffing thousands of polling places for statewide elections requires election officials to recruit more than 100,000 reliable poll workers, who must be trained to serve millions of voters on a single day at conveniently-located sites that are accessible to voters with disabilities. The tasks of recruiting a sufficient number of poll workers, training them to adhere to and educate voters on complex laws and processes, deploying new voting systems, and locating appropriate polling places, are continuing challenges for California's elections officials.

- **A Multiplicity of Election Materials** - For each statewide federal election, California mails to each household with a registered voter a Voter Information Guide containing information on state ballot measures, statewide candidates, qualified political parties and more. Local elections officials send each voter a sample ballot that includes critical information such as polling place locations, instructions on how to use voting equipment and other information. Elections materials are also made available to voters via state and local websites and at polling places on Election Day. The tasks of preparing and providing accurate, informative and yet easy-to-use materials that are accessible to voters with disabilities in up to seven languages are staggering for election officials, while reviewing the full complement of comprehensive materials available can be overwhelming to some voters.
- **Ballot Complexity** - California ballots are typically long, reflecting California's tradition of engaging its voters in self-governance. Ballots containing myriad state and local ballot measures and candidate races present voters with an array of important choices. Some believe the complexity of the ballot may complicate efforts to encourage people to register and to vote, although surveys indicate that many voters prefer to be offered these choices to participate as fully and directly as possible in policy making.
- **Thousands of Different Ballot Types** - California elections officials must configure, in statewide primary elections, more than 60,000 different ballot types to accommodate the plethora of political subdivisions that serve people and, in California's most populous jurisdiction, ballots that must be printed in seven languages.
- **Different Political Party Participation Rules** - California has six political parties qualified to participate in primary elections. California's modified open primary means party-specific ballots must be prepared in primary elections for the voters registered with each party. Voters who "decline-to-state" an affiliation with a political party have the option to vote in primary elections only for measures and non-partisan candidates, or to request a ballot to participate in the nomination process for political parties that allow these voters to cast a ballot in the party's nominating process. The decision of each qualified party to allow decline-to-state voters to participate in its nominating process can differ from election cycle to election cycle. This process has greatly complicated ballot ordering for election officials who must estimate the number of decline-to-state voters that may be likely to request a partisan ballot. Pursuant to state law, the number and type of ballots requested and cast by decline-to-state voters must also be tracked by elections officials.
- **A Variety of Voting Systems** - At the time the initial State Plan was drafted in 2003, and prior to HAVA requirements taking effect, the Secretary of State reported that there were 19 companies manufacturing 23 voting systems approved for use in California. As of August 3, 2007 – when the results of the state's

comprehensive voting system review were announced – five manufacturers were supplying California counties with 17 distinct voting systems to comply with state and federal HAVA requirements. These voting systems included two basic categories of systems: optical scan and direct-recording electronic (DRE/touchscreen). Counties are free to deploy any voting system approved for use by the Secretary of State that complies with state and federal requirements, including meeting accessibility requirements for voters with disabilities, leading to widespread diversity of voting systems among counties (and even within counties, which often utilize more than one voting system to meet polling places needs). The array of available systems, while preserving county autonomy to choose the voting system that best meets its needs and serve other public policy goals, complicates efforts to ensure uniform and consistent training of poll workers, makes educating voters and the media about voting system issues difficult, and may lead to confusion for voters who move from one county to another.

- **Early Voting Laws and Voter Registration Deadline** - Californians are entitled to vote by mail and in person at election offices or other locations designated by county election officials 29 days before Election Day. Californians are now also entitled to register to vote up to 15 days prior to Election Day. The difference between the deadlines for early voting and registering to vote are challenging because early voting commences before the final voter rolls are set for the election. Taken together, early voting, a 15-day deadline for registering to vote, and the need to deploy multiple voting systems to meet voters' needs, including meeting accessibility requirements for voters with disabilities, reduces the amount of time that elections officials have to prepare for an election, creates new logistical challenges for election officials and creates additional choices for voters in terms of the timing of their voting.
- **Provisional Balloting** - Since the 1980s, California law has permitted a voter whose eligibility to vote cannot be immediately established at a polling place to cast a provisional ballot. At the 2008 General Election, 798,332 provisional ballots were cast, of which 657,053 (82 percent) were counted. This is a significant difference compared to the estimates provided in the initial, 2003 State Plan, where it was reported that an estimated 200,000 provisional ballots were cast in the 2002 General Election, of which an estimated 60 percent were ultimately counted. While provisional voting permits immediate access to the franchise for voters, including voters with disabilities through the use of accessible voting equipment for casting provisional ballots, the process is resource intensive, and it increases the need for additional training of poll workers and requires greater education of voters with respect to the provisional voting process.
- **Voting by Mail** - At the November 2008 General Election, more than 41.6 percent of voters (5.7 million) cast vote-by-mail ballots, continuing the upward trend noted in California's initial 2003 State Plan, where it was reported that the

November 2002 General Election saw more than 27 percent of voters cast ballots by mail. State law enacted in 2001, which allows any voter to become a “permanent absentee voter,” (now referred to in law as a “permanent vote-by-mail voter”) accelerated the trend. Again, this innovation, while convenient for voters, often requires a different vote tabulating system from the one used to tabulate votes cast in person, and sometimes delays announcing elections results, since many vote-by-mail ballots are processed after Election Day.

- **Language Diversity** - To improve access to vital election information, to ensure that all citizens can participate fully in the electoral process, and pursuant to state and federal law, election materials are produced and oral assistance is provided in a variety of languages in California. For example, Los Angeles County provides ballots, sample ballots, and other materials, in seven languages: English, Chinese, Japanese, Korean, Spanish, Tagalog and Vietnamese. The entire state is required by the federal Voting Rights Act to provide election materials in Spanish, and 26 of California’s 58 counties are required to provide bilingual voting assistance in at least one language other than English. Some jurisdictions, in response to local needs and pursuant to state law, provide written and oral assistance in other languages. This adds to the challenge of conducting an error-free election.
- **Varied Geography** - California has some of the most urban and most rural areas in the country. Densely populated areas such as San Francisco and Los Angeles bear little resemblance to the wide-open expanses of Modoc County, the forests of Trinity County or the deserts of San Bernardino County, the largest county, by area, in the country. The election processes employed to deliver democracy directly to voters in California’s counties reflect that geographic diversity, challenging elections officials and voters alike.
- **New Primary Election System** – At the June 8, 2010, statewide Primary Election voters approved a new primary election process. Primary election winners, those that will appear as choices for voters on the general election ballot, will be the two candidates receiving the most votes in the primary election, regardless of party affiliation. Previously, the primary election served as the nominating process for political parties’ candidates to partisan office, with each party nominee moving on to the general election ballot. This change and others to the primary election process, which does not affect the process for selection of Presidential nominees or selection of party members to county central committees, will create new challenges for elections officials in ballot preparation, ballot layout and election results tabulation. Voters will also need to be informed about this electoral change.

California election officials continually meet these challenges in an effort to provide full access to the electoral process. In fact, many of the provisions in HAVA were already features of California law, regulation or procedure at the time of HAVA’s enactment. For example:

- California’s voter registration-by-mail became law in 1975 and vote-by-mail on demand in 1978
- Permanent vote-by-mail balloting for any voter who requested it was enacted in 2001
- California voters approved Proposition 41 at the March 5, 2002, election – eight months before the enactment of HAVA – which provided counties access to \$200 million in state bond funding to upgrade voting systems, including replacement of prescored punch card voting machines in California
- California created a statewide database in 1995, known as CalVoter, that assisted counties with list maintenance, duplicate-record checking. This system was significantly upgraded as part of the state’s efforts to achieve interim compliance with HAVA Section 303 requirements
- California permits voters to correct or replace ballots before being cast
- Provisional ballots have been a feature of California law since the 1980s
- A statewide complaint procedure for making allegations regarding violations of elections laws is in place, including a toll-free telephone number (800) 345-VOTE) for making complaints
- Efforts were made to accommodate the needs of voters with disabilities and people from minority language communities

In 2007, California also took a leadership role in the effort to address unresolved concerns with the security and reliability of voting systems by undertaking a “top-to-bottom review” of voting systems approved for use in California. The review uncovered numerous design and performance issues that posed potentially serious consequences, including the potential that election results could be affected or altered. Elections officials from other states who followed California’s lead and conducted similar, rigorous reviews of voting systems reached similar conclusions. As a result of California’s “top-to-bottom” voting system review, serious voting system vulnerabilities are being addressed in California through the adoption of new security procedures and new use procedures. Voting system manufacturers report they are undertaking efforts to improve the design and security of voting systems.

As a part of its top-to-bottom review of voting systems, California contracted with federally recognized accessibility experts to conduct the first-ever accessibility review using the 2005 voluntary voting system guideline accessibility standards promulgated by the EAC. The primary focus was to identify whether the voting systems were sufficiently accessible to voters with disabilities and to assess whether the voting system was capable of providing alternative language accessibility by displaying Chinese and Spanish

language ballots. Alternative language capabilities were evaluated for the ability of the voting system to be used by persons with or without disabilities.

The review included testing physical accessibility and language accessibility attributes of the voting systems, as well as testing usability and accessibility of voting systems for casting a ballot. Expert analyses of the voting systems and the test methodology were conducted, which was followed by user testing. Forty-five volunteer “test voters” cast test ballots using selected contests from the 2004 General Election that included multiple candidates for federal and state offices, as well as ballot measures and confirmation of judges. The test voters cast ballots containing at least nine contests and as many as 23. The expert analyses and test voting sessions were video-taped. The authors, who among them report more than 60 years of experience in technology and accessibility interfacing, included in the report a thorough list of mitigation measures for vendors to consider that could improve accessibility as well as recommendations for elections officials on polling place set-up of voting equipment. The accessibility testing protocols used in the review have been adopted by the Secretary of State and incorporated as a part of the state’s voting system approval process. A copy of the voting system accessibility review can be found on-line at www.sos.ca.gov/elections/elections_vsr.htm (see UC Accessibility Report).

Now, more than seven years after the enactment of HAVA and with the findings of a comprehensive review of voting systems completed, it is a good time to evaluate California’s progress on HAVA implementation and to determine how much more remains to be done. In the November 2008 General Election, 79.4 percent of registered voters cast ballots, which represents 59.2 percent of all those eligible to participate. The goal of restoring confidence in the integrity of the electoral system must be realized to help bring voters back to the polls and to engage those who are not yet participating. HAVA implementation should serve as one critical building block in California’s efforts to reconnect citizens to the electoral process.

III. State Plan by Sections

Section 254(a) requires the State Plan to include a description of each of thirteen elements. Each of the thirteen elements is treated as a “section” of the California State Plan, as set forth below:

Section 1

(Section 254(a)(1))

How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections.

Title III, commencing with Section 301, sets forth “Uniform and Non-Discriminatory Election Technology and Administration Requirements.”

Below is a summary of the requirements of HAVA and how California intends to use the requirements payment to comply with that federal law. It should be noted that, pursuant to Section 305, the specific choices on the methods of complying with the requirements of Title III are left to the discretion of the State.

A. Voting Systems Standards (Section 301(a))

Federal Law:

HAVA requires that each voting system used in a federal election on or after January 1, 2006, meet each of the following requirements:

(1) Balloting errors:

- (a) Voter verification of ballot selections (and correction)

The voting system must:

- (i) permit the voter to verify privately and independently the votes selected before casting a ballot;
- (ii) permit the voter privately and independently to change or correct a ballot before it is cast (including receiving a replacement ballot).

(Note that the requirement that a voting system permit the voter to verify the votes selected before casting a ballot may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the new requirements of HAVA.)

(b) Voter notice on overvoting (and correction)

The voting system must:

- (i) notify the voter of an overvote (casting votes for more candidates than allowed);
- (ii) notify the voter of the effect of overvoting (i.e., the vote for that office will not be counted);
- (iii) provide the voter with the opportunity to correct the ballot, if he or she has overvoted.

(c) Paper-based voting systems compliance

Paper-based voting systems (including vote-by-mail balloting systems) may meet the above requirements with:

- (i) voting-system specific voter education programs notifying the voter of the effect of overvoting;
- (ii) instructions on how to correct a ballot before it is cast (including instructions on obtaining a replacement ballot); and
- (iii) system designs that preserve voter confidentiality.

(2) Voting system audit requirements:

The voting system must:

- (a) produce a record with an audit capacity (The paper record produced shall be available as an official record for purposes of a recount.);
- (b) produce a permanent paper record with a manual audit capacity;
- (c) allow the voter to correct any error before the permanent paper record is produced.

(3) Accessibility for individuals with disabilities:

The voting system must:

- (a) be accessible to voters with disabilities, including voters with visual impairment, in a manner that provides the same opportunity

for access and participation, including privacy and independence, as for other voters.

(The above requirement is met by providing at least one DRE voting unit, or other voting system equipped for individuals with disabilities at each polling place.)

(All voting systems purchased with Title II funding after January 1, 2007, shall comply with these requirements.)

(4) Alternative language accessibility:

The voting system must:

(a) meet all requirements of alternative language access of Section 203 of the Voting Rights Act of 1965 (42 USC 1973aa-1a).

(5) Error Rates:

The voting system must:

(a) meet FEC guidelines (Section 3.2.1) for voting system error rates (errors attributable only to system errors, and not an act of the voter) in effect at the time of HAVA's enactment (October 29, 2002).

(6) Definition of Vote:

Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

HAVA Compliance with Voting Systems Standards

Following the 2000 Presidential election, California joined the nation in scrutinizing whether the punch card voting systems widely in use disproportionately disenfranchised large numbers of voters. Common Cause and the American Civil Liberties Union filed a lawsuit to challenge the use of pre-scored, punch card voting systems based on field studies and reports that indicated a higher error rate for these systems. The lawsuit was settled by then-Secretary of State Bill Jones after he withdrew approval for pre-scored punch card voting systems used by California counties. Shortly thereafter, the State Legislature placed on the March 2, 2002, ballot the \$200 million Voting Modernization Bond Act to provide money to counties to upgrade voting systems, including those that had previously used pre-scored, punch card voting systems.

With the enactment of HAVA, a punch card voting system replacement incentive program and new federal voting system standards were created. These programs took aim at the concerns about the effectiveness of punch card voting systems to accurately capture voter intent and the desire to improve accessibility to the ballot for voters with disabilities and voters with alternative language needs.

On December 19, 2005, the Secretary of State began the process to enter into contracts with California's 58 counties to allocate \$195 million in HAVA Title II, Section 251 requirements payment funding. The contracts, developed through a collaborative process with counties to determine the appropriate level of funding, were targeted primarily at helping counties buy and deploy voting systems intended to be compliant with HAVA, and associated costs such as voter education and poll worker training. These funds were used by counties in conjunction with \$200 million in state Voting Modernization Bond Act funding, and HAVA Section 102 punch card voting system replacement funds, previously distributed through the Secretary of State beginning in 2004.

During this time, however, computer scientists and others began expressing serious concerns about whether DRE voting systems could be considered secure absent an independent and thorough review of the proprietary source code used to operate these voting systems. Reports of failures and anomalies in voting system performance surfaced around the country, which fueled the mounting criticism and concern. One response to the issues being presented was California legislative enactment of a requirement, effective on January 1, 2006, that all DRE voting systems be equipped with an accessible voter-verified paper audit trail (AVVPAT) to provide an additional audit mechanism and to increase transparency of the electoral process. Less than four months before HAVA's definitive January 1, 2006, deadline to deploy HAVA-compliant voting systems, the U.S. Government Accountability Office (GAO) – the investigative arm of the Congress – issued a report noting these concerns and observing potential shortcomings in the security and reliability of voting systems. The GAO report was emblematic of concerns that voting system testing and approval processes were not adequately uncovering deficiencies in voting system design and performance. At the time of the GAO report, the EAC had not yet issued its required voluntary voting system guidelines (VVSG) and had not yet assumed responsibility for the federal testing and certification regime, which was then operating under the auspices of the National Association of Election Directors (NAED). California's Secretary of State implemented programs to provide some additional safeguards, including "volume testing" of equipment to test the reliability of voting system production models in addition to the prototypes typically tested, and a "parallel monitoring" program that audited the performance and accuracy of voting systems on Election Day under Election Day conditions. Both of these programs were designed to ensure that voting systems performed in the field the way prototypes tested in laboratory settings performed.

The introduction of new voting systems was accompanied by Secretary of State programs to educate poll workers and promote voter understanding of new voting equipment, including use by voters with disabilities and voters with alternative language needs. The programs included:

- Developing new voting system use procedures
- Issuing poll worker training guidelines released in 2006
- Creating a HAVA compliance manual produced by the Secretary of State in collaboration with county elections officials
- Providing instructions on the use of new voting systems, which each county elections office included in sample ballots mailed to each voter, and which were also posted on the Secretary of State's website and each county's website
- Conducting outreach and education activities in partnership with counties, schools, state and local government, and community service organizations such as the League of Women Voters, and Independent Living Centers (private, nonprofit, corporations that provide services to maximize the independence of individuals with disabilities and the accessibility of the communities they live in)

These efforts were accompanied by voter education programs authorized by HAVA Section 301 (a)(1)(B) to educate voters on correction of overvotes where a paper-based, centrally tabulated voting system was in use through independent mailings to voters, and mailings in conjunction with delivery of sample ballots or vote-by-mail ballots.

At the same time, elections officials and voting system vendors were seeking to comply with California's AVVPAT requirement and federal HAVA voting system requirements. During the final months leading up to HAVA's January 1, 2006, deadline and even during the 2006 election cycle, California completed its final testing and approval of voting systems that complied with state law and exhibited the functionality required by HAVA voting system standards. By the November 2006 General Election, all California counties had purchased and deployed these voting systems in accordance with HAVA requirements, including deploying at each polling place at least one DRE voting unit, or one voting unit designed to be accessible to voters with disabilities.

Clearly, this rush to compliance was not an optimal implementation scenario. Delays by vendors in bringing forward voting systems for certification as promised, and the discovery of an oversight in the federal testing process that forced California to conduct its own independent review of one of these voting systems concurrent with federal re-testing, resulted in just-in-time compliance in many counties. Privately, county elections officials frustrated by the lengthy voting system certification process, concerned about local controversy over voting system reliability and security, and worried by the ever-shortening implementation schedule, expressed concern about being backed into compliance at a time of great uncertainty.

In the face of serious, yet unresolved questions, about voting system reliability and security, and the apparent inability of the voting system testing and certification processes to ensure adequate performance of voting systems, California undertook a comprehensive, top-to-bottom review aimed at the heart of the issue – voting systems' source code. The California Legislature augmented the Secretary of State's budget in 2006 to permit a review of voting systems' source code. Using that funding, and money from voting system vendors that was required for source code review on a contingency

basis as a condition of prior voting system certification, the Secretary of State commissioned, under the auspices of the University of California, a top-to-bottom review of voting systems. That review also included, for the first time, accessibility testing as a separate, specific component of the testing process.

Under the top-to-bottom review, each voting system vendor was offered the opportunity to subject its certified system to the top-to-bottom review, or to forgo the review if the vendor did not intend for counties to use their system during the 2008 election cycle. The Secretary of State reserved the right to impose new, additional conditions on the use of any existing voting system if the vendor failed to bring forward a new system for certification testing as promised.

On August 3, 2007, the Secretary of State released the results of the top-to-bottom review and withdrew approval and approved with conditions the three voting systems subjected to the review. Reports and approval orders issued in accord with the findings of the top-to-bottom review can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_vsr.htm.

In short, computer scientists discovered, documented and, in some cases, demonstrated source code and security vulnerabilities that called into question the security of the voting systems. The review cast doubt on the ability to prevent manipulation of voting systems that could affect an election's outcome by exploiting these vulnerabilities, or detect after the fact that these vulnerabilities had been exploited, in ways that could affect the outcome of an election. Furthermore, the review found that malicious software code could propagate throughout an entire voting system, including infecting the central tabulation system. Based on these findings, for two voting systems the Secretary of State's approval orders restricted the use of DRE voting units to one voting unit per polling place, which is the minimum number required by the HAVA 301 (a)(3) accessibility requirements. Where a county had previously deployed additional DRE voting units at the polling place, an optical scan balloting system was used to take its place. Additionally, the Secretary of State imposed new security measures on all systems to limit and prevent potential exploitation of voting system source code vulnerabilities. New use procedures were crafted to ensure consistent, uniform implementation of security measures. Finally, new, more stringent post-election auditing requirements of results produced by the voting systems examined in the review were put in place to ensure that tampering or errors did not produce incorrect outcomes in close contests.

Following the review and issuance of approval orders, 56 of 58 counties relied largely on optical scan voting for polling place needs, while deploying DRE voting units to meet HAVA's accessibility requirements. This closely mirrors what happened in the states of New Mexico and Florida following actions taken in those states that restricted the use of DRE voting equipment. Furthermore, the findings of the California top-to-bottom review have been largely confirmed by similar reviews in Ohio and Colorado that occurred after the California review.

California's voting system testing and approval process has been modified to incorporate the security and accessibility elements employed in the top-to-bottom review. Any new voting system brought forward for certification will be subjected to a testing and approval process to ensure the systems are secure, accurate, reliable and accessible.

California was the first state to use, and continues to use, the disability standards in the federal 2005 Voluntary Voting System Guidelines (VVSG) when testing and approving voting systems. Those standards include provisions for usability and accessibility for vision, dexterity, mobility, hearing, speech, English proficiency and cognition (see Section 3.2 of Volume I of the VVSG on pages 53-64). These testing efforts examine each voting system with the help of voters with a full range of disabilities. The Secretary of State has also sought the input of a Voting Accessibility Advisory Committee (VAAC), providing the VAAC with information on voting system standards and briefings on the voting system testing and approval process, while seeking its advice on proposed standards and the voting system approval process.

In addition to meeting federal requirements, the Secretary of State has made progress on meeting unique local needs by certifying the first voting system in California for the purpose of employing a ranked-choice voting process. Based on the history of HAVA voting system standard implementation described above, compliance with HAVA voting system standards will include the following components:

- Continued reliance upon the voting system contracts issued in 2005 to help defray allowable costs for voting system equipment purchases and associated costs, including voter education and poll worker training expenses, pursuant to EAC guidance.
- Voting systems brought forward for approval will be subjected to the enhanced voting system testing regime used during the top-to-bottom review, which will also include accessibility testing and volume testing of the voting system. The approval process will include, pursuant to state law, a public hearing. DRE voting units, pursuant to state law, will continue to be required to receive federal approval prior to being considered for state approval. The EAC 2005 voluntary voting system guidelines (VVSG), which are now the basis for federal approval, and the recently released VVSG update will be evaluated and considered by California to determine the implications for the state's testing and approval protocols.
- Counties will continue to ensure that voter information provided in sample ballots, on county websites, and given to voters as a part of voter education and outreach efforts include instructions on how to use the county's voting system, including any voter education program necessary to inform voters how to avoid overvoting, and correct ballot errors. The Secretary of State will also continue to host on its website instructions on how to use voting systems deployed by counties. Where applicable, county voting systems will deploy precinct-based scanners for optical scan ballots to notify voters of ballot errors. DRE voting

units will continue to provide overvote protection by preventing a voter from voting more than allowed for ballot measures and offices, and undervote protection by providing a ballot summary screen, with an option for correcting the ballot before it is cast.

- Each voting system will continue to provide for auditing, producing a paper record with a manual audit capacity that allows a voter to correct any error before a permanent paper record is produced. Such paper records in California are now subject to more rigorous, post-election audit requirements.
- Each county will continue to deploy at each polling place at least one voting unit that provides voters with disabilities the opportunity to vote privately and independently.
- All voting systems, and voting materials, will continue to meet the requirements of alternative language access of Section 203 of the Voting Rights Act by providing for ballot translation or transliteration and translation or transliteration of other materials into required languages.
- All voting systems will continue to be subjected to federal approval and applicable federal voting system error rates; California's voting system testing and approval process will also independently note error rates exhibited by voting systems tested through volume testing.
- California developed a uniform definition of a vote for each type of voting system through a cooperative effort with the counties. The Secretary of State will continue to rely upon that uniform definition of a vote, or any successor uniform definition of a vote that replaces that uniform definition of a vote. Further efforts to refine the uniform definition of a vote were pursued in 2009 through Secretary of State-sponsored SB 387 (Hancock), which sought to clarify that extraneous markings on a ballot would not be cause for invalidating the ballot. That bill was vetoed by the Governor, however. The current uniform definition of vote is available on the Secretary of State's website at www.sos.ca.gov/elections/hava.htm

B. Provisional Voting (Section 302):

Federal Law:

Section 302(a) (p. 102) requires that "provisional voting" be permitted in federal elections on or after January 1, 2004. Under HAVA, if a voter's name does not appear on the official list, or the elections official asserts the voter is ineligible, the voter is entitled to cast a provisional ballot as follows:

- (a) Elections officials at polling place notify voters of the provisional ballot option;

(b) Voter executes written affirmation stating:

He or she is a registered voter in the jurisdiction; and
He or she is eligible to vote;

(c) The voted ballot or written affirmation information is promptly transmitted to appropriate state or local elections official for verification;

(d) If the information is verified, the ballot shall be counted;

(e) At the time the voter casts the ballot, the voter shall be provided with information about the existence of a free access system (e.g. secure, confidential telephonic or Internet-based system) that restricts access to information on individual ballots, so that only the voter who casts the ballot may determine her or his individual ballot status;

(f) State or local officials shall establish the free access system.

(HAVA also requires (Section 302(c)) that voters who cast ballots after the normal poll closing as a result of a Federal or state order, vote by provisional ballot that is segregated from regular provisional ballots.)

HAVA Compliance with Provisional Ballot Requirements

As previously noted, California law is consistent with the dictates of HAVA regarding the right of voters to receive a provisional ballot, when those voters' registration status and eligibility to vote cannot be immediately ascertained. To obtain state approval, every voting system must include an accessible device with provisional voting capability. The right to receive an accessible provisional ballot is also supported by state law at Elections Code section 19227. Additionally, California counties, under the direction and continued oversight of the Secretary of State's office, have all implemented a "free access" system available to provisional voters to determine if their ballot was counted, and, if not, why not. A complete list of each county's free access system and a description of how voters can access the system (whether by phone or via the Internet) is provided on the Secretary of State's website at www.sos.ca.gov/elections/elections_provisional.htm.

C. Voter Information Requirements (Section 302(b))

Federal Law:

Section 302(b) requires that, with respect to federal elections held on or after January 1, 2004, elections officials post specified voting information at each polling place on Election Day, including:

(a) a sample ballot for that election;

- (b) the election date and polling place hours;
- (c) voting instructions, including provisional voting instructions;
- (d) mail-in registrant and first-time voter instructions;
- (e) general voting rights information, including the right to cast a provisional ballot and instructions on how to contact appropriate officials regarding allegations of violations;
- (f) general information on legal prohibitions on fraud and misrepresentation.

HAVA Compliance with Voting Information Requirements

As previously noted, California law goes further than HAVA's minimum requirements with respect to voting information requirements. At each election, households with registered voters receive a Voter Information Guide containing information on statewide measures and candidates, and other critical information, including information about HAVA. Additionally, each county sends to every registered voter a sample ballot that includes not only ballot information, but also HAVA information, such as instructions on how to cast a ballot on that county's voting system. These materials, and other required HAVA postings are available at polling places as well, including, at county request, a Voter Bill of Rights poster supplied by the Secretary of State that includes HAVA required information. Counties and the Secretary of State post these materials on websites. Proactive efforts to educate voters, with a primary focus on new voting system use, were also encouraged by allowing the expense of incorporating new HAVA requirements into materials and outreach programs to be reimbursed as a part of the counties' voting system upgrade efforts. The cost of meeting requirements to provide voter information that pre-date HAVA are not reimbursed with HAVA funds.

Counties used a limited amount of funding for this purpose – approximately \$7.9 million statewide. Subsequent EAC guidance has clarified that HAVA funding used for voter education programs must focus on the use of new voting systems and efforts that provide overvote protection, including receiving a replacement paper ballot to correct ballot errors.

To support county efforts, statewide voter education efforts were also undertaken using Section 101 funding. Those statewide efforts included developing voter education materials used by state and local officials, and community-based organizations through partnerships with state agencies, such as the Department of Education, partnerships with local elections officials and partnerships with nonprofit groups such as Independent Living Centers. These materials were also made available on state, county and nonprofit websites, including the League of Women Voters of California Smart Voter webpage and in the League-sponsored Easy Voter Guide.

In California's initial State Plan, published on July 17, 2003, the Secretary of State proposed to "consider developing voter information in appropriate languages for posting at polling places" and to work to "ensure that all information provided at polling places be accessible to the widest possible audience." The Secretary of State developed voter information for posting at polling places pursuant to California Elections Code section 2300. The Voter Bill of Rights poster outlined in Elections Code section 2300 is provided to counties at their request in required languages, and production of the Voter Bill of Rights poster is partially funded by HAVA Section 101 funds. This posting supplements information provided in sample ballots, which are mailed to registered voters and available at polling places for voters who do not receive one or any voter who wishes to view one at the polling place. Additionally, the Secretary of State has made statewide electoral information in the Voter Information Guide (VIG) available in several languages and in alternative formats such as audiotapes, which are available on request; MP3 files and other materials available on its website; and produced in American Sign Language a video version of the statewide "Your Voting Rights" brochure that is posted on the Secretary of State website and available on DVD.

D. Statewide Voter Registration Database Requirements (Section 303)

Federal Law:

Section 303 requires that the Secretary of State, as the Chief Elections Officer, implement, in a uniform and nondiscriminatory manner, by January 1, 2004, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each such voter.

- (1) The computerized list shall:
 - (a) be the official voter registration list for federal elections;
 - (b) serve as the single system for storing and managing the official list;
 - (c) contain the name and registration information of every registered voter;
 - (d) contain a unique identifier (driver's license number, partial social security number, or assigned number) for each voter;
 - (e) be coordinated with other state databases (California Department of Corrections and Rehabilitation; California Department of Public Health; California Department of Motor Vehicles; other state social service agencies and the Social Security Administration);
 - (f) provide immediate, electronic access to any elections official in the state;

(g) allow for electronically entering data by any local elections official on an expedited basis;

(h) be supported by the State.

(2) Maintenance of the official list shall be performed on a regular basis as follows:

(a) voters names shall be removed in accordance with the National Voter Registration Act (42 U.S.C. § 1973gg, Section 8, (a)(4), (c)(2), (d) and (e);

(b) ineligible voters shall be removed in accordance with the NVRA for felony status (42 U.S.C. § 1973gg, 6(a)(3)(B)); for death (6(a)(4)(A)); or in accordance with state law;

(c) each registered voter's name shall appear on the list;

(d) only ineligible voters or voters not registered shall be removed from the list;

(e) duplicate names shall be removed from the list;

(f) other reasonable efforts to remove ineligible voters, consistent with the NVRA (42 U.S.C. § 1973gg, et. seq.) that ensure eligible voters are not removed in error, including removing registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant shall be removed solely by reason of failure to vote.

HAVA Compliance with Statewide Database Requirements

As previously noted, California exercised the option to extend the HAVA implementation deadline from January 1, 2004, to January 1, 2006, to comply with Section 303, statewide voter registration list requirements.

California requested a US DOJ opinion on January 11, 2005, about its efforts to comply with Section 303. On April 19, 2005, US DOJ representatives were briefed by California Secretary of State staff on the plans to comply with these requirements. In response, on May 25, 2005, the US DOJ provided the Secretary of State with a detailed 10-page letter that opined California's plans to implement an "interim" technological and procedural program to comply with Section 303 were inadequate. The letter stated that US DOJ was "prepared to move forward with enforcement action as appropriate to ensure compliance with HAVA's requirements." The letter went on to express interest in working with

California to “implement HAVA’s terms to the fullest extent possible in the short term, and longer term actions to provide full HAVA compliance within the shortest practicable time frame.”

In early June 2005, the Secretary of State began discussions with the US DOJ over what steps could be taken to implement HAVA Section 303 requirements to the fullest extent possible. Those discussions culminated in a November 2, 2005, Memorandum of Agreement (MOA) outlining the Secretary of State’s responsibilities. In short, the agreement required that California establish a statewide voter registration list by integrating and synchronizing the voter rolls from the 58 counties, which until the enactment of HAVA were the sole, official repositories for voter registration rolls, into a single, uniform system to serve as the official voter registration list for election purposes. That system was also required to be configured to accommodate verification of registrants’ driver’s license, California ID or partial social security number data, as required by HAVA, and to receive information from other state agencies for list maintenance purposes.

During the implementation phase of this system in California -- an upgraded version of the state’s pre-existing Calvoter system -- a federal judge ruled on challenges to procedures governing the verification process employed by the State of Washington to match driver’s license and partial social security data to registrants’ records. Litigants argued that precluding registration by potential voters based on the failure to match records using the strict criteria employed by the State of Washington amounted to inappropriately disenfranchising voters by creating a new registration requirement. A federal judge agreed that the State of Washington’s interpretation was overly restrictive. California modified its procedures in accordance with that Washington State ruling to ensure that any failure to verify a registrant’s identification data did not prevent a person from registering to vote. The decision by a federal judge clarified that in these cases states should issue a unique identifier to the voter when it was not possible to verify the data provided.

The enhanced Calvoter statewide voter registration system was fully operational during the 2006 election cycle.

Pursuant to the November 2, 2005, MOA however, California must continue to work toward a permanent solution because, among other things, the upgraded Calvoter system is not a single, centralized list that provides for the use of a uniform voter registration process throughout the state. California awarded a proposal to a winning bidder, in accordance with state contracting requirements, to establish a permanent statewide voter registration list – the proposed VoteCal system.

To move forward with this effort, the Secretary of State took work initially done to evaluate a long-term compliance strategy to meet HAVA Section 303 requirements compiled by a previous administration and drafted a comprehensive Feasibility Study Report (FSR), which was approved on April 14, 2006. An FSR, required under state law, serves as a roadmap to develop and implement major technology projects. After approval

of the FSR, Debra Bowen was sworn as Secretary of State on January 8, 2007. During the early months of her administration, the Secretary of State visited other states that had deployed HAVA-compliant voter registration databases to better inform the office on the efficacy of approaches to compliance undertaken by other states. She also appointed a VoteCal advisory committee comprised of county elections officials and interested stakeholders to provide input on the project and the tasks the system must perform to function properly for its intended purpose. That input was taken into account when drafting the Request for Proposal (RFP) to solicit bids for the project. The advisory committee met three times between May 10, 2007, and February 25, 2008. The February 25, 2008, meeting was conducted following the release of the Request for Proposal (RFP) for the VoteCal project on December 13, 2007, and a final meeting was conducted on November 16, 2009, following selection of the winning bidder pursuant to the RFP process. Two separate working groups comprised of county elections officials were also established to gather input on county needs and necessary system functionality for inclusion in the RFP. The county working groups began meeting in mid-June 2007 and concluded work in August 2007. Communications with these advisory committee members and counties continue through the initial phase of development and planning. During this time, operating under the approved FSR, the Secretary of State also hired the required oversight staff – an Independent Project Oversight Consultant (IPOC); a consultant to provide Independent Verification and Validation (IV&V) of project plans and deliverables; a Project Manager; a Contract Manager, and other required personnel. That RFP to solicit bids on the VoteCal project was released on December 13, 2007. The bidding process was conducted under a “solution-based procurement” provided for in state law. Rather than prescribing a specific technological solution, the solution-based procurement allows a state agency to present the business requirements that the technology project is required to meet, and allows private sector companies to propose the specific technological solution for meeting those business requirements. The process engages potential bidders in individual, confidential discussions to assist vendors in developing a proposed bid. Under the auspices of the solution-based procurement, potential bidders notified the Secretary of State after release of the RFP by December 31, 2007, of their intent to bid on the project. Following that vendor notice of intent to bid, the Secretary of State staff, under the direction of the Department of General Services personnel, engaged in a series of confidential discussions with vendors about the project in preparation for submission of bids. During this process, in response to bidder questions and to clarify the RFP, eight addenda to the RFP were adopted. The final addendum to the RFP was adopted on December 31, 2008. Following adoption of the final addendum, a deadline for submission of bids was set for January 29, 2009. Cost opening for the bids occurred on March 26, 2009. A Notice of Intent to Award a contract was issued on April 24, 2009. A May 1, 2009, deadline for bid protests passed without a protest being received. Work on a Special Project Report (SPR) describing the project in greater detail based upon the winning bid was completed and the SPR was provided to state control agencies, including the Department of Finance and Office of the Chief Information Officer. Meetings with county representatives to describe the project, answer questions and receive input commenced on July 17, 2009, and concluded on August 28, 2009. The Legislature formally received the SPR on July 23, 2009, and approved the project on August 21, 2009. An amended Spending Plan requesting

expenditure authority for VoteCal costs for the fiscal year was received by the Legislature from the Department of Finance on August 6, 2009, and approved by the Legislature on August 25, 2009. A contract was executed with the winning bidder and work on the project commenced on September 8, 2009.

On April 19, 2010, the Secretary of State's office discovered that the vendor hired to develop and deploy the VoteCal project had not yet obtained a performance bond, which is a requirement of the contract the state executed with the vendor. On May 4, 2010, the Secretary of State sent the vendor a letter documenting, among other things, the vendor's lack of a performance bond and required the vendor to resolve the issue within 30 days. The letter offered the vendor an opportunity to meet with Secretary of State personnel to discuss the issues. During subsequent discussions with the vendor, the Secretary of State's office and the vendor mutually agreed to terminate the contract. A settlement to terminate the contract was executed on May 21, 2010.

The Secretary of State is committed to completing the VoteCal project. The state is also bound to complete the project pursuant to the terms of the MOA executed with the US DOJ on November 2, 2005. The work done to date on the project will facilitate those efforts. That work includes:

- Development of an RFP that documents in great detail the business requirements of the VoteCal project – all of the necessary functions the system must be capable of performing.
- Extensive, documented communication with stakeholders, including county elections officials, voting rights advocates, representatives of voters with disabilities and others who provide valuable input on the VoteCal business requirements.
- Experience gained with state oversight agencies, including procurement experts at the Department of General Services and technology experts at the Office of the Chief Information Officer.
- Input and advice from independent oversight contractors required by state law for technology projects, including an Independent Project Oversight Consultant and an Independent Verification and Validation consultant.
- Insight from county elections officials and vendors on the functions and operation of county election management systems, which must be integrated into the functions of VoteCal.

The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to develop and deploy the VoteCal system. On July 19, 2010, a Special Project Report (SPR) was submitted to state agencies that must approve the project before it can move forward to be advertised for bid in a Request for Proposal

(RFP). The project will also be submitted to the Legislature for final approval following the procurement process and award of the bid to a system integrator vendor. The SPR contains a preliminary estimated deployment of the VoteCal voter registration system statewide by June 2014. However, that preliminary timeline is subject to change, and a final timeline for development, testing and statewide deployment will be determined after a vendor is selected for the project. The estimated timeline for completion of the bidding process and award of the contract to the system integrator vendor under the state's solution-based procurement process is September 2011. Additional historical information about the VoteCal project, which includes a description of the business requirements for the project, is available on-line at www.sos.ca.gov/elections/votecal/.

E. Requirements for Verification of Voter Registration Information (Section 303)

Federal Law:

(1) Section 303(a)(5), beginning January 1, 2004, or January 1, 2006, mandates specific requirements with respect to an application for voter registration for a federal election.

(a) Such application may not be accepted or processed unless it includes:

(i) the driver's license number of an applicant who has been issued a current, valid driver's license; or, if a valid driver's license has not been issued;

(ii) the last four digits of an applicant's social security number.

(b) However, if an applicant has not been issued a current, valid driver's license or a social security number, then:

(i) The State shall issue a unique identifying number.

(To the extent the State has a computerized list, this unique identifying number shall be the number assigned to the applicant for purposes of the computerized list.)

The State shall determine whether the information provided by the applicant (driver's license number or partial social security number (the last four digits)) is sufficient to meet the requirements of HAVA.

(2) The Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles, and the Department of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security, to verify the accuracy of the information provided by the voter registration applicant, specifically:

- (a) the applicant's name (first name and forename or surname);
- (b) the applicant's date of birth;
- (c) the applicant's social security number;
- (d) whether such records show the applicant is deceased.

(Nothing shall be construed to require provision of applicable information under exceptional circumstances (e.g. personal safety or interference with an investigation).)

HAVA Compliance with Requirements for Verification of Voter Registration Information

The interim solution, approved for use by the US DOJ utilizes the upgraded, pre-existing Calvoter database to interface with the Department of Motor Vehicles (DMV) and the Social Security Administration (SSA), through a cooperative agreement with the American Association of Motor Vehicle Administrators (AAMVA) to verify identification data submitted by people registering to vote. Under this interim solution, counties are required to assign a unique identifier based upon the result of this ID verification process and in accordance with a standard formula established by the Secretary of State. The Calvoter system verifies the presence of that unique identifier when counties upload a new voter registration record to the Calvoter database.

The proposed fully HAVA compliant VoteCal system will incorporate the existing ID verification processes with DMV/SSA. However, the VoteCal system will assign the unique identifier to a voter and provide that number to the county as verification that the registration transaction has been completed and accepted for that voter.

F. Special Requirements for Certain Voters Who Register by Mail (Section 303)

Federal Law:

(1) Beginning January 1, 2004, the State shall, in a uniform and nondiscriminatory manner, require proof of residence from a registered voter for purposes of casting a ballot in a federal election, if the voter:

(a) registered to vote in a jurisdiction by mail on or after January 1, 2003,

and

(b)(i) has not previously voted in an election for federal office in the State,

or

has not voted in an election for federal office in the jurisdiction and the jurisdiction is located in a State that does not have a HAVA-compliant statewide voter registration computerized list.

(2) If the voter meets these conditions, and he or she **votes in person** (at a polling location), the voter shall, in order to vote, present to the appropriate elections official:

(a) a current and valid photo identification, **or**

(b) a copy of one of the following that shows the name and address of the voter:

- (i) a current utility bill;
- (ii) a bank statement;
- (iii) a government check;
- (iv) a government paycheck;
- (v) a government document.

(3) If the voter meets these conditions, and he or she **votes by mail** (absentee ballot), the voter shall, in order to vote, submit with his or her ballot to the appropriate elections official a copy of one of the following that shows the name and address of the voter:

(a) a current and valid photo identification, **or**

(b) a copy of one of the following that shows the name and address of the voter:

- (i) a current utility bill;
- (ii) a bank statement;
- (iii) a government check;
- (iv) a government paycheck;
- (v) a government document.

(4) Any voter subject to these requirements who votes in person and who does not provide proof of residence as required shall be provided a provisional ballot.

(5) Any voter subject to these requirements who votes by mail (vote-by-mail ballot) and who does not provide proof of residence as required shall have their ballot treated as a provisional ballot.

Exceptions (Section 303(b)(3)(C))

The requirements for first-time voters to provide proof of residence shall not apply when any of the following apply:

(1) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the voter registration a copy of:

(a) a current and valid photo identification, **or**;

(b) a copy of one of the following showing the name and address of the voter:

(i) a current utility bill;

(ii) a bank statement;

(iii) a government check;

(iv) a government paycheck;

(v) a government document.

(2) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the registration (subject to state verification of the information, including the applicant's name and birth date):

(a) a driver's license number, **or**

(b) at least the last four digits of their social security number.

(3) The voter is entitled to vote by vote-by-mail ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff—1 et seq.).

(4) The voter is entitled to vote other than in person by Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee—1).

(5) The voter is entitled under federal law to vote other than in person.

HAVA Compliance with Special Requirements for Certain Voters Who Register by Mail

In conjunction with the interim solution, counties must identify first-time voters who register to vote by mail and who are also required to show identification, or provide a copy of identification when voting by mail. These voters are identified by a unique marker in the Calvoter system. The database clearly identifies those first-time voters who are required to present identification.

These provisions of HAVA are furthered through regulations enacted by the Secretary of State that define what forms of identification can be accepted by elections officials for these purposes, and via regulations that govern the use of the interim solution, the Calvoter system. Regulations for the operation of the interim solution database can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_regs.htm. Regulations that specify the allowable forms of identification to be presented by first-time voters who register by mail, under the applicable conditions, can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_regs.htm.

The functional requirements developed for the VoteCal project, as previously described, will provide for printing of polling place index from the VoteCal system, the roster of voters eligible to cast ballots at each polling place. This function of the VoteCal system will comply with HAVA's requirement that the VoteCal system constitute the official voter registration list for the state. The VoteCal system will uniformly note first-time voters who register by mail and are required to show identification when voting, so poll workers will ask for identification when necessary and appropriate.

G. Mail-in Registration Form Requirements (Section 303(b)(4))

Federal Law:

(1) The voter registration form developed under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) must include:

(a) The questions:

(i) Are you a citizen of the United States of America? (and)

(ii) Will you be 18 years of age on or before election day?

(b) The statement: "If you checked "no" in response to either of these questions, do not complete this form."

(2) A statement informing the applicant that if the form is submitted by mail and the voter is registering for the first time, that additional information (a copy of documents for proof of residence; or a driver's license number or partial social security number) must be provided to avoid additional proof of residence requirements at the time of voting.

(3) If an applicant fails to answer the question: "Are you a citizen of the United States of America?" the registrar shall notify the applicant of the failure to complete the form and provide an opportunity to the applicant to complete the form in a timely manner.

HAVA Compliance with Mail-in Registration Form Requirements

Mail-in registration forms available for use in California have been modified to meet HAVA requirements by including the language required to notify registrants they must be U.S. citizens and 18 years old by Election Day to be eligible to register to vote. The form also provides for registrants to enter a California driver's license number or California ID number, if they have one of those forms of identification. If not, the registration form instructs the registrant to enter the last four digits of her or his social security number. First-time voters who register by mail are also notified that they may be required to show identification when casting a ballot.

H. Use of Requirements Payment for Other than Complying With Title III

Section 251(b) permits the use of requirements payments only for complying with Title III requirements. One exception to this allows a state to use a requirements payment to carry out other activities to improve the administration of elections. To do so, the state must certify it has implemented the requirements of Title III **or** the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under Section 252(c) (1/2 of 1 percent of the total amount appropriated for requirements payments for the year).

HAVA Compliance with Use of Requirements Payment for Other than Complying with Title III

In accordance with guidance and direction provided by the EAC, California certified to the EAC that it would establish a minimum requirements payment program on April 3, 2006. Pursuant to that certification, the Secretary of State allocated approximately \$11.6 million to California counties as a part of the \$195 million voting system upgrade contract. Pursuant to EAC guidance, this funding can be used in a more flexible manner than other HAVA, Title II funding.

The minimum requirements payment program established by California was intended to allow elections officials to use Title II funding for the following purposes:

- To meet storage and warehousing needs for new voting equipment;
- To buy cell phones for use by poll workers on Election Day to maintain direct contact with elections officials;
- To buy forklifts to move voting equipment that was "racked" to maintain equipment and to ensure proper electrical charging of systems;
- To retrofit voting systems with equipment necessary to produce a voter-verified paper audit trail; and
- Other purposes deemed allowable by the EAC.

Each county was permitted to use the funding allotted through the minimum requirements payment program up to its proportionate share of the \$11.6 million distributed statewide among the counties.

Pursuant to subsequent guidance from the EAC, counties can also use minimum requirements payment funding to purchase hand-held personal digital assistant devices used to ensure poll workers can address issues that arise on Election Day or to refer to county-created guidance on election laws, procedures and processes, and for other purposes deemed allowable by the EAC.

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Section 2

(Section 254(a)(2))

How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in element [section] number one, including a description of:

(A) The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

(B) The methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under element [section] number eight.

The requirements payments available under HAVA have been, and will continue to be, used for the purposes described in *Section 1* above, including as provided in Section 251(b)(2), or as otherwise authorized by HAVA.

HAVA funds distributed pursuant to this State Plan are to be used for meeting Title III requirements for federal elections. California's 58 counties conduct federal elections. Therefore, it was determined by then-Secretary of State Kevin Shelley in 2003 that only California counties are eligible to receive these funds. Cities conducting stand-alone, municipal elections are not eligible for HAVA funding. Other criteria are used to determine funding eligibility. For instance, counties may use federal funding only to purchase those voting systems approved by the Secretary of State to meet the applicable requirements of state and federal law.

The Secretary of State's office, in consultation with county elections officials, determined in 2004 the appropriate allocation of HAVA funds for Title III requirements. That process resulted in an allocation of \$195 million (76% of the Title III funds received to date by the state) to voting system upgrades and related costs, such as poll worker training and voter education, where appropriate and allowable. The Secretary of State's office subsequently began executing contracts with each of the 58 counties beginning on December 17, 2005 to distribute the HAVA requirements payment funds to counties. These standard agreements provide the counties with details on the allowable use of funds and rules governing the use of funds. The reimbursement-based contracts require counties to submit claims with supporting documentation to be eligible to receive reimbursement. By executing contracts with counties, the State is able to monitor both the distribution and the use of funds.

Subsequent to the execution of those contracts, the EAC has provided additional guidance to states on the allowable uses of HAVA funding, including the use of funding for voter education and pollworker training, which is posted on the EAC website at www.eac.gov/election/advisories%20and%20guidance (e.g., FAO 08-011 for guidance on voter education and poll worker training). The guidance specified that using Section 251 funds, which are earmarked in HAVA for meeting Title III requirements, could not be used for voting education and poll worker training except in limited circumstances –

when a new voting system was introduced to voters by counties or to conduct a voter education program to minimize overvoting when a paper-based, centrally tabulated voting system was being used. That guidance could be reconsidered by the EAC. The Secretary of State will continue to monitor EAC guidance to ensure that its HAVA program is structured accordingly.

In an effort to maximize the flexibility for counties in use of these funds, then-Secretary of State Bruce McPherson certified to the EAC on April 3, 2006, that a minimum requirements payment program would be established pursuant to HAVA Section 251 (b). The proportionate share of approximately \$11.6 million in minimum requirements payment funding available under HAVA Section 251 (b) was provided to each county using the formula developed for allocation of California's Voting Modernization Bond Act of 2002 (Proposition 41). These funds were made available to counties for allowable purposes specified by the EAC, including meeting storage needs for new voting equipment, subject to EAC pre-approval.

Counties have expended approximately \$124.8 million for voting system upgrades and other related allowable uses, including \$8.9 million in minimum requirements payment funding. Uses of minimum requirements payment funding by counties included:

- Meeting storage and warehousing needs for new voting equipment – \$5.5 million
- Retrofitting DRE voting equipment with voter-verified, paper-audit-trail printers – \$138,000
- Educating voters and training poll workers – \$8.6 million

The expenditure of HAVA funds for voter education and poll worker training included the following activities:

- Updating poll worker training manuals (34 counties)
- Employing new training techniques (26 counties)
- New poll worker recruitment efforts (12 counties)
- New poll worker feedback and monitoring efforts (5 counties)
- Newspaper advertising to educate voters on new HAVA requirements (26 counties)
- Expanding sample ballots to educate voters to new HAVA requirements (10 counties)
- Creating brochures, videos and audio cassettes, in multiple languages (13 counties)
- Website enhancements (9 counties)
- Participating in community events (10 counties)

This list of HAVA activities undertaken by California counties is not exhaustive. The list does not include voter education and poll worker training efforts undertaken using county resources. This list only includes those activities for which counties sought HAVA reimbursement under HAVA contracts and the minimum requirements payment program included in those contracts.

In poll worker training plans submitted by counties at the request of the Secretary of State, many counties noted that new training techniques would include hands-on voting system training, role-playing and added components to ensure poll workers could meet the needs of voters with disabilities and those with alternative language needs. Some of these efforts were bolstered by a separate grant program provided for under HAVA Section 261 aimed at improving polling place accessibility for voters with disabilities. Guidelines on poll worker training developed under state law (Elections Code section 12309.5) provided the counties with standards for the uniform training of precinct inspectors and first-time poll workers, who under Elections Code section 12309 and section 19340, respectively, are required to be trained by county elections officials. Those guidelines, pursuant to state law, include guidelines for instruction of poll workers on:

- The rights of voters, including rights to language access provided for under the Voting Rights Act, and access for voters with disabilities
- Cultural competency – commonly understood as the ability to recognize and to respond to cultural concerns or sensitivities of groups
- Knowledge of issues confronting voters with disabilities, including barriers to access and the potential need for reasonable accommodations to exercise the right to vote

In 2010, the Secretary of State updated the standards to expand on the 2006 guidelines, and address issues that arose subsequent to issuing the 2006 standards.

State law only requires that precinct inspectors, who have responsibility for supervising polling place activities, and first-time poll workers, be trained prior to each election. Although counties make training available for all poll workers, returning poll workers are not required by law to undergo training. The law attempts to recognize experienced poll workers may not need training and that if all poll workers had to be trained by law, recruiting people for largely volunteer positions would likely become more difficult. The increasing popularity of vote-by-mail balloting as a means of casting a ballot may become an impetus for revising state law to adjust the number of voters a polling place must accommodate, which would reduce the overall need for pollworkers.

Additionally, the Secretary of State conducted Election Day and Poll Worker Training observation programs during the 2006 and 2008 election cycles. These programs, which utilized Secretary of State employees as observers, provided for onsite visits to county poll worker training sessions and polling places selected to reflect a wide cross-section of demographics and to maximize the number of sites that could be visited. Observers received training at the Secretary of State's office, including training on the use of voting systems and other HAVA-required activities. Observers also attended poll worker training classes conducted by local elections officials in the county where they were assigned to be observers. Lessons learned from each of the observation programs built successively on later programs. Issues identified by observers and innovative practices employed by counties, such as hands-on training on voting systems, role-playing and

interactive training sessions were communicated to counties, which contributed to changes that were noted by observers in subsequent county programs. In addition to these direct communications with counties observed and in identifying the posting of observation reports, the Secretary of State has created a Practices of Elections Officials page on its website to foster expansion of innovative programs. The full reports of the programs for the 2006 and 2008 election cycles are available on the Secretary of State's website at www.sos.ca.gov/elections/elections_vs.htm The Secretary of State's Practices of Elections is available on the Secretary of State's website at www.sos.ca.gov/elections/best-practices.htm

These combined efforts – the use of standard agreements developed in collaboration with county election officials, ongoing guidance and monitoring of expenditures, requests for reports, as required, and the Election Day observation program, as resources permit – will continue to serve as tools used by the Secretary of State to oversee and monitor HAVA implementation at the local level.

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Section 3

(Section 254(a)(3))

How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

Leading up to the November 2004 General Election, the Secretary of State earmarked \$9.9 million in HAVA Section 101 funding to counties for poll worker training and voter education grants. Contracts were executed with counties that applied for the funding, which was allocated based on the grant requests submitted by counties. Counties used these funds to prepare for implementation of HAVA requirements through voter education and outreach programs that included meetings with community groups, county-sponsored efforts and mass media advertising.

The Secretary of State subsequently provided additional HAVA funding for poll worker training and voter education through contracts valued at a total of \$195 million. The contracts allowed counties to determine what level of funding was necessary to complement the deployment of HAVA-compliant voting systems. Counties were required by the contract to file voter education and poll worker training plans. The money was to be used to improve voters' understanding of new HAVA requirements, with an emphasis on instructions on how to cast a ballot using new voting equipment. Poll worker training funding was to be used to ensure HAVA requirements were met (e.g. instructions on set up and operation of new voting systems, provisional voting rights, etc.). Through the 2006 and 2008 election cycles, counties spent \$8.6 million for voter education and poll worker training efforts.

Many county poll worker training plans noted that new training techniques would include hands-on voting system training, role-playing and other components to meet the needs of voters with disabilities and those with alternative language needs. Some of these efforts were bolstered by a separate grant program provided for under HAVA Section 261 aimed at improving polling place accessibility for voters with disabilities.

As previously mentioned, pursuant to state law (Elections Code section 12309.5), a task force was created to recommend uniform statewide guidelines for the local training of poll workers. Under Elections Code sections 12309 and 19340, precinct inspectors and first-time poll workers are required to be trained by county elections officials. The guidelines encourage poll workers to be instructed on:

- The rights of voters, including rights to language access and access for voters with disabilities, and rights of protected classes of voters referenced and defined under the federal Voting Rights Act
- Cultural competency – commonly understood as the ability to recognize and to respond to cultural concerns or sensitivities of groups

- Knowledge of issues confronting voters with disabilities, including barriers to access and the potential need for reasonable accommodations to exercise the franchise

By including guidance on meeting the needs of voters with disabilities, language accessibility and cultural competency, the guidelines highlight the importance of recognizing California's diverse electorate. According to U.S. Census Bureau data, California is home to more than 4 million people with disabilities, and more than 12 million Californians speak a primary language other than English at home. More than 8 million speak Spanish, and more than 2.7 million speak an Asian or Pacific Islander language. As a result of this language diversity, the entire state of California is a covered jurisdiction for Spanish and California's most populous counties serve multiple languages under Section 203 of the federal Voting Rights Act. Los Angeles, for instance, is required to provide voting materials in seven languages – English, Chinese, Japanese, Korean, Spanish, Tagalog/Filipino, and Vietnamese.

The guidelines, which were issued in 2006, were updated in 2010. The most current standards can be found on the Secretary of State's website at www.sos.ca.gov/elections/pollworker.htm. Although no HAVA funding was used to develop these guidelines and the updated standards, they provide local elections officials with information on applicable state and federal laws, including HAVA.

The Secretary of State also issued a HAVA compliance manual on August 25, 2006, that includes guidance on voter education and poll worker training. The HAVA compliance manual can be found on the Secretary of State's website at www.sos.ca.gov/elections/hava_compliance_manual.htm.

Along with this statewide guidance, the Secretary of State has used Section 101 funding to augment county elections officials' efforts. The Secretary of State has produced printed materials that include important new information about the electoral process, including:

- New voter registration requirements (providing a driver's license number or partial social security number)
- Instructions on casting a ballot (by reference to county-specific information)
- Information about voting rights
- Information to assist voters with disabilities in accessing information, polling place accessibility, and voting rights
- Information about casting a provisional ballot
- Audio cassettes of printed voter information
- A sign language version of voter information that was posted on the Secretary of State's website
- Press releases issued in consultation and coordination with local elections officials as needs arise

Many of these printed materials have been included in mailings to a database of more than 5,000 community-based organizations, and have also been made available at community events attended by the Secretary of State and Secretary of State staff. Additional materials were, and continue to be, mailed to community-based groups upon request. These materials are also available on the Secretary of State's website at www.sos.ca.gov/elections/elections.htm

The Secretary of State formed partnerships with state and local government agencies, and with private organizations to help distribute materials. Those groups included: Independent Living Centers (which represent voters with disabilities), the League of Women Voters of California (supporting the Smart Voter webpage and production and distribution of the Easy Voter Guide, a plain English version of the statewide Voter Information Guide translated into multiple languages and available online), the League of California Cities, the California State Association of Counties, the California Department of Education, local school districts, the State Controller's Office, professional trade associations and others. The Secretary of State has also undertaken efforts to expand its use of technology to reach voters by providing electronic "logos" to public, private and non-profit entities that link back to the Secretary of State's web pages that provide voter information. The Secretary of State has also utilized social networking tools such as Facebook and Twitter to engage voters in the electoral process and to provide timely updates of voter information, such as reminders about the voter registration deadline, and vote-by-mail ballot request and return deadlines. Many of the activities were not supported with HAVA funds, but some staff time and printing and distribution costs for printed materials were partially supported with HAVA Section 101 funds.

In California's initial State Plan, published on July 17, 2003, the Secretary of State proposed to "consider developing voter information in appropriate languages for posting at polling places" and to work to "ensure that all information provided at polling places be accessible to the widest possible audience." The Secretary of State developed voter information for posting at polling places pursuant to California Elections Code section 2300. The Voter Bill of Rights poster outlined in Elections Code section 2300 is provided to counties at their request and production of the Voter Bill of Rights poster is partially funded by HAVA section 101 funds. This posting supplements information provided in sample ballots, which are mailed to registered voters and available at polling places for voters who do not receive one or any voter who wishes to view one at the polling place. Additionally, the Secretary of State has made statewide electoral information in the Voter Information Guide (VIG) available in alternative formats such as audiotapes, which are available on request; audio MP3 files and other materials available on its website; and produced in American Sign Language and posted on the Secretary of State website a video version of the statewide "Your Voting Rights" brochure.

To address elections official training needs, the professional umbrella organization for county elections officials, the California Association of Clerks and Elections Officials (CACEO), contracted with a private consulting firm for a full review HAVA requirements and the implications of those requirements for administration of elections in California. In addition, the CACEO created training classes for its members. While the

training courses are not exclusively about HAVA, the Act is mentioned as a specific topic to be covered and the related subject matter (e.g. poll worker training and recruitment, voter registration, testing new voting equipment) necessarily includes a thorough discussion of HAVA requirements. At the conclusion of the program's 10 courses, a California Professional Election Administrator Credential is conferred on participants. All of these CACEO efforts were funded using association dues, and no HAVA Title II resources were allocated to this effort.

California's initial State Plan and 2004 update contemplated the creation of an Election Academy to train prospective election officials. A significant amount of funding – \$25 million – was earmarked for this purpose, but there is no indication that any curriculum or program design work was initiated. No outline of such a program exists at the Secretary of State's office. For all intents and purposes, the CACEO efforts to credential its membership have filled this void.

Despite the decision by prior Secretaries of State not to initiate an "Election Academy," the office has undertaken numerous, meaningful steps to ensure that California's county elections officials are fully informed of HAVA requirements and programs, and those efforts continue today. Those efforts include:

- Creating, in collaboration with election officials, a HAVA Compliance Manual, which can be found on the Secretary of State's website at www.sos.ca.gov/elections/havea_compliance.htm
- Drafting and executing standard contracts, in consultation and collaboration with counties, that specify the level and appropriate use of HAVA funding
- Providing ongoing written guidance to all counties on a regular basis regarding HAVA requirements, including associated requirements for meeting federal guidelines for receipt of federal funds
- Conducting monthly conference calls with all county elections officials
- Secretary of State staff attendance at monthly CACEO meetings and subcommittee meetings, and attendance at biannual CACEO conferences
- Serving as a resource for individual county questions and concerns on a daily basis
- Working with the CACEO to provide financial support using HAVA Section 101 funding for CalPEAC elections officials training classes, which address HAVA implementation

California has relied upon Title I, Section 101 funding to provide this ongoing guidance. It is not anticipated that any Section 251, Title III requirements payment funding will be used for these efforts.

Subsequent to these efforts, the EAC issued additional guidance to states on the allowable use of HAVA funds for voter education and poll worker training (see the EAC website at www.eac.gov/election/advisories%20and%20guidance, FAO-080-011).

The Secretary of State will continue to work with CACEO, and respond to voter education and poll worker training needs. Through this work and continued interaction with individual counties, the Secretary of State will seek to complement local efforts.

The Secretary of State will continue to produce voter education materials, which include information on HAVA-specific requirements, for distribution to its list of community-based organizations, which the Secretary of State will continue to refine. The Secretary of State will also seek to expand its partnerships with voter rights advocacy groups and other private sector organizations.

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Section 4

(Section 254(a)(4))

How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

State law requires the Secretary of State to approve voting systems and equipment, as well as the procedures for the use of those voting systems before a system can be used in any election. The Secretary of State also has the authority to withdraw approval of voting systems and equipment.

Through 2005 and 2006, California significantly modified the testing and approval process used to examine voting systems to ensure to the fullest extent possible that voting systems met the prevailing standards. Until December 13, 2005, the EAC had not yet promulgated the Voluntary Voting System Guidelines (VVSG) pursuant to HAVA Subtitle B of Title III (Section 311 (b)(1)). Even after the adoption of the VVSG, the Guidelines did not take effect until December 13, 2007. Therefore, the prevailing standard used by California leading up to the 2006 election cycle was the Federal Election Commission (FEC) 2002 standards for voting systems. Additionally, under state Elections Code section 19250 (a), all direct recording electronic voting systems (DRE) submitted to the Secretary of State after January 1, 2005, were required first to receive federal qualification. Throughout 2006, federal qualification was attained through a process conducted under the auspices of the National Association of Election Directors (NASED). The EAC, pursuant to HAVA requirements, launched its full voting system testing and approval program in January 2007.

For the voting systems proposed for use in the 2006 election cycle, the Secretary of State's office required confirmation of the federal qualification of the voting system to ensure the voting system met the prevailing FEC 2002 standards. Testing of the voting system was conducted to ensure the system met the requirements of state law. The state also examined the system to ensure the HAVA-required voting system features were present and functional (e.g. the ability to detect an error in the ballot before it is cast). Only after a system met these requirements was it eligible for state consideration for approval. The state also instituted some innovative testing protocols, in particular volume testing, in an attempt to determine if the voting system would perform adequately under simulated Election Day conditions.

Throughout the nation, however, concerns about the operation and security of voting systems persisted and the adequacy of the voting system testing and approval process was called into question.

On January 6, 2007, Secretary of State Debra Bowen assumed office. Under the authority provided to her by state law, she undertook a top-to-bottom review of voting systems approved for use in California. A total of \$512,425 in HAVA Title I, Section 101 funds earmarked by the State Legislature for this purpose was used in conjunction with nearly \$400,000 of required funding from voting system vendors to defray the costs

of the review. The top-to-bottom review was the first of its kind in the nation, consisting of a comprehensive review of voting equipment source code that included both a review of source code and penetration security testing to determine whether perceived vulnerabilities in the source code could be exploited or manipulated to adversely affect the secure operation of the voting system. Voting systems were also subjected to a full review of accessibility for voters with disabilities during the top-to-bottom review using the applicable provisions of the 2005 VVSG as a benchmark.

Prior to conducting the top-to-bottom review, voting system vendors were provided the opportunity to submit a voting system for review, or to forgo the review provided the vendor planned to submit a new, upgraded voting system in time for the system to be tested and approved under an updated testing and approval regime modeled on the procedures and protocols used in the top-to-bottom review.

On August 3, 2007, the Secretary of State released the results of the top-to-bottom review and issued withdrawal of approval and approval orders based upon the findings of the top-to-bottom review for voting systems manufactured by three vendors – Sequoia, Premier (formerly Diebold) and Hart Intercivic.

The August 3, 2007, approval orders are detailed and complex and were subsequently amended. Final approval orders were issued in October 26, 2007. Among the many provisions, the orders for the Sequoia and Premier voting systems restrict the use of DRE voting equipment to one DRE voting unit per polling place, which is consistent with HAVA's Section 301 (a)(3)(B) requirement to meet the needs of voters with disabilities. Hart Intercivic voting units were not restricted to one DRE per polling place. All DRE and optical scan voting systems are now subject to modified use procedures to improve security, consistent with the findings from the top-to-bottom review. Information about the top-to-bottom review, including findings, and withdrawal of approval and approval orders can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_vsr.htm

The Secretary of State will continue to review voting systems to ensure that they comply with the requirements of Section 301 and other provisions of HAVA. The processes used to test and review the systems will include volume testing, procedures and protocols adopted as part of the top-to-bottom review in 2007, and consideration of any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III.

Section 5

(Section 254(a)(5))

How the State will establish a fund described in Section (b) for purposes of administering the State's activities under this part, including information on fund management.

- (1) The Secretary of State has established three Special Deposit Fund subfunds within its Federal Trust Fund. Each subfund within the Special Deposit Trust Fund serves as the repository for actual cash disbursements by the federal government for the Title I-Section 101, Title I-Section 102 and Title II funds.
- (2) The Secretary of State's fiscal, accounting, and budgeting offices will have overall responsibility, under the direction of the Secretary of State, for administration of these funds.
- (3) The administration of the fund will meet all requirements of federal and state law for fiscal management.

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Section 6

(Section 254(a)(6))

The State's proposed budget for activities under this Part (Part 1 of Subtitle D of Title II), based on the State's best estimate of the costs of such activities and the amount of funds to be made available, including specific information on:

(A) The costs of the activities required to be carried out to meet the requirements of Title III;

(B) The portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) The portion of the requirements payment, which will be used to carry out other activities.

A great deal has changed since California's last State Plan update was published by the EAC in the Federal Register on September 30, 2004. In addition to four changes of administration at the California Secretary of State's office since the 2002 adoption of HAVA, 11 statewide elections were conducted between 2002 and 2008. The Secretary of State's office was subject to multiple audits. The office also engaged in detailed discussions with the United States Department of Justice (US DOJ) regarding compliance with HAVA Section 303 requirement to have a statewide voter registration database that culminated in execution of a Memorandum of Agreement (MOA) on November 2, 2005. The nation also witnessed a continuing debate over voting system policy, design and deployment. States such as New Mexico and Florida were among the first to react to voting system challenges that arose after the enactment of HAVA by moving to largely paper-based voting systems. California conducted a top-to-bottom review of the voting systems used in the state and has followed a similar course. After California's top-to-bottom review was concluded, Colorado and Ohio independently conducted voting system reviews and reached findings similar to those made in California.

Notwithstanding these challenges, HAVA compliance deadlines did not change. During the 2006 election cycle, California complied with the terms of the November 2, 2005, MOA by meeting the requirements for interim compliance with HAVA Section 303 statewide voter registration database requirements. Before the close of 2007, California issued a Request for Proposal (RFP) that served as the basis for contracting with a vendor to design and implement a statewide voter registration system that is fully compliant with HAVA requirements, as required by the MOA. As previously indicated, a vendor was selected through a competitive bidding process to complete the VoteCal project. However, on April 19, 2010, the Secretary of State's office discovered that the vendor hired to develop and deploy the VoteCal project had not obtained a performance bond, which is a requirement of the contract the state executed with the vendor. On May 4, 2010, the Secretary of State sent the vendor a letter documenting, among other things, the vendor's lack of a performance bond, and required the vendor to resolve the issue within 30 days. The letter offered the vendor an opportunity to meet with Secretary of State personnel to discuss the issues. During subsequent discussions with the vendor, the

Secretary of State's office and the vendor mutually agreed to terminate the contract executed with the vendor. A settlement to terminate the contract was executed on May 21, 2010.

The Secretary of State is committed to completing the VoteCal project. The state is also bound to complete the project pursuant to the terms of the MOA executed with the US DOJ on November 2, 2005. The work done to date on the project will facilitate those efforts. That work includes:

- ❑ Development of an RFP that documents in great detail the business requirements of the VoteCal project – all of the necessary functions the system must be capable of performing.
- ❑ Extensive, documented communication with stakeholders, including county elections officials, voting rights advocates, representatives of voters with disabilities and others who provide valuable input on the VoteCal business requirements.
- ❑ Experience gained with state oversight agencies, including procurement experts at the Department of General Services and technology experts at the Office of the Chief Information Officer.
- ❑ Input and advice from independent oversight contractors required by state law for technology projects, including an Independent Project Oversight Consultant and an Independent Verification and Validation consultant.
- ❑ Insight from county elections officials and vendors on the functions and operation of county election management systems, which must be integrated into the functions of VoteCal.

The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to develop and deploy the VoteCal system. On July 19, 2010, a Special Project Report (SPR) was submitted to state agencies that must approve the project before it can move forward to be advertised for bid in a Request for Proposal (RFP). The project will also be submitted to the Legislature for final approval following the procurement process and award of the bid to a system integrator vendor. The SPR contains a preliminary estimated deployment of the VoteCal voter registration system statewide by June 2014. However, that preliminary timeline is subject to change, and a final timeline for development, testing and statewide deployment will be determined after a vendor is selected for the project. The estimated timeline for completion of the bidding process and award of the contract to the system integrator vendor under the state's solution-based procurement process is September 2011. Additional historical information about the VoteCal project, which includes a description of the business requirements for the project, is available on-line at www.sos.ca.gov/elections/votecal/.

During the 2006 election cycle, all counties in California also deployed voting systems intended to comply with HAVA Section 301 voting system requirements. Voter education and poll worker training programs were also initiated at the state and county levels leading up to and during implementation of HAVA requirements in the 2006 and 2008 election cycles.

The budget included in the original State Plan and the 2004 update included the following caveat:

“Budgetary issues cannot be resolved until the...costs of actual implementation are ascertained.”

Now, with the actual experience of HAVA implementation and understanding the challenges that still lay ahead, the budgetary issues have become clearer, but will be subject to similar dynamics. The EAC’s Voluntary Voting System Guidelines (VVSG), adopted in 2005, are currently undergoing refinement. Thereafter, the EAC intends to promulgate a new set of VVSG. Congressional action on HAVA policy may still be forthcoming. In addition, California still needs to establish its statewide voter registration database as required by the MOA executed with the US DOJ. With that in mind, California’s proposed HAVA budget is set forth below:

(1) Proposed Budget

(a) The Secretary of State, as the Chief Elections Officer of California as described in HAVA Section 253(e), in accordance with U.S. Election Assistance Commission (EAC) guidance, will continue to adopt policies and procedures to ensure that all funds received, including interest earned on those funds will be used to accomplish the requirements of Title III, with the exception of funds identified in Sections 251(b)(2)(A) and (B) from Title II allocations.

(b) The Secretary of State will identify its “maintenance of effort” level, pursuant to EAC guidance, and will not use HAVA funds to supplant activities already funded, as this activity is precluded by maintenance of effort provisions found in Section 254 (a)(7).

(c) California’s voters authorized \$200 million in general obligation bonds in 2002 to finance the modernization of voting equipment. Counties can use these funds for the purchase and deployment of voting equipment. The appropriate portion of these funds will be accounted for to satisfy the matching fund requirement of Section 253(b)(5).

(d) No funds received pursuant to Title II will be used for purposes of litigation or payment of judgment, as this is precluded by Section 251(f).

(e) The Secretary of State, as the Chief Elections Officer of California as defined in Section 253(e), will administer the Election Fund described in Section 254(b) of the Act.

(2) Specific Budget Components Relative to Title III

The Secretary of State, in administering the Election Fund, will provide funding for the following specific requirements of Title III:

(a) Voting Systems Standards

In consultation with county elections officials, and taking into account funding provided via the California “Voting Modernization Bond Act of 2002” (described under (c) above), it was determined under a prior administration that \$195 million of the \$264.2 million provided to the state by HAVA was an appropriate level of funding to assist counties with deploying HAVA-compliant voting systems by the January 1, 2006, deadline. The allocation formula used to disburse the \$195 million was the same formula used to distribute Voting Modernization Bond Act funds. The formula gives equal weight to a county’s proportionate statewide share of four factors:

- The county’s number of registered voters (as of the February 19, 2002 Report of Registration)
- The county’s average voter turnout over four election cycles (beginning in November 1998)
- The number of polling places in the county (for the March 2002 Primary Election)
- The number of people eligible to register to vote (as of the February 19, 2002 Report of Registration)

More detail about the allocation formula can be found on the Secretary of State’s website at http://www.sos.ca.gov/elections/vma/vmb_formula_allocation_docs.html

The 2004 State Plan update budgeted \$75,677,843 to meet Section 301 voting system standards through county procurement and deployment of HAVA-compliant voting system equipment. The 2004 State Plan update also budgeted a cumulative total of \$45 million for voter education, and \$800,000 for provisional voting requirements. Additionally, the 2004 State Plan update budgeted \$25 million for an “Election Academy” to train election officials and provide poll worker education. The cumulative total of the 2004 State Plan update budget for these items is \$146,477,843. The amount budgeted for these purposes under this 2009 State Plan update is \$195 million, a difference of \$48,522,157. However, the 2004 State Plan update also anticipated a reserve of more than \$66 million.

On May 20, 2005, then-Secretary of State Bruce McPherson provided a cross-reference and reconciliation of the 2004 State Plan update budgeted items with a spending plan submitted to the State Legislature. It detailed expenditures, including \$195 million earmarked for voting system upgrades and associated voter education and poll worker training costs by using of a portion of the proposed \$66 million reserve budgeted in the State Plan update for that purpose. The cross-reference and reconciliation provided at the request of the EAC noted a differential of approximately 3.5% between the State Plan update budget and the spending plan pending before the Legislature. After receiving that

cross-reference and reconciliation, the EAC approved the release of \$169,677,955 in HAVA funds to California.

As noted above, earlier State Plans separately earmarked up to \$70 million in HAVA Title II funding for voter education and poll worker training. Recognizing that local efforts aimed at voter education and poll worker training needed to work in concert with the deployment of new voting equipment, funding for these activities was included in the \$195 million voting system upgrade contract executed with the state's 58 counties. Through the 2006 and 2008 election cycles, counties used approximately \$8 million in HAVA funding from this source for these purposes.

(b) Provisional Voting

Before HAVA's enactment, California law already specified procedures for provisional voting that generally comply with the requirements of Section 302. Provisional balloting is also accessible to voters with disabilities because in order to obtain state approval, every voting system must include an accessible device that includes a provisional voting capability. In response to new HAVA requirements, the Secretary of State, in cooperation with local elections officials, defined a free access system (or systems) to permit voters to determine if their provisional ballot was counted and if it was not, why not. Each county has deployed a free access system in accordance with HAVA requirements. The Secretary of State conducts an annual survey of counties to ensure the free access system is available to provisional voters and to determine what specific method is used to meet the free access requirements. This information is provided to voters on the Secretary of State's website at http://www.sos.ca.gov/elections/elections_provisional.htm

As mentioned in previous State Plans, the state is still considering taking a proactive approach to advising provisional voters of the status of their ballot and, if it was not counted, why it was not counted through the design of its VoteCal statewide voter registration system.

No HAVA Section 251, Title II funds were spent to date complying with the requirements described above.

(c) Voting Information

HAVA requires that certain information be provided to voters at the polling place. This information includes a sample ballot, the date and hours of voting, how to vote, how to vote a provisional ballot, procedures for first-time registrants required to provide identification in order to vote, a listing of the rights of voters, and general information on other laws and protections for voters. Before HAVA's enactment, much of this information was provided to voters pursuant to state law. However, posting the information at polling places was viewed as a minimum standard, as HAVA Section 305 states, because providing this information to voters before Election Day best ensures that voters understand the electoral process to enable them to fully exercise their rights.

Therefore, counties were encouraged to pursue voter education programs that provided this information in printed materials distributed at outreach events and via websites leading up to elections as an adjunct to deployment of a new voting system. The incremental cost of revising materials or websites and conducting outreach programs were included as allowable costs via the \$195 million voting system upgrade contract described above.

EAC guidance received on September 26, 2008, at the request of the Secretary of State's office has clarified the use of these funds for voter education efforts. The guidance points out that the specific requirements of HAVA Section 302 are for posting information at polling places and further advises that there are limits on the use of funding beyond posting information at polling places. Funding is only allowable for voter education programs aimed at informing voters about the consequences of overvoting and how to prevent overvoting when voters use a paper-based, centrally tabulated voting system, or when educating voters on the use of a new voting system at the time that the voting system is first deployed.

To ensure adequate posting of voter information required by HAVA, the state has produced and distributed, pursuant to California Elections Code section 14105(q), a Voter Bill of Rights for posting at polling places. The Voter Bill of Rights is printed and distributed using an equal amount of HAVA Section 101 funds and state funds.

No further Section 251, Title III requirements payment funding, beyond that described above, will be budgeted for this activity.

(d) Statewide Voter Registration List

Pursuant to HAVA Section 303, the Secretary of State is required to develop a single, uniform, official, centralized, and interactive list of registered voters that is defined, maintained, and administered at the state level. This computerized list shall be the official list of voters for federal elections.

From a budgetary standpoint, the cost of meeting this requirement was largely unknown in 2004, when the prior Secretary of State drafted the initial State Plan. Also, historical documentation available to subsequent administrations suggests that many of the costs associated with procurement of a major technology project was not recognized when the initial State Plan was drafted, nor were they anticipated in the State Plan update. Subsequent to the drafting of those State Plans, California took two courses of action that fully informed the State of the costs involved.

On January 11, 2005, the Secretary of State's office requested an opinion from the US DOJ about its plans to comply with HAVA Section 303 statewide voter registration database requirements on an interim basis. The initial discussions with the US DOJ about those plans concluded on April 19, 2005. On May 25, 2005, the US DOJ informed the Secretary of State that its plans did not represent compliance, and that US DOJ was

“prepared to move forward with enforcement action under HAVA as appropriate to ensure compliance...”

Thereafter, the Secretary of State engaged in discussions with the US DOJ about what procedural changes to the voter registration process could be enacted via regulations and what technological upgrades could be made to an existing system to integrate and synchronize 58 county election management systems (EMS's) into a single, statewide voter registration system. The discussions with US DOJ culminated in a Memorandum of Agreement (MOA) executed between the Secretary of State and US DOJ on November 2, 2005. The MOA outlined the regulations that were to be enacted, and the technological improvements to the state and county voter registration systems to achieve interim compliance. The state met the requirements of the MOA and is operating the system outlined in the MOA using Title I, Section 101 funds. However, the MOA also committed the Secretary of State to continuing to pursue long-term compliance with the HAVA mandate of building a statewide voter registration list. Long-term compliance with HAVA Section 303 will be achieved with development and implementation of the VoteCal project.

The Secretary of State took work initially done to evaluate a long-term HAVA Section 303 compliance strategy compiled by a previous administration and drafted a comprehensive Feasibility Study Report (FSR). An FSR, required under state law and procedures, serves as a roadmap to development and implementation of major technology projects. The FSR, which was approved by technology and budget oversight authorities, is required to include an estimate of all costs associated with development, procurement and implementation of major technology projects. The full accounting of costs in that FSR differed significantly from the estimated \$8 million to \$40 million cost of compliance in the initial State Plan, and the estimated \$40 million in the 2004 State Plan update. That initial 2004 cost estimate only included the cost of system integration; it did not account for other necessary costs required to be included to obtain state approval to develop and implement a major technology project. Those cost estimates must include project management, project oversight, independent validation and verification, and one year of system operation and maintenance in order for the project to be approved. These costs, and others, were not included in the cost projection provided in the initial State Plan and State Plan update.

Through its procurement experience, the Secretary of State, accounting for all costs associated with procurement, development and implementation, including a year of maintenance and operation, estimated more accurately the cost to complete the VoteCal project at \$65.6 million. Although that estimated cost could change based upon a new procurement process and a new proposed solution, this is the best estimate for the project at this time. This change in the estimated costs in the State Plan budget, which is driven in large part by the MOA executed with the US DOJ, the enforcement authority for HAVA, represents the largest material change in this 2009 State Plan update.

(e) Requirements for Voters Who Register by Mail

The Secretary of State developed guidance and regulatory procedures for the uniform implementation of the requirements of Section 303(b) via guidance and regulation, including:

- A HAVA Compliance Manual, with relevant guidance found principally in Chapters 1 and 7 of the Compliance Manual, on the Secretary of State's website at www.sos.ca.gov/elections/hava_compliance_manual.htm;
- Regulations adopted that govern operation of the interim solution statewide voter registration database, which can be found on the Secretary of State's website at www.sos.ca.gov/elections/elections_regs.htm; and
- Associated regulations that govern the application of voter identification requirements for first time voters who register by mail at www.sos.ca.gov/elections/elections_regs.htm.

The costs for developing the HAVA Compliance Manual, implementing regulations and implementing the interim solution statewide voter registration database were funded using existing resources and HAVA Section 101 funds. No additional HAVA Section 251 funding will be expended on this requirement beyond the funding for the VoteCal project.

(3) The Portion of the Requirements Payment, which will be used to carry out Other Activities.

Minimum Requirements Payment Program (Title II, Section 251(a)(2)(B) – On April 3, 2006, pursuant to EAC guidance, California filed a certification to create a minimum requirements payment program pursuant to HAVA Section 251 (a)(2)(B). The minimum requirements payment program provides states with the ability to allocate up to \$11,596,803 for purposes that improve the administration of elections that are not otherwise required by Title III of HAVA. California provided the allocation to counties via the \$195 million voting system upgrade contract by applying the Voting Modernization Bond allocation formula to the \$11,596,803 allowed pursuant to Section 251 (a)(2)(B) and allocating to each county its proportionate share of funding as a part of the county's voting system upgrade contracts. Counties were allowed to expend that proportionate share of the minimum requirements payment on storage and warehousing needs for new voting equipment, for forklifts to move voting units at warehouse or storage facilities and for cell phones to maintain direct communication with polling places on Election Day. The funds are also allowable for use as specified by guidance from the EAC. The funding is restricted to ensure that only that portion of spending that directly benefits federal elections is allowable.

Thus far, pursuant to EAC guidance and with EAC pre-approval when necessary, counties have expended \$9.5 million in minimum requirements payment funding, leaving a balance of approximately \$2.1 million. These expenditures represent about 3.6 percent of California's existing Title III allocation.

New HAVA Funding

According to the EAC, California is entitled to receive \$31,991,504 in new Title II funding. In addition, California has earned \$35,459,287 in interest on Title II funding on deposit in its State Election Fund.

(4) Summary of Costs and Portions used to carry out Activities

Note that the budget below includes the total of all HAVA funds the Secretary of State anticipates receiving, including interest earned on funds received to date and funds anticipated following the submission and publication of this 2009 State Plan. As such, this budget reconciles, and replaces, earlier budget estimates included in the initial 2004 State Plan (published in the Federal Register on March 24, 2004), and the 2004 State Plan update (published in the Federal Register on September 30, 2004) previously submitted by California.

As those earlier State Plans stated, “the costs and portions indicated [in those State Plans] [were] subject to change based on the variables indicated [in those State Plans]. Such anticipated changes, unknown at this time, are deemed to be included in this Plan as if set forth in detail. Note, also, that the ‘Portion of Payment’ indicated below is based on the minimum ‘Cost Estimate,’ which may not be the true cost as ultimately determined.”

Furthermore, despite the fact that HAVA implementation began in 2003, there are still some challenges that lie ahead, including ongoing efforts to improve the capabilities of voting systems to meet security and accessibility needs and the completion of the VoteCal project – California’s long-term statewide voter registration database required by HAVA Section 303.

California will designate HAVA funding from federal appropriations in fiscal years 2008-2010 and interest earned to date in this State Plan budget for meeting Title III requirements and for future improvements in the administration of elections.

Based on California’s estimated cumulative total of requirements payment funding, including interest earned to date, of \$331,687,915 for fiscal years 2003-04 through fiscal year 2009-2010, the best estimate of the distribution is as follows:

HAVA Title III mandate	Cost Estimate or Allocation	Portion of payment
Voting systems (Section 301)	\$195 million	58.79%
Provisional Voting (Section 302)	\$0	0%
Voter materials at polling places (Section 302)	\$0	0%
Statewide Voter Registration Database (Section 303)	\$65,568,600	19.77%
Total allocated/estimated	\$260,568,600	78.56%
Total balance to be allocated for Title III requirements and improving the administration of federal elections	\$71,119,315	21.44%

*The county contracts that provide a total of \$195 million allocated for voting system upgrades also allow counties to request reimbursement for the incremental, allowable cost of voter education and poll worker training costs associated with voting system deployment and meeting other HAVA requirements that must be incorporated into the electoral process. In part these needs are addressed by incorporating the state’s “minimum requirements payment” of \$11.6 million for purposes deemed allowable by the EAC into these contracts.

Section 7

(Section 254(a)(7))

How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

The Secretary of State, pursuant to EAC guidance, will ensure the expenditures of the state for activities funded by the payment will be maintained at a level that is not less than the level of such expenditures maintained by the state for the 1999-2000 Fiscal Year. Throughout the implementation of HAVA, the Secretary of State has attempted to ensure that no HAVA funds were used to supplant local funding for activities already required by state law and to ensure that these and other “normal, ongoing” election expenses were not reimbursed with federal funds. The Secretary of State provides the means for ensuring appropriate use of HAVA funds, including preventing supplanting local funding with new, HAVA resources, through:

- Standard agreements (contracts), which identify the allowable uses of funding
- Reimbursement-based contracts, which require counties to submit supporting documentation for costs in order to receive HAVA funding
- Secretary of State internal review and approval of claims submitted by counties before payment, which in many cases has led to disapproval of some expenses claimed
- Regular, ongoing and daily communication with county elections officials to provide guidance on allowable uses of funding

The Secretary of State will continue to use these mechanisms to avoid supplanting with HAVA funds those election expenses that should be borne by state and local agencies.

Pursuant to an EAC Maintenance of Effort (MOE) policy adopted June 28, 2010, states are allowed to voluntarily submit plans to the EAC for review and comment on how a state intends to meet its MOE obligation under HAVA. California will submit such a plan to the EAC by the June 28, 2011, deadline prescribed in the final policy.

Section 8

(Section 254(a)(8))

How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the States will use to measure performance and the process used to develop such criteria, and a description of which officials will be held responsible for ensuring that each performance goal is met.

In its initial State Plan, which was incorporated into the 2004 State Plan update, the Secretary of State proposed the following:

“(1) The Secretary of State, as Chief Elections Officer, in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, shall:

(a) develop performance goals and measures, with timetables, descriptions of criteria, the process used to develop the criteria, and identification of accountable officials, to determine the effectiveness of all programs and efforts receiving HAVA funds;

(b) monitor, through consultations with local elections officials and interested individuals and organizations, the performance of the state, units of local government and other entities with respect to reaching goals and each and every provision of HAVA.”

This proposal was never put into practice. On March 1, 2005, the California Secretary of State who initially undertook the task of implementing HAVA resigned. Pursuant to state law, the Governor appointed a successor who assumed office, following confirmation by both houses of the California State Legislature, on March 30, 2005. With the nine months left before the January 1, 2006, deadline to implement HAVA’s full complement of requirements, the state was able to meet, for the 2006 election cycle, HAVA’s Title III requirements. Performance measures, as envisioned under the initial State Plan, were not adopted.

However, California has performance measures, some of which have been put in place recently, which can serve as benchmarks for measuring the success of HAVA implementation for voting systems. These include:

- Requiring each county, as a condition of voting system approval, to report any Election Day problems and issues with voting equipment used in polling places
- Requiring, as a matter of state law, a manual tally of ballots cast in 1% in randomly selected precincts in each county (EC 15360)

- Requiring each county, as a condition of voting system approval, to allow for Election Observation Panels to publicly observe the electoral process, including the tally of ballots. County Election Observer Panel plans are available on line at www.sos.ca.gov/elections/eop.htm
- Requiring each county to report, prior to each statewide election, on the type of voting system it will use for the upcoming election. Information on the use of voting systems in counties can be found online at www.sos.ca.gov/elections/vs_election.htm

Additional information required for performance measures pursuant to HAVA is provided below:

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California’s voting systems to continually improve the voting experience for California voters
Performance Measure	Incident reports on problems and issues with voting equipment deployed at polling places
Timetable	Ongoing – following each statewide election
Process for developing criteria	Voting system approval process (Elections Code (EC) sections 19100; 19201; and 19222)
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California’s voting systems to continually improve the voting experience for California voters
Performance Measure	Manual 1% tally of ballots from randomly selected precincts
Timetable	Ongoing – following each statewide election
Process for developing criteria	EC section 15360
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California’s voting systems to continually improve the voting experience for California voters
Performance Measure	Allow public observation of voting system deployment and use, including logic and accuracy testing and ballot tally

Timetable	Ongoing – during each statewide election
Process for developing criteria	Voting system approval process (EC section 15004)
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the deployment of HAVA-compliant voting systems
Performance Measure	Require each county to report to the Secretary of State the voting system it will deploy on Election Day prior to each statewide election
Timetable	Ongoing – before each statewide election
Process for developing criteria	Secretary of State
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Voting systems – Section 301
Goal:	Document the performance of California’s voting systems to continually improve the voting experience for California voters
Performance Measure	Require voting system vendors to deposit an exact approved version of software and firmware into an escrow facility approved by the Secretary of State
Timetable	Ongoing – prior to voting system use in an election
Process for developing criteria	EC section 19103(a)
Accountable official(s)	Secretary of State

Planning Element:	Vote-by-mail balloting – Section 301
Goal:	Document the utilization of vote-by-mail balloting to determine the appropriate distribution of resources required to support activity level
Performance Measure	Require each county to report to the Secretary of State the following information: <ul style="list-style-type: none"> ▪ Percentage of registered voters who are registered as permanent vote-by-mail voters ▪ Percentage of registered voters that voted by vote-by-mail ballot ▪ Percentage of vote-by-mail ballots mailed to those cast

Timetable	Ongoing – after each statewide election cycle
Process for developing criteria	Secretary of State
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Provisional voting – Section 302
Goal:	Ensure that counties have instituted a free access system which allows provisional voters to ascertain whether their vote has been counted and, if not, obtain an explanation of the reason why
Performance Measure	Survey counties to ensure that a free access systems is made available to voters for each election
Timetable	Ongoing – after each statewide election cycle
Process for developing criteria	EC section 14310 (d)
Accountable official(s)	County elections officials; Secretary of State

Planning Element:	Polling place accessibility – Section 261
Goal:	Ensure compliance with the accessibility and privacy requirements for individuals with disabilities
Performance Measure	Evaluate California polling places to determine compliance, using the guidelines provided in the Polling Place Accessibility Checklist
Timetable	Ongoing
Process for developing criteria	Title 24 of California Code of Regulations, Americans with Disabilities Act Accessibility Guidelines
Accountable official(s)	County elections officials; Secretary of State

Also, California took steps during the 2006 and 2008 election cycles to ensure that HAVA requirements were met in a manner that fulfilled the intent and spirit of HAVA, including:

- Developing a new voting system testing and approval process with new benchmarks that included innovations like volume testing to better ensure the reliability of voting systems on Election Day; information on California’s approval process can be found on-line at www.sos.ca.gov/voting-systems/cert-and-approval/vsys-approval.htm

- Issuing procedures for the proper use of all voting systems approved by the state to comply with state and federal requirements; the template to be used for developing voting system use procedures can be found on-line at www.sos.ca.gov/voting-systems/oversight/directives/use-procedures-2006.pdf
- Conducting parallel monitoring programs of voting systems in 2006 on Election Day to monitor actual in-use performance of equipment; parallel monitoring reports are available on-line at www.sos.ca.gov/voting-systems/oversight/eday-reports.htm
- Conducting Election Day Observation programs to provide on-site review of implementation of HAVA requirements at polling places; Election Day Observation reports are available on-line at www.sos.ca.gov/voting-systems/oversight/eday-reports.htm
- Monitoring and documenting Election Day concerns reported by voters to the Secretary of State's toll-free voter information hotline
- Issuing standards to election officials on effective poll worker training. The standards are available on-line at www.sos.ca.gov/elections/pollworker.htm
- Providing regular, ongoing guidance to election officials, including issuing a HAVA compliance manual. The compliance manual is available on-line at www.sos.ca.gov/elections/hava_compliance_manual.htm
- Requiring counties to submit security plans and communications plans for use on Election Day

These measures will continue to serve as benchmarks of HAVA performance.

Section 9

(Section 254(a)(9))

A description of the Uniform, Nondiscriminatory State-based Administrative Complaint Procedures in Effect Under Section 402.

(1) Section 402 (pp. 126-128) requires the state to establish and maintain a state-based administrative complaint procedure that:

- (a) is uniform and nondiscriminatory;
- (b) allows any person who believes that there is a violation of any provision of Title III to file a complaint;
- (c) requires that the complaint be in writing and be notarized;
- (d) permits consolidation of complaints;
- (e) requires that there be a hearing on the record if the complainant requests such;
- (f) an appropriate remedy be provided if the State determines that there is a violation of Title III;
- (g) the complaint be dismissed and that the results be published if it is determined that there is no violation;
- (h) a final determination be made within 90 days from the date the complaint is filed unless the complainant consents to a longer period for making such a determination;
- (i) alternative dispute resolution procedures be established for resolving the complaint within 60 days if the State fails to meet the 90 day deadline set forth above.

(2) Under existing procedures, any person may complain to the Secretary of State, as Chief Elections Officer, that election laws or procedures have been violated, are being violated or are about to occur. A toll-free telephone number for this purpose is provided and is widely disseminated. Complaints may also be submitted to the Secretary of State in writing. All credible allegations are investigated by one or more units of the Office of the Secretary of State, often in conjunction with local elections officials and other state officials.

(3) The Secretary of State, after consulting with local elections officials and interested individuals and organizations, has established a uniform, nondiscriminatory state-based administrative complaint procedure in compliance

with Section 402 of HAVA. The procedure provides individuals with a meaningful, expedited means of voicing a complaint concerning the implementation of Title III of HAVA and an appropriate remedy if a violation has occurred. The procedure addresses the accessibility needs of minority language voters and individuals with disabilities.

(4) The complaint procedure in effect authorizes any individual residing in the State of California to file a written complaint with the Secretary of State alleging that Title III has been violated, is being violated or is about to be violated. Pursuant to HAVA, the complaint must be notarized. (The Complainant must sign the complaint after being sworn by a notary public.) The complaint may be filed on a form prescribed and made available by the Secretary of State or on any other form that meets the specified requirements. Forms prescribed by the Secretary of State are required to be translated into appropriate languages. The complaint may be filed in person at any office of the Secretary of State or mailed to Secretary of State, Elections Division, HAVA Complaint, 1500 11th Street, Sacramento, CA 95814. The complaint must be filed within 60 days after the occurrence of the alleged violation or within 90 days after the Complainant becomes aware of the alleged violation, whichever is later. The Secretary of State may consolidate complaints when appropriate. The Complainant may request a hearing on the record. The Secretary of State determines whether the hearing is oral or is based on written testimony. A final determination must be made within 90 days of filing the complaint. An appropriate remedy must be provided if a violation is found. In any case, the determination shall be in writing and must be posted on the Secretary of State's website, unless such posting might compromise a criminal investigation or other enforcement action. If a determination is not made within 90 days, then the complaint is referred to a neutral Hearing Officer who must make a determination within 60 days of the initial 90-day deadline, noting any provisions in the proceedings used to make a determination that require reasonable accommodations for a complainant. The determination must be posted on the Secretary of State's website, unless such posting might compromise a criminal investigation or other enforcement action.

The Secretary of State is continually examining its website – one source of information about the complaint procedure – to assess its usability for all users, including users with disabilities and those with alternative-to-English language needs. Those efforts are ongoing.

Section 10

(Section 254(a)(10))

If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

A total of \$84.6 million was received, pursuant to HAVA Title I.

These funds were used extensively, as previously noted, by the Secretary of State to comply with HAVA Title III requirements and many of the elements included in the initial State Plan that were originally anticipated to be funded with Section 251, Title III funding.

As previously noted:

Voter Education and Poll Worker Training

Voter education and poll worker training efforts, expected to be funded with Section 251, Title III fund, were initially funded via a \$9.9 million statewide grant of Title I, Section 101 funds. Those funds were allocated leading up to the November 2004 General Election. The Secretary of State also used Title I, Section 101 funding for a voter outreach program administered directly by the Secretary of State in 2004. A total of \$3.8 million was allocated for this purpose, although \$2.9 million of those expenses were disallowed following a federal, EAC audit. A total of \$496,000 in Title I, Section 101 funding was used subsequently by the Secretary of State's office on statewide voter education efforts to augment local efforts, in consultation and collaboration with local election officials, other state and local agencies, community organizations and private groups (e.g. the League of Women Voters of California).

Counties used a limited amount of Section 251 funding for this purpose – approximately \$8.6 million statewide. Subsequent EAC guidance has also clarified that HAVA funding used for voter education programs must focus on the use of new voting systems and efforts that provide overvote protection, including receiving a replacement paper ballot to correct ballot errors.

As indicated, to support county efforts, statewide voter education efforts were undertaken using Section 101 funding. Those statewide efforts included developing voter education materials used by state and local officials, and community-based organizations through partnerships with state agencies, such as the California Department of Education, partnerships with local elections officials and partnerships with nonprofit groups such as Independent Living Centers. These materials were also made available on state, county and nonprofit websites, including the League of Women Voters of California Smart Voter webpage and in the League-sponsored Easy Voter Guide.

In California's initial State Plan, published on July 17, 2003, the Secretary of State proposed to "consider developing voter information in appropriate languages for posting at polling places" and to work to "ensure that all information provided at polling places be accessible to the widest possible audience." The Secretary of State developed voter information for posting at polling places pursuant to California Elections Code Section 2300. The Voter Bill of Rights poster outlined in Elections Code Section 2300 is provided to counties upon request and production of the Voter Bill of Rights poster is partially funded by HAVA Section 101 funds. This posting supplements information provided in sample ballots, which are mailed to registered voters and are available at polling places for any voter who wishes to view one at the polling place. Additionally, the Secretary of State has made its statewide Voter Information Guide material available on audiotapes, which are available on request; audio MP3 files and other materials available on its website; and produced its "Your Voting Rights" brochure in American Sign Language, which is made available on DVDs and posted on the Secretary of State's website.

Statewide voter registration database requirements

Title I, Section 101 funding was used for the purpose of achieving interim compliance with Section 303 requirements to establish a statewide voter registration database, pursuant to the MOA executed with the US DOJ on November 2, 2005. A total of \$3.9 million was used to design and implement technological upgrades to the existing CalVoter system – previously used to assist counties with list maintenance activities – to meet this requirement. Modifications to the CalVoter system included establishing the necessary interfaces with the Department of Motor Vehicles, the Social Security Administration, the state Department of Health Services, and the state Department of Rehabilitation and Correction. Also included in this funding was the cost of modifying local election management systems to ensure that those systems, which until the enactment of HAVA were the sole repository of voter rolls, would integrate and synchronize data with the modified CalVoter system. Staff time necessary for developing regulations and other administrative costs necessary to implement the CalVoter interim solution were also funded with Section 101 funding. Finally, necessary modifications to California's voter registration affidavits to comply with HAVA requirements – including specific language required to be included and addition of registrant identification information for purposes of verification (e.g. driver's license data) – were funded with Section 101 resources. These changes required the printing of new voter registration cards to replace existing stock.

Voting Systems

Section 102 punch card voting system replacement funds totaling \$57.3 million statewide were distributed to eligible counties beginning in 2004. These funds, in conjunction with state Voting Modernization Bond Act of 2002 funds and HAVA Title II, Section 251 requirements payment funding allocated in 2006, were used by county election officials to procure and deploy voting equipment in an effort to comply with new HAVA Section 301 voting system standards.

Section 101 funds were also used to assist the Secretary of State with implementation of new voting system standards. Funding was used to defray the cost of additional security measures imposed by the Secretary of State following withdrawal of approval and approval with conditions of DRE voting equipment in 2004. These funds were also used for parallel monitoring efforts that attempt to monitor the performance of voting equipment on Election Day. The uniform definition of a vote for California voting systems, and the top-to-bottom source code review conducted by the Secretary of State in 2007 were paid for with this funding. Finally, additional staff costs associated with certifying new voting systems intended to comply with HAVA's new voting system standards were funded, in part, with these HAVA resources. For example, the State of California now tests voting systems using the disability standards in the federal 2005 Voluntary Voting System Guidelines (VVSG), which include provisions for usability and accessibility for vision, dexterity, mobility, hearing, speech, English proficiency and cognition (see Section 3.2 of Volume I of the VVSG on pages 53-64). California was the first state to test voting systems using these standards, and these standards continue to be used by California in its testing and approval for all voting systems. These testing efforts employ consultants who test each voting system with the help of voters with a full range of disabilities. The Secretary of State has also established and sought the input of a Voting Accessibility Advisory Committee (VAAC), providing the VAAC with information on voting system standards and briefings on the voting system testing and approval process, while seeking its advice on proposed standards and the voting system approval process.

The introduction of new voting systems was also accompanied by programs, some of which were supported in whole or in part with HAVA Section 101 funds, to educate poll workers, promote voter understanding and ease-of-use of new voting equipment, including use by voters with disabilities and voters with alternative language needs. The programs included:

- Developing new voting system use procedures
- Issuing poll worker training guidelines
- Creating a HAVA compliance manual produced by the Secretary of State in collaboration with counties
- Providing instructions on the use of new voting systems, which each county included in sample ballots mailed to each voter, and which were also posted on the Secretary of State's website and each county's website
- Conducting outreach and education activities in partnership with counties, schools, state and local government, and community service organizations such as the League of Women Voters, and Independent Living Centers

These efforts were accompanied by HAVA allowed voter education programs per HAVA Section 301 (a)(1)(B) to educate voters on correction of overvotes where a paper-based, centrally tabulated voting system was in use through independent mailings to voters, and mailings in conjunction with delivery of sample ballots or vote-by-mail ballots.

Section 11

(Section 254(a)(11))

How the State will conduct ongoing management of the plan, except that a State may not make any material change in the administration of the plan unless the plan is appropriately noticed and published in the Federal Register.

As previously noted, the Secretary of State's office has undertaken numerous, meaningful steps to manage HAVA implementation, and to ensure that California's county elections officials are fully informed of HAVA requirements and programs. Those efforts, which continue still, include:

- Designating a single Deputy of Secretary of State for HAVA Activities with responsibility for overseeing and coordinating HAVA activities
- Establishing a new Office of Voting System Technology Assessment to provide for testing and approval of voting systems intended to comply with HAVA Section 301 voting system standards
- Developing internal control procedures in reaction to, and consistent with, audit findings
- Maintaining communication, as necessary and required, with the EAC – the federal oversight authority for HAVA – to request guidance and clarification of HAVA requirements
- Communicating regularly, and as requested, with the US DOJ, the enforcement authority for HAVA
- Creating, in collaboration with election officials, a HAVA Compliance Manual, which can be found on the Secretary of State's website at: www.sos.ca.gov/elections/hava_compliance_manual.htm
- Drafting and executing standard contracts, in consultation and collaboration with counties, that specify the level and appropriate use of HAVA funding
- Providing ongoing written guidance to all counties on a regular basis regarding HAVA requirements, including associated requirements for meeting federal guidelines for receipt of federal funds
- Serving as a resource for individual county questions and concerns on a daily basis
- Conducting monthly conference calls with all counties

- Secretary of State staff attendance at monthly CACEO meetings and subcommittee meetings, and attendance at biannual CACEO conferences
- Conducting an Election Day Observation program intended to provide on-site feedback about HAVA implementation

These efforts will continue to be employed by the Secretary of State to conduct ongoing management of the State Plan.

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Section 12

(Section 254(a)(12))

In the case of a State with a state plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the state plan for the previous fiscal year and of how the State succeeded in carrying out the state plan for such previous fiscal year.

Since the submission of the last State Plan update to the EAC in 2004, California complied with the requirements of HAVA, and largely succeeded in its efforts to carry out the State Plan, though not in the manner specified in the State Plan.

The factors that contributed to deviations in steps outlined in earlier State Plans proposed under prior administrations have been noted previously in this State Plan, which include:

- Unexpected changes in administration at the Secretary of State's office
- A series of annual statewide elections from 2002 through 2006, including a first-ever gubernatorial recall election in California
- Audit scrutiny at both the state and federal level that, while appropriate, diverted resources from implementing elements of the State Plan
- Delay in receiving HAVA funding and HAVA guidance
- Evolving policies on voting system standards
- Delays in vendors bringing forward voting systems to be tested and approved pursuant to voting system standards
- The discovery of shortcomings in voting system design and performance during voting system testing that resulted in the need to re-test equipment multiple times
- The need to respond to legitimate US DOJ concerns about the shortcomings of the state's plans to implement an "interim solution" to HAVA Section 303 statewide voter registration database requirements
- Evolving interpretations of HAVA requirements with respect to verification of voter registrant information, including a federal court decision
- Evolving EAC interpretations and guidance on the appropriate use of HAVA funds

The original State Plan was enacted in 2003 and updated in 2004. Both the original Plan and the subsequent 2004 update were done prior to the state embarking on any HAVA implementation efforts. Now, six years after the adoption of the last State Plan update, the Secretary of State has learned a great deal in terms of efforts to implement HAVA. This State Plan update is a reflection in part of what the Secretary of State has learned since first beginning to implement HAVA Title III requirements in 2005. And, in many respects, the seemingly strong interest exhibited in Congress in recent years about making fundamental changes to electoral policy, including HAVA policy, indicate that California is experiencing this same evolution of thinking on the best methods to achieve HAVA's goals.

Notwithstanding encountering some significant stumbling blocks to smooth implementation of HAVA, California was able to make significant progress in its efforts

to implement HAVA and even to realize in practice what the original State Plans outlined. As previously noted, through the 2009 election cycle, California's elections officials managed to implement HAVA to the fullest extent possible, including:

- Creating the complaint procedures required as a prerequisite to receiving HAVA funding
- Expanding the capacity and languages available on the Secretary of State's toll-free voter information hotline
- Establishing the Secretary of State as the single statewide office to serve as a resource for military and overseas voters and for the counties that serve those voters
- Ensuring that provisional voters can check, through a free access system, the status of their provisional ballot to determine if their ballot was counted, and if not, why not
- Creating a uniform definition of a vote cast on voting systems in use in California
- Establishing an interim solution statewide voter registration database that integrates and synchronizes the 58 county election management systems containing California's voter rolls into a single, statewide system, pursuant to an MOA negotiated with the US DOJ
- Modifying state voter registration forms in accord with HAVA requirements
- Ensuring that the interim solution statewide voter registration database, and accompanying regulations, provide for verification of registrant identification data, and that HAVA provisions for first-time voters who register by mail are met
- Replacing and eliminating punch card voting systems in California through the HAVA Section 102 incentive program
- Testing and approving voting systems intended to be HAVA-compliant, so that those systems were available for acquisition and deployment by California counties
- Executing standard agreements with California's 58 counties to allocate HAVA Title II funding to help defray the costs of Title III requirements and to improve polling place accessibility
- Ensuring that, by the 2006 November General Election, all counties had deployed voting systems that met the requirements outlined in HAVA, including making available at every polling place at least one voting unit designed to be accessible to voters with disabilities
- Developing, pursuant to state law, poll worker training guidelines and updating those standards in 2010
- Providing HAVA Title I, Section 101, and HAVA Title II, Section 251, resources to counties to assist with poll worker training and voter education
- Providing ongoing, regular and daily guidance to counties on all aspects of HAVA, including developing and publishing a HAVA compliance manual
- Meeting voter education and information requirements as provided for in HAVA, including providing to counties, upon request, a Voter Bill of Rights

As previously described, the biggest differences between the 2004 State Plan and this State Plan update are the method of implementation, especially the funding mechanisms

utilized. The Secretary of State relied more heavily on the use of more flexible Section 101 funding than was anticipated in the State Plans previously submitted.

Major changes in the State Plan being submitted now, include:

- Combining voter education and poll worker training funding, previously budgeted at \$70 million with voting equipment procurement costs, previously budgeted at \$75,677,843, into a single \$195 million contract that allows counties to determine the appropriate level of expenditure for these related activities to meet local needs. The \$49,522,157 difference in spending levels between the 2004 State Plan update and this State Plan reflects a consensus reached about the appropriate level of funding achieved between the Secretary of State and county election officials under prior administrations.
- The budget for the statewide voter registration database now fully acknowledges the costs of developing and implementing that system - increasing from \$40 million to \$65,568,600 the allocation of HAVA Title II, Section 251 funding for that purpose.
- The process described for developing performance measures proposed under prior administration was not implemented.
- Finally, the initial State Plan provision for an Election Academy, which was incorporated into the 2004 State Plan update, was not implemented. However, California county election officials through its umbrella, professional association – the CACEO – initiated a review of HAVA and its implications for the administration of elections in California and also created training courses for its membership that include significant review of HAVA and its requirements. These efforts were independently funded; no HAVA resources were used for these efforts.

The effect of these changes in spending levels reflects the calculation of a reserve of \$71,119,315 in this updated State Plan, which will be used for meeting Title III requirements or for future improvements in the administration of elections.

A summary sheet detailing HAVA expenditures to date has been included in this section of the State Plan update in response to public comments. The summary reflects the fact that the bulk of all HAVA funds received (79.5%) have been allocated to counties in recognition of the fact that counties administer elections – establishing polling places, deploying voting systems, training poll workers and educating voters.

HAVA Expenses and 2010-11 Budget										
Fiscal Year	02-03/03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	Interest Earned	Total
HAVA Revenues:										
Section 101(election admin.)	\$27,340,830								\$2,527,059	\$29,867,889
Section 102(punchcard) ^a	\$57,322,707									\$57,322,707
Section 251(Title III funding) ^b	\$94,559,169	\$169,677,955				\$12,908,853	\$11,225,089	\$7,857,561	\$38,992,863	\$335,221,490
Section 261 Polling Place Accessibility Improvement (DHHS \$)	\$1,371,756	\$985,955	\$987,918	\$1,113,936	\$1,113,511	\$1,279,848	\$1,279,927	\$1,276,978		\$9,409,829
Total Revenues Available	\$180,594,462	\$170,663,910	\$987,918	\$1,113,936	\$1,113,511	\$14,188,701	\$12,505,016	\$9,134,539	\$41,519,922	\$431,821,915
HAVA Activities									Encumbered	
Voting systems upgrades - county grants ^c			\$101,611,033	\$5,680,011	\$87,667,059	\$41,897				\$195,000,000
Statewide Database (VoteCal)				\$380,562	\$1,190,085	\$1,284,020	\$4,437,403	\$4,570,988	\$53,736,942	\$65,600,000
Interim Solution-SOS ^d		\$724,878	\$311,919	\$97,437	\$71,830	\$29,395	\$153,619		\$477,000	\$1,866,128
Interim Solution-County Retrofit			\$2,776,950	\$210,831	\$130,328					\$3,118,109
Voter Educ Develop and Dissemination		\$114,768	\$641,000	\$288,927	\$316,760	\$128,656	\$115,200	\$500,000	\$500,000	\$2,605,311
HAVA Voting Systems/ Testing & Certification ^e			\$3,253	\$642,194	\$0	\$19,466	\$19,295	\$200,000	\$200,000	\$1,084,208
Poll Monitoring/Election Observation	\$84,843	\$10,419	\$46,491	\$64,634	\$63,348					\$269,735
Elect Asst for Indiv with Disabilities (EAD)			\$2,041,022	\$0	\$796,196	\$2,342,575	\$1,224,147	\$1,609,927	\$1,395,962	\$9,409,829
Administration ^f	\$1,514,252	\$1,280,000	\$642,504	\$1,282,879	\$953,025	\$1,009,841	\$1,125,267	\$1,605,000	\$1,605,000	\$11,017,768
Poll Worker Training		\$6,731,724								\$6,731,724
County Security		\$1,537,783								\$1,537,783
Parallel Monitoring		\$275,319		\$300,828						\$579,147
Punch Card Replacement	\$51,114,000	\$3,799,000	\$2,410,000							\$57,323,000
Outreach (Other Expenditures) ^g	\$1,449,000									\$1,449,000
Poll Worker Training/Election Assessment								\$300,000		\$300,000
Total	\$54,162,095	\$14,476,891	\$110,484,172	\$8,948,303	\$91,188,681	\$4,855,850	\$7,074,931	\$8,785,915	\$57,914,904	\$357,891,742

a \$1,156,759 earned in interest on Section 102 funds has been moved to Section 251 funding per guidance from EAC

b Funding for FY 08-10 has been appropriated by Congress, and may be claimed by California after revised HAVA State Plan is accepted by EAC.

c Contract for remaining balance of \$41,897 declined by county in FY 08/09

d FY 05-08 expensed from 101 funds, FY 09-10 expensed from 251 funds

e FY 05-08 expensed from 101 funds, FY 09-11 expensed from 251 funds. FY 06/07 includes source code review

f FY 02-09 expensed from 101 funds, 09-11 pro-rated to all 3 funds

g \$3,810,000 originally expensed; \$2,361,000 replaced by state funds in FY 07-08 in accordance with EAC audit findings

Summary of State and County HAVA Expenses

Activity	Grants to counties	State expenses	
Costs include expenditures and encumbrances to date			
Voting System upgrades			
Purchasing new equipment* Sec. 301	\$195,000,000		
Punch card replacement Sec. 102	\$57,323,000		Sec 102
Security compliance (counties) or testing (state)	\$1,537,783	\$1,663,355	
Poll Worker Training			
Direct county grants	\$6,731,724		
Spent as part of voting system upgrades contracts*	\$10,271,989		
Election observation/poll worker training assessment		\$144,342	
As part of HAVA Section 261 (EAID) funding	\$269,257		Sec 261
Voter Education			
Spent as part of voting system upgrades contracts*	\$10,271,989		
Statewide voter education		\$4,054,311	
As part of HAVA Section 261 (EAID) funding	\$333,559		Sec 261
Statewide Database			
Interim Solution county contracts	\$3,118,109		
Interim Solution SOS costs		\$1,866,128	
VoteCal County support	\$415,763		
VoteCal State costs		\$6,876,307	
Vote Cal projected costs	\$3,727,908	\$54,580,022	
Adjusted totals**	\$268,457,103	\$69,184,465	
** Totals adjusted to avoid double posting categories marked with *			
Totals do not equal all funds expended or encumbered, as not all expense categories were included			

Description of county and statewide voter education and pollworker training efforts:

County efforts

A combined \$14.6 million in HAVA funding was spent for voter education and pollworker training programs:

- \$6.6 million was allocated to counties via a grant program created by then-Secretary of State Kevin Shelley for the November 2004 election
- \$8 million in voter education and outreach efforts through the \$195 million voting system upgrade contract with the counties executed in 2005 and 2006

Overall, 46 counties participated in one or both of these programs.

Poll worker training		
Activity (funded by HAVA)	Number of counties	Notable practices
Update pollworker training manual	34	Additional focus on assisting voters with disabilities and voters with alternative language needs; additional focus on provisional voting rights; additional focus on assisting first-time voters
New training techniques	26	On-line pollworker training; CD/DVD training (take home materials); professional trainers; role-playing; individualized classes focused on voting systems, provisional voting requirements, needs of voters with disabilities; needs evaluation to improve pollworker training
New pollworker recruiting efforts	12	Additional focus on recruiting bilingual poll workers; student pollworker programs; advertising; designated recruitment coordinator; adopt-a-poll programs; ethnic community advisory group assistance; recruiting county employees; direct mail programs to voters
New pollworker feedback/monitoring	5	Cell phones for direct contact with polling place workers; surveys and evaluation forms for pollworkers

Voter Education		
Activity (funded by HAVA)	Number of counties	Notable practices
Advertising – new HAVA requirements	26	Alternative language newspapers; alternative language radio; cable TV; direct mail
Use of sample ballot – new pages on HAVA requirements	10	Cassette recording of sample ballot
New materials – voting systems, new HAVA requirements	13	Brochures, voting system videos, outreach materials in multiple languages; education materials on audio cassette
Website enhancements	9	Provide new HAVA information (provisional voting; new voting systems); provide multilingual information
Community events	10	Ethnic fairs; early voting demonstrations; outreach to underserved communities that historically have low voter turnout; voter education videos in multiple languages

Statewide activities sponsored by the Secretary of State

Secretary of State-sponsored statewide voter education efforts in 2006 and 2008 election cycles (\$807,186)

Election Day and Pollworker Training Observation programs in 2006 and 2008 election cycles (\$218,000)

Voter Outreach and Education		
Activity	Target Audience	Notable practices
Community-based programs	Voters with disabilities; alternative language voters; general public	Downloadable audio version of Voter Information Guide (VIG) (2008); large print VIG in seven languages (2008); partnerships with Independent Living Centers, California Council of the Blind, county elections officials to distribute “Know Your Voting Rights, A Guide to Voters with Disabilities” brochure and to host demonstrations of new voting equipment (2006 and 2008); website accessibility improvements (2008); Immigration and Naturalization swearing-in ceremony events; partnership with NALEO/La Opinion/KMEX (LA) (2006); “A Voting Guide for Inmates” distributed through county election officials, law enforcement and parole officials (2008); League of Women Voters partnership on Easy Voter Guide and SmartVoter website support (2008); Democracy at Work program partnership with businesses, nonprofits and labor unions to reach voters in their workplace (2008)
Mock Election and young voter outreach	Youth, first-time voters, students	Partnership with State Department of Education that led to participation of 600 middle schools and high schools reaching 260,000 students in 2008 and 500 schools and 230,000 students in 2006; partnership with CSSA and UCSA, student associations of CSU and UC campuses
Social Networking	Young voters, first-time voters	You Tube “Why I’m Voting” video challenge; Facebook “My Voice. My Choice. My Vote” page (2008)
Outreach and Advertising	General public	Partnership with sports franchises and county elections officials at sporting events (2008); advertising in 125 newspapers throughout the state for June and November 2006 elections

Materials production	Voters with disabilities; general public	“Know Your Voting Rights, A Guide to Voters with Disabilities” (2006); Website version of “Know Your Voting Rights” available in American Sign Language (2008); “MyVote California”(2008); and “A Guide to Voting in California” (incorporates “Know Your Voting Rights” information) translated into 7 languages (2008)
Website improvements	General public	Voter Education and Outreach page (one-stop shop for voter information) (2006 and 2008); MyVote Election Information button posted by more than 75 organizations on hosted websites to link to Secretary of State voter information (2008); Best Practices of Elections Officials webpage (2008)
State/Local Government partnerships	State workers, general public	California state employee pay stub messages; State Department of Education mock election partnership; midnight registration program; Secretary of State-sponsored polling place (2006 and 2008)
UOCAVA outreach	Military and Overseas voters	Created new resources for overseas voters distributed through the Federal Voting Assistance Program, Overseas Vote Foundation and US Postal Service and others; distributed voter registration and education materials to VA facilities throughout California
Poll worker Training		
Activity	Completed	Additional information available at
Pollworker training standards	2006	http://www.sos.ca.gov/elections/pollworker.htm
Election Day and Pollworker Training Observation programs	2006 and 2008	http://www.sos.ca.gov/voting-systems/oversight/eday-reports.htm
Election Officials – Best Practices website	2008	http://www.sos.ca.gov/elections/best-practices.htm
Support for pollworker survey conducted under UC Berkeley Institute for Governmental Affairs	2006	http://earc.berkeley.edu/StateReport.final.pdf http://earc.berkeley.edu/StateReport.NovemberPWSurvey.final.pdf

Section 13

(Section 254(a)(13))

A DESCRIPTION OF THE COMMITTEE WHICH PARTICIPATED IN THE DEVELOPMENT OF THE STATE PLAN IN ACCORDANCE WITH SECTION 255 AND THE PROCEDURES FOLLOWED BY THE COMMITTEE UNDER SUCH SECTION AND SECTION 256.

HAVA State Plan Advisory Committee

The State Plan update Advisory Committee appointed by Secretary of State Debra Bowen comprised 13 members, including:

- Local elections officials from the two most populous counties in California, as required by HAVA section 255(a), and the then-president of the California Association of Clerks and Elections Officials
- Voting rights advocacy groups representing voters with disabilities, voters with alternative language needs, minority voting rights advocates, and voters generally
- Political scientists possessing academic credentials and practical experience directly related to the administration of elections and the electoral process

The membership of the State Plan update Advisory Committee is described below in detail. The process used to develop and publish the State Plan update follows the detailed description of the Advisory Committee membership.

Advisory Committee members:

Ana Acton

FREED Center for Independent Living

Ana Acton lives in Nevada City and is the Executive Director for FREED Center for Independent Living serving Nevada, Yuba, Sutter, Colusa, and Sierra counties. As a non-profit Independent Living Resource Center, FREED's goal is to empower people with disabilities to exercise their civil rights in becoming active, productive members of our community. FREED serves people with disabilities regardless of age or type of disability. Since 2004, Ms. Acton has worked with FREED to provide independent living services and ensure equal access to the community for people with disabilities.

Michael Alvarez
Professor of Political Science, Caltech
Caltech/MIT Voting Technology Project

R. Michael Alvarez is a professor of Political Science at the California Institute of Technology (Caltech). Since arriving at Caltech as an assistant professor in 1992, Professor Alvarez has focused most of his research and teaching on the study of electoral politics in the United States. He has written five books, three of which focus on election administration and voting technology. Professor Alvarez currently is Co-Director of the Caltech-MIT Voting Technology Project, researching technological solutions to electoral problems. He received his B.A. in political science from Carleton College in 1986, and his Ph.D. from Duke University in 1992.

Ardis Bazyn
California Council of the Blind

Ardis Bazyn is currently the Membership Chair of the American Council of the Blind based in Washington, D.C.; the primary voting advocate for the California Council of the Blind, President of the Independent Visually Impaired Enterprisers and Secretary of the Randolph Sheppard Vendors of America. She is a motivational speaker, business coach and writer with Bazyn Communications. She has published numerous articles and books. In 2001, she compiled a booklet for Blind Students of California, "A Guide to a Successful College Experience." She has owned several businesses and has been active in a variety of business and consumer organizations.

Chris Carson
Government Director
Board of Directors, League of Women Voters of California

In January 2005, Chris Carson joined the Board of Directors of the League of Women Voters (LWV) of California as Government Director. In that capacity, Ms. Carson has been responsible for developing and managing education and advocacy in the areas of redistricting, campaign finance, open government, state and local finance relationships and elections/voting rights issues. She has served on the Civil Liberties Taskforce and Immigration Study Committee of the LWV of the United States. Ms. Carson has been an extremely active member of the League of Women Voters for 25 years, working at the national, state and local levels. She is a third generation native of the Los Angeles area. She received a B.A. in History from Immaculate Heart College in Los Angeles, as well as an M.A. in History from the University of Southern California. Following her graduate work, she taught American History, particularly early American history and American Government, at several colleges in Southern California. Ms. Carson also served as Director of Education for Heritage Square Museum, a small historic preservation museum. She is active in the Burbank community, including having recently served on the City's Charter Revision Commission.

Kathay Feng
Executive Director
California Common Cause

Kathay Feng is the Executive Director of California Common Cause. California Common Cause is a non-profit, non-partisan citizens' lobby organization. California Common Cause has anchored a statewide coalition of election reform groups, called California Voter Empowerment Circle (CalVEC) that meets regularly to talk about major election policies. Ms. Feng has more than 10 years of experience working in the area of election reform. She recently co-authored and played a leadership role in winning the passage of Proposition 11 to reform California's redistricting process. Prior to joining Common Cause in 2005, she directed the Voting Rights and Anti-discrimination Unit of Asian Pacific American Legal Center. Ms. Feng serves, or has served, on the Asian Pacific Policy & Planning Council, the California Secretary of State's Advisory Committee on Voter Participation and Outreach, Los Angeles County Human Relations Commission, LAPD Police Chief's API Forum, the Asian Pacific American Police Advisory Council, Organization of Chinese Americans, and the National Asian Pacific American Women's Forum's Los Angeles Board. She was responsible for organizing poll monitoring of hundreds of poll sites in Southern California, building a statewide coalition to advocate for communities in the 2001 redistricting process, and the creation of the Office of Independent Review providing oversight for the Los Angeles County Sheriff's Department and representing hate crime victims. She is a graduate of UCLA Law School and Cornell University .

Rosalind Deborah Gold
NALEO Educational Fund
Senior Director of Policy, Research and Advocacy

Rosalind Gold serves as Senior Director of Policy, Research and Advocacy with the National Association of Latino Elected and Appointed Officials Educational Fund, where she has worked for two decades on policy analysis and research for the naturalization and Latino civic engagement efforts of the organization. Ms. Gold coordinates the research for several of the Fund's publications, including its *Directory of Latino Elected Officials*, and the biennial *Latino Election Handbook*. Ms. Gold also has extensive policy expertise in the areas of voting rights and the decennial Census. She also serves on the advisory committees and boards of several public affairs and research efforts, including the National Institute on Money in State Politics. Ms. Gold received her J.D. from Harvard Law School and B.A. from Pomona College in Claremont, California.

Alice A. Huffman
State President
National Association for the Advancement
of Colored People (NAACP), California
State Conference

Alice A. Huffman is the president of the California State Conference of the NAACP and has served in this capacity since October 1999. She is the first woman to hold this post. Ms. Huffman also is a member of the National NAACP Board of Directors. Ms. Huffman was appointed by Governor Schwarzenegger to serve on the California State Parks and Recreation Commission. She also serves on the board for California Center for Civic Participation, on T-CAP, which is a consumer advisory panel to AT&T and is a member of the Wells Fargo Advisory Committee. Ms. Huffman is founder and President/CEO of A.C. Public Affairs, Inc., a public affairs firm that specializes in public policy and grass roots advocacy. She is a member of the Rules Committee for the Democratic National Committee and the California Democratic Party. She was co-chair for the Site-Selection Committee and later named chair for the 2004 Democratic National Convention Committee. Ms. Huffman was inducted into the Los Angeles African American Women Political Action Committee's (LAAAWPAC) Political Hall of Fame in April 2002, for her outstanding achievements as a social activist in the minority community. Ms. Huffman is a graduate of the University of California Berkeley with honors in Social/Cultural Anthropology, with advance studies at University of Pennsylvania, University of California Davis, and University of Southern California. Ms. Huffman is a member of Phi Beta Kappa, and the Etta Gamma Omega Chapter of Alpha Kappa Alpha.

Margaret Johnson
Advocacy Director
Disability Rights California

Margaret Johnson has worked for Disability Rights California for more than 20 years. She was hired as a staff attorney, promoted to a senior attorney and then to managing attorney over her years at Disability Rights California. Ms. Johnson specializes in special education issues and developmental disabilities service system eligibility. She also specializes in Americans with Disabilities Act litigation, including public transit litigation. Important class actions brought include cases against the Bay Area Rapid Transit and the California State Lottery. She became the managing attorney of the Bay Area Regional Office in 1999 and held that position until she moved to San Diego in 2001 to set up a new regional office, which she managed until 2006. In March 2006 Margaret accepted a position as Disability Rights California's Advocacy Director and moved to the legislative unit in Sacramento, where she supervises that unit, its peer self advocacy units and serves as communications director. She is on the Board of Directors for the National Disability Rights Network, the protection and advocacy system member organization, and currently serves as the President of the Board. Over the years Ms. Johnson has served on numerous disability related organizations' boards, including

Through the Looking Glass, Disability Rights Education and Defense Fund, The Berkeley Center for Independent Living, the Access Center of San Diego, the Axis Dance Company and the Bay Area Outreach and Recreation Program.

Neal Kelley
Orange County Registrar of Voters

Neal Kelley is the Registrar of Voters for Orange County. Orange County is the second most populous county in California with 1.6 million registered voters, requiring language support in English, Chinese, Korean, Spanish, and Vietnamese. Mr. Kelley joined the county as Chief Deputy Registrar in May 2004 and stepped in as Acting Registrar the following year. Mr. Kelley was awarded the 2005 Election Center's Best Practices award for outstanding poll worker recruitment program. He received his Bachelor of Science Degree in business and management from the University of Redlands and his Master's in Business Administration from the University of Southern California. Prior to joining the County, Kelley developed two companies of his own, served for three years as an officer with the San Bernardino Police Department, and was an adjunct professor with Riverside Community College's Business Administration Department.

Eugene Lee
Asian Pacific American Legal Center

Eugene Lee is an attorney at the Asian Pacific American Legal Center (APALC). Founded in 1983, APALC is a nonprofit organization dedicated to advocating for civil rights, providing legal services and education, and building coalitions to positively influence and impact Asian Pacific Americans, and to create a more equitable and harmonious society. APALC is affiliated with the Asian American Justice Center in Washington, D.C. Mr. Lee is the Project Director for APALC's Voting Rights Project, which focuses on protecting the rights of Asian Pacific American voters. He orchestrates APALC's election day poll monitoring efforts, works with local and state coalitions to promote civic participation among the Asian Pacific American community, and provides training to community-based organizations on the language assistance provisions of the Voting Rights Act. Prior to joining APALC, Mr. Lee practiced with law firms in New York and Los Angeles. He received his undergraduate degree from Duke University and his law degree from Columbia Law School.

Dean C. Logan
Los Angeles County Registrar-Recorder/County Clerk

Dean Logan was appointed Registrar-Recorder/County Clerk for Los Angeles County, California on July 9, 2008, previously serving as the Acting Registrar-Recorder/County Clerk and as Chief Deputy. Los Angeles County, with more than 500 political districts and 4.1 million registered voters, is the largest and most complex county election

jurisdiction in the country. Mr. Logan has over 20 years experience in elections administration, records management and public service. Prior to moving to Southern California, Mr. Logan served as the Director of Records, Elections and Licensing Services for King County, Washington; as State Elections Director for the Washington Secretary of State; and as the elected County Clerk and Chief Deputy County Auditor in Kitsap County, Washington. Mr. Logan serves on the Board of Directors for the California Association of Clerks and Election Officials (CACEO) and is a member of the County Recorders' Association of California (CRAC), the National Association of County Recorders, Election Officials and Clerks (NACRC), the International Association of Clerks, Recorders, Election Officials and Treasurers (IACREOT) and the American Council of Young Political Leaders (ACYPL) Alumni Council. He also serves on the California Secretary of State's VoteCal Statewide Voter Registration System Advisory Committee and The Election Center's National Task Force on Education & Training and National Task Force on Election Reform. In 1999, Mr. Logan was recognized by Sprint USA and the National Association of Community Leadership with its Distinguished Leadership Award. In 2007, he served as an International Election Observer in Morocco with the National Democratic Institute.

Karin Mac Donald
Director

Statewide Database & Election Administration Research Center
University of California, Berkeley

Karin Mac Donald is the director of the Statewide Database (SWDB), the redistricting database for the State of California, and the Election Administration Research Center (EARC), located at the Institute of Governmental Studies (IGS) at the University of California, Berkeley. She works and writes in the areas of redistricting, voting rights, political demography and geography, election administration, implementation and evaluation of public administration and public policy, and California politics. She has served as a consultant to many government, news, and nonprofit organizations, and worked as a redistricting consultant for various local and regional entities, including the City of San Diego and the County of San Francisco in 2001 and 2002 respectively. In 2006 and 2007, she was the lead consultant for the U.S. Election Assistance Commission's implementation study of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) with her consulting firm Q² Data & Research, LLC. Her current projects include a study of the implementation of online voter registration systems in two states with the EARC. She also manages the Block Boundary Suggestion Project of the Census Redistricting Data Program for the State of California with the SWDB.

Rebecca Martinez
Madera County Clerk-Recorder

Rebecca Martinez serves the County of Madera as County Clerk-Recorder and Registrar of Voters. Madera County, one of California's smaller counties with a population of

150,887, is located just north of Fresno in central California. With over 35 years in service to the county, Ms. Martinez has held her elected position since 1990. Prior to being elected, she served in the County Clerk's office in various positions, including as Chief Assistant County Clerk. During her terms as Clerk-Recorder, Ms. Martinez has completely automated both the Recorder and the Elections divisions of her office. Ms. Martinez was elected President of the California Association of Clerks and Election Officials in July 2008, and will serve the association in that capacity until July 2010. She also served as President of the Madera Hispanic Chamber of Commerce for the 1994 term.

Process used to develop and publish State Plan update:

On December 26, 2007, President Obama signed a federal Omnibus appropriations bill for fiscal year 2008 that included \$115 million in HAVA Section 251 funding to be used by states to meet HAVA's Title III requirements, which are outlined in this State Plan update. Subsequent federal appropriations were provided in 2009 and 2010 funding bills. To be eligible for additional HAVA funding, states and territories are required to prepare a State Plan update and to follow other procedures outlined in HAVA sections 253-256.

Following a recruitment and selection process, Secretary of State Debra Bowen confirmed the appointment of the members of the State Plan update Advisory Committee described above on April 30, 2008. The process of finalizing the membership of the Advisory Committee was hampered somewhat by the decision of the State Legislature and Governor to conduct a stand-alone Presidential Primary election in California on February 5, 2008, which occupied the full attention of elections officials and other potential advisory committee members. On April 30, 2008, the appointed Advisory Committee members were provided with a thank you letter from Secretary of State Bowen; the provisions of HAVA related to adoption of a State Plan update; a sample Oath of Office; and a roster of the Advisory Committee membership. Advisory committee members were informed at that time that draft sections of the State Plan update would be provided to them in the coming months for initial review and comment, and that, in recognition of the demands of the 2008 election cycle on their time, the first face-to-face meeting of the Advisory Committee would be conducted following the November 4, 2008, General election..

On July 23, 2008, Advisory Committee members were provided six draft sections of the State Plan update for initial review and comment.

On August 29, 2008, Advisory Committee members were provided four more draft sections of the State Plan update for initial review and comment.

On October 17, 2008, Advisory Committee members were provided the final four draft sections of the State Plan update for initial review and comment.

During November 2008, and following discussions with Advisory Committee members, it was determined that the first face-to-face meeting of the Advisory Committee should

take place in March or April 2009, and that written comments on the draft sections of the State Plan update provided in 2008 would be submitted by Advisory Committee members to the Secretary of State by January 29, 2009, in advance of that meeting.

Between January 29, 2009 and February 25, 2009, Advisory Committee members provide written comments on the State Plan update based on members' input and input from others consulted by Advisory Committee members.

On April 15, 2009, the Advisory Committee conducted a meeting at the Secretary of State's offices at 1500 11th Street, Sacramento, CA 95814.

In recognition of an unanticipated statewide special election called by the Governor for May 19, 2009, the Advisory Committee agreed to conduct the next meeting on July 30, 2009, at the Los Angeles County Registrar of Voters offices at 12400 Imperial Highway, Norwalk, CA 90650.

On August 12, 2009, an Advisory Committee meeting was conducted via teleconference as a follow-up to items discussed at the July 30 meeting.

On December 22, 2009, Advisory Committee members were notified of a final January 27, 2010, meeting to discuss the final, edited draft of the State Plan update.

On January 27, 2010, the Advisory Committee met for the final time at the Secretary of State's offices at 1500 11th Street, Sacramento, CA 95814. During this meeting, Advisory Committee members requested until February 5, 2010, to submit additional edits to the State Plan update and until February 12, 2010, to submit a proposed addition to the State Plan.

Between February 5, 2010, and February 18, 2010, Advisory Committee members submitted the final proposed edits and additions to the State Plan update.

In recognition that preparations for the June 8, 2010, Primary election would consume the attention and resources of elections officials, the publication date of the State Plan update was set for June 10, 2010.

On June 4, 2010, a CC/ROV memo to county elections officials was sent to remind county elections officials that the final draft State Plan update would be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 4, 2010, Advisory Committee members were notified via email that the final draft State Plan update would be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 7, 2010, the Secretary of State mailed written notice to 50 statewide organizations considered Interested Parties that the final draft State Plan update will be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 10, 2010 through July 9, 2010, a public notice was published, in the manner used for notice of public hearings, that the final draft State Plan update would be available for public comment on June 10, 2010, for 30 days, until July 9, 2010.

On June 10, 2010, the preliminary draft State Plan update was posted to the Secretary of State's website at www.sos.ca.gov/elections/hava/state-plan. An mailbox was provided for submission of public comments at havapubliccomments@sos.ca.gov. A paper copy of the plan was made available at the Secretary of State's regional office at 300 South Spring Street, Rm 12513, Los Angeles, CA 90013; and at the Secretary of State's office at 1500 11th Street, Sacramento, CA 95814.

The public comment period for the 2010 preliminary draft State Plan update closed on July 9, 2010. Four comment letters and one email were received by the deadline. A complete copy of the letters and responses to the comments are included as Attachment A to the final 2010 State Plan update submitted to the EAC on July 29, 2010.

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Section 14

Required addition to State Plan regarding implementation of the Military and Overseas Voter Empowerment (MOVE) Act:

The Military and Overseas Voter Empowerment (MOVE) Act was signed into law on October 28, 2009, as part of the National Defense Authorization Act of FY 2010 (P.L. 111-84). The MOVE Act makes changes to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986, that will be in effect for the November 2010 General Election and each succeeding election for federal office. States may delegate MOVE Act responsibilities to jurisdictions within the state.

In California, counties conduct elections, including meeting the requirements of UOCAVA for registering military and overseas voters, providing election materials and ballots, and accepting and counting ballots from military and overseas voters as provided for in state and federal law.

The MOVE Act specifies that states must describe implementation of its provisions in HAVA State Plan updates, and allows for the use of HAVA funds to pay the costs of MOVE Act implementation.

A review of the MOVE Act and a cross-reference to California Elections Code requirements demonstrates that California law meets or exceeds the MOVE Act in virtually every area.

Specifically, the MOVE Act requires states to:

- Establish procedures to allow UOCAVA voters to request voter registration applications and absentee ballot applications by mail or electronically for general, special, primary, and runoff elections for federal office. The procedures must include a means for the voter to designate whether they want to receive the application by mail or electronically.

California Elections Code section 3103.5 already allows UOCAVA voters to electronically request ballots for general elections. The MOVE Act requires county registrars of voters to extend this practice to special, primary, and runoff elections for federal office.

The SOS has confirmed with the Federal Voting Assistance Program (FVAP) that faxing qualifies as “electronic transmission” at this time. Other acceptable means of electronic communication for making voter registration/absentee ballot applications and blank absentee ballots available to military and overseas voters include scanning and emailing the materials, and web-based methods, such as allowing voters to download applications and/or ballots directly from the Internet.

- Transmit the voter registration application or absentee ballot application based on the preference selected by the voter. If the voter does not indicate a preference, the application must be delivered by mail.

This practice is already in place in California.

- Protect, to the extent practicable, the security of the voter registration and absentee ballot application request process, and protect the privacy of the identity and personal data of the voter who requests or is sent a voter registration application or absentee ballot application.

This practice of maintaining the confidentiality of all voter registration and personal identification information is already in place in California.

- Designate at least one means of electronic communication for UOCAVA voters to request, and for states to send, voter registration applications, absentee ballot applications, and voting information. The designated means of electronic communication must be included on all information and instructional materials that accompany balloting materials sent to UOCAVA voters.

California Elections Code section 3103 allows for electronic transmission of voter registration applications, absentee ballot applications, and voting information. Counties with special absentee voters already have established procedures to transmit this material to their UOCAVA voters.

- Develop procedures for transmitting blank ballots to UOCAVA voters by mail and electronically for general, special, primary, and runoff elections for federal office. The procedures must allow voters to designate whether they want to receive the blank ballot by mail or electronically. The state must transmit the ballot based on the preference selected by the voter. If the voter does not indicate a preference, the ballot must be delivered by mail.

California Election Code section 3103(b) allows counties to provide special absentee voters with a special absentee ballot along with a list of measures and candidates that the UOCAVA voter is entitled to vote on.

- Work with local jurisdictions to develop a free access system that allows UOCAVA voters to determine whether their marked absentee ballots were received by the appropriate election official.

Federal law requires county elections officials to maintain a similar system for people who cast provisional ballots and California Elections Code section 3017(c) requires county elections officials to provide such a system to any Californian who casts a vote-by-mail ballot. County elections officials may need to determine if their existing system(s) are used for ballots received by UOCAVA voters or whether their existing system could be modified to provide this same service to UOCAVA voters.

- Work with the Department of Defense and the Election Assistance Commission (EAC) to develop standards for reporting on the number of ballots transmitted and received and other data as the Department determines appropriate.

The SOS will continue to work with the EAC and the FVAP regarding reporting requirements.

- Accept the special absentee ballot application as a ballot request at least for all federal elections in the calendar year in which it was submitted.

California Elections Code section 3100 exceeds the MOVE Act requirement by specifically requiring that anyone who registers as a UOCAVA voter shall remain registered for two years. Therefore, counties are still required to send special absentee ballots to all UOCAVA voters who are registered as permanent absentee voters as soon as possible on or after the 60th day prior to an election through two subsequent federal election cycles.

Three separate official communications with counties and additional follow-up confirms that all California counties are in compliance with all aspects of the MOVE Act as detailed above.

The MOVE Act became law when California was in the process of updating its State Plan. This analysis of the MOVE Act's impact on the administration of California elections demonstrates California's compliance with the Act's provisions, and also represents its implementation plan as required by the MOVE Act.

Because California currently complies with the provisions of the MOVE Act, there is no expected expenditure of HAVA Section 251 to meet these requirements.

Attachment A to 2010 State Plan update

Responses to Comments Received on the Help America Vote Act of 2002 (HAVA) 2010 State Plan update

From: Los Angeles County Registrar-Recorder/County Clerk Dean Logan

July 8, 2010

Honorable Debra Bowen
California Secretary of State
Attn: Chris Reynolds
1500 11th Street, Sixth Floor
Sacramento, CA 95814

RE: HAVA State Plan 2010 Update

Dear Secretary Bowen:

Thank you for the opportunity to review and provide written comments on the final draft of California's 2010 State Plan Update regarding compliance with the Help America Vote Act (HAVA) of 2002. I recognize a great deal of effort has gone into the drafting of the plan update and that its contents are influenced by changing dynamics in the state's economic conditions and electoral activity. I appreciate the efforts your staff has extended in preparing the update.

I have reviewed the final draft with elections staff in Los Angeles County and in my capacity as a member of the HAVA State Plan Advisory Committee and offer the following comments for your consideration prior to adoption of the update and submission to the United States Elections Assistance Commission (EAC).

General Comment

In general, I believe the report is presented in a manner more directed toward a report of past activity and less as a planning document or tool for current and future direction in terms of continued improvement of the election process and allocation of remaining – and future – federally appropriated funding. The update is effective and comprehensive in the former and limited in the latter. This distinction was the topic of considerable discussion at the meetings of the HAVA State Plan Advisory Committee. I would recommend, therefore, that the transcripts from those meetings be included as addendum to the State Plan Update to serve as a more complete record of the input and activity of advisory committee members.

RESPONSE

The HAVA 2010 State Plan update must be submitted to the U.S. Election Assistance Commission (EAC) for publication in the *Federal Register*. HAVA Section 254 (a)(13) requires the Secretary to describe the advisory committee process as a part of its State Plan, which is included in this State Plan update as Section 13. The transcripts from the meetings are hundreds of pages long, and including them will add unnecessary expense to the cost of publishing the State Plan update in the *Federal Register*. However, to ensure the is as transparent as possible, the Secretary of State will post the transcripts from the meetings on the

“HAVA State Plan 2010 Update” webpage at www.sos.ca.gov/elections/hava/state-plan/ so everyone will have easy access to them.

Cost Summary

While the update, in various sections throughout the draft, references costs incurred and, in some cases, projections of future costs, it is recommended that Section 6 or an addendum to the update provide a cost summary that more clearly reports on allocation of HAVA funding to date and delineates a plan for the allocation of remaining – and future – federally appropriated funding. In its current form, the update seems disproportionate in its specificity with regard to future HAVA expenditures with priority reference made to the funding needs of the VoteCal project, but minimal reference to the manner in which remaining funding may be allocated and/or approved for county-initiated compliance efforts. This is of considerable importance to Los Angeles County with regard to preserving funding previously allocated to the County for voting system replacement/modernization efforts. As a planning document, I would recommend language that clearly states the intent to preserve unspent funding allocations where counties have an identified and ongoing process in place to acquire or develop compliant voting systems.

RESPONSE

This comment includes two different requests for information.

The first request is for an accounting of HAVA funds previously allocated and spent. As the comment indicates, information on prior use of HAVA funds is provided throughout the document, giving the reader the programmatic context of the expenditures, in addition to the dollar values (see Sections 1, 2, 3, 6, 10 and 12). To help clarify how money has been spent, the Secretary of State will add a summary sheet showing receipt of funds, descriptions and amounts of expenditures and balances to the State Plan update. The spending summary requested by the comment will be provided in Section 12 of the State Plan because that section provides readers with information about how the State succeeded in carrying out the State Plan in previous years.

The second request appears to reference information already provided in Section 6. In that section, the budget clearly identifies, as required by HAVA, the dedication of the funding that is the subject of this State Plan update – Title II funding – which is used to meet Title III requirements. Title III requirements include purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights; and creation of a statewide voter registration system as described by HAVA Section 303. The budget in Section 6 reflects the continued commitment of the Secretary of State to the \$195 million allocated to counties through contracts for voting system upgrades and allowable poll worker training and voter education first initiated in December 2005. These funds, in fact, are the funds allocated to Los Angeles County, and other counties, for voting system replacement/modernization. This budget is the clear statement of intent to preserve that funding allocation that the comment requests. Furthermore, the Secretary of State is in the process of extending the contractual deadline for expenditure of those funds from December 31, 2010, to December 31, 2012, subject to legislative approval. As the comment notes, completion of the VoteCal project – the statewide voter registration database – required by HAVA Section 303 is the other Title III eligible expense identified in the budget. The VoteCal project is one of the four priority areas in Title III mentioned above that the funds being budgeted by this State Plan update must be spent on first. As such, VoteCal is the other major expenditure identified in this State Plan update budget.

Local Government Grant Program

In this same realm, members of the HAVA State Plan Advisory Committee offered recommendations for the establishment of a Local Government Grant Program as a means of funding local initiatives and programs linked to the goals and principles articulated in the Introduction Section of the update. The proposal was modeled after similar programs in place in Washington and Florida. Such a program would enhance the nature of the update as a planning tool and would provide both incentive and clarity to counties in continuing efforts to improve the elections process in compliance with the Act.

RESPONSE

The Secretary of State appreciates the benefits to be gained from providing additional resources for the types of activities identified by the advisory committee, including voter education programs, election official and poll worker training, maintaining voting equipment and modernizing polling places.

However, as the State Plan update draft language describing the grant program notes, such a program would be contingent upon EAC guidance as to when State Plan update budgeted funds may be used to improve the administration of elections.

Under HAVA, once the state certifies it complies with the HAVA Title III requirements noted above, these funds may be used to improve the administration of elections (see HAVA Sections 254(b)(2) and 251(b)(2)(A)). The Secretary of State has not yet certified to HAVA Title III compliance. Therefore, funds budgeted under this State Plan update must be used to meet Title III requirements. With the exception of voting system maintenance, the elements proposed under the advisory committee's Local Government Grant Program are not Title III requirements. Voting system maintenance is clearly an allowable expense and the Secretary of State has reimbursed counties for these expenses. In addition, the Secretary of State's office has allowed counties to expend funds for voter education and poll worker training activities in certain circumstances, as described in EAC guidance FAO 08-011 or whenever those costs fall under the minimum requirements payment program created by the Secretary of State pursuant to HAVA Section 251 (b)(2)(B).

Finally, the advisory committee's proposed Local Grant Program recommended that counties be allowed to use funds to improve polling place accessibility. There is an existing program for these purposes that uses HAVA Section 261 funds, funding not budgeted through another program outside the scope of this State Plan update. Under that polling place accessibility improvement program, the Secretary of State provided all counties with a proportionate share of \$3.345 million in HAVA Section 261 funds. In addition, the Secretary of State has awarded, through a competitive grant program, an additional \$2.6 million to 21 counties. A third round of competitive grants available to counties that had not previously been awarded grants will be awarded later this year. Lastly, in 2010 the Secretary of State updated the statewide guidelines used to assess the physical access to polling places and allocated \$176,000 in grants to counties, so county surveyors could be trained on the new guidelines, as well as conduct surveys and purchase mitigation supplies to improve accessibility.

Despite the limitations placed on the use of funding by HAVA, this State Plan update provides the necessary flexibility to respond to the kinds of needs described in the

advisory committee's proposed Local Government Grant Program in the future. As the budget in Section 6 explains, funds that do not need to be budgeted for Title III purposes at this time will be used in the future either to meet Title III requirements or to improve the administration of elections. As noted, the VoteCal statewide voter registration system, a Title III requirement, has not yet gone out to rebid and Title III compliance has not been certified at this time. Final costs for the VoteCal project, including maintenance and operation costs, are unknown at this time. However, at the appropriate time, this State Plan update, as drafted, will provide the Secretary of State with the flexibility to meet mandated costs and other appropriate needs.

For these reasons, the advisory committee's proposed Local Government Grant program will not be included in the State Plan update.

Voter Education and Pollworker Training Funding

Likewise, with regard to references made in the update to the EAC's guidance memorandum regarding allocation of HAVA funding for voter education and poll worker training, I urge you to take caution in how that reference is presented in the final update. As has been previously discussed, EAC guidance on such matters should remain open to interpretation and clarification. Memorializing agreement with or acquiescence to that guidance in the update may have a limiting effect that is counter to the best interests of the State and counties in the allocation of funding for activities many feel clearly fit within the structure and intent of the Act. As you know, counties were previously advised that there would be ongoing funding for HAVA related voter education and poll worker training programs and had planned operations as such and, in several cases, incurred significant costs based on approved spending plans submitted to your office.

RESPONSE

The Secretary of State's office agrees without question that voter education and poll worker training is a critical link in improving the administration of elections generally and in implementing a law as sweeping as HAVA.

However, the EAC guidance is clear and determinative. This guidance was issued in direct response to a request from the Secretary of State's office in an effort to minimize the risk that expenditures might be disallowed in an audit of the state's HAVA program and trigger a need for the state or counties to refund disallowed expenses to the federal government. The Secretary of State appealed the EAC staff decision to the EAC Commissioners at a March 20, 2008, public hearing, and made a request for an advisory opinion on July 10, 2008. Unfortunately, the staff decision was upheld by the Commission and as a result, funding for voter education and poll worker training is allowable under only fairly narrow circumstances – when a new voting system is deployed, or when counties use a paper-based, centrally tabulated voting system and use a voter education program to prevent overvoting as provided for in Section 301 (a)(1)(B).

Your point that the EAC has the option of reversing its guidance in the future is important. As such, language will be added to the State Plan update to emphasize that the EAC decision was made at a point in time and could be altered or reversed in the future.

Election Training Fund

Page 43 of the Plan states that, “California’s initial State Plan and 2004 update contemplated the creation of Election Academy to train prospective election officials. A significant amount of the funding (\$25 million) was earmarked for this purpose, but there is no indication that any curriculum or program design work was initiated.” The Plan then goes on to cite election official education efforts that are ongoing including the California Association of Clerks and Election Officials (CACEO) CalPEAC election officials training classes which address HAVA implementation and have taken place during the life of prior versions of the State Plan.

Recognizing the value of the efforts outside of the Election Academy idea that are listed on page 43, the implementation of the Election Academy – or something similar and funded at the same level – would contribute significantly to the election profession in California. As the Plan currently reads, it is not necessarily clear that there is or is not a commitment to follow through with the Election Academy idea. As a planning tool, I recommend the document recommit to this purpose.

RESPONSE

This issue is also subject to the limitations placed on the use of the Title II funds budgeted in the State Plan update. As indicated previously, these funds must be used exclusively for the purpose of meeting Title III requirements. Those Title III requirements, as noted earlier, are purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights under HAVA Section 302; and creation of a statewide voter registration system as described by HAVA Section 303.

An Election Academy as described in California’s initial 2003 HAVA State Plan is not a Title III requirement and is therefore not an allowable expense. The Secretary of State has, in the absence of creating an Election Academy taken other allowable steps to inform and educate elections officials about HAVA. Those steps include maintaining continual contact to serve as a liaison with federal agencies and clarify HAVA administrative and policy matters; issuing memos on an as needed basis for those same purposes; developing a HAVA compliance manual in collaboration with counties; and providing Title I funding, which can be used for this purpose, to help fund the most recent California Association of Clerks and Election Officials (CACEO) California Professional Election Administration Credential (CalPEAC) program, the election officials’ training and certification classes, which include HAVA curriculum.

VoteCal

Page 4 of the Plan documents the steps that have been taken in the development of VoteCal, and concludes by stating, “The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to build and deploy the VoteCal system.” Though the events leading to the VoteCal vendor contract termination happened recently, it would be helpful to include a projected timeline for completion of the various stages of VoteCal’s development. Additionally, it would be helpful to identify the funding mechanism for the continuation of this project. If Title III

funding is to be used, it would be helpful to state why and how this money will be used here and in other sections that describe the VoteCal project.

RESPONSE

The projected timeline for the VoteCal is an estimate that became available on July 19, 2010 – 10 days after the close of the public comment period for the State Plan update. The estimate for full deployment to all counties of the VoteCal system – June 2014 – is included in a Special Project Report (SPR) that is still awaiting approval from state oversight agencies. That approval must be granted before the Secretary of State can begin preparing for release of a Request for Proposal (RFP) to seek bids for the project. However, that projected timeline in the SPR is speculative – the schedule for full deployment of the VoteCal system to all counties will be finalized in collaboration with the vendor that is selected for the project. The expected timeline for award of a contract to a vendor, which is also subject to change, anticipates awarding the contract to a system integration vendor in September 2011. This new information will be added to the State Plan update.

As to the question about the funding for the project, again, the VoteCal project is a Title III requirement (see HAVA Section 303) and is required to be included in the State Plan update budget. That is why the budget in Section 6 of this State Plan update clearly includes the use of these funds for this purpose. Again, the budget in Section 6 identifies the \$195 million that has been allocated to counties for voting system purchases to meet the requirements of Section 301, and includes the best available estimate at this time of \$65.6 million to establish and deploy the VoteCal voter registration system because these are the Title III requirements for which HAVA Title II money, the money budgeted under this State Plan update, are intended as a first priority.

Repeated Elements

Respecting the need for the update to be comprehensive in its treatment of each of the 13 sections, many elements are repeated several times, contributing to the length of the document. As a result, from a transparency and public information perspective, the repetition may make the update more complicated than necessary for readers. There may be an opportunity to make the document more approachable by using references to elements instead of repeating them verbatim. For example, there is language regarding the Statewide Voter Registration Database and the Top-to-Bottom Review that is repeated in multiple sections. The suggestion is that those elements – when they are subsequently duplications of the same information – be noted by reference rather than repeated.

RESPONSE

HAVA is a complex measure and the steps taken to implement HAVA's requirements are even more complex. It was considered helpful for purposes of clarity, therefore, to provide a full explanation of the steps taken for HAVA implementation in each section of the plan where it was appropriate. This approach makes it possible to read each section of the plan independently without losing content and context.

Revising the State Plan update as proposed could have the unintended effect of making the document less clear and more ambiguous, and risks leaving out information the public may consider useful and helpful.

(END OF COMMENTS)

Again, I thank you for the opportunity to review the final draft and present comments. I appreciate the extensive efforts of your staff and their responsiveness to inquiries made throughout the process on behalf of Los Angeles County and the HAVA State Plan Advisory Committee.

Please feel free to contact me if you would like to discuss any of these recommendations in greater detail.

Sincerely,
DEAN C. LOGAN
Registrar-Recorder/County Clerk

From: *California Association of Clerks and Elections Officials (Vice President Gail Pellerin)*

July 9, 2010

Honorable Debra Bowen
Attention: Chris Reynolds
Secretary of State
State of California
1500 11th Street, 6th Floor
Sacramento, CA 95814

Re: California Association of Clerks and Election Officials comments on HAVA State Plan

Dear Secretary Bowen,

The California Association of Clerks and Election Officials (CACEO) greatly appreciates the effort that has gone into producing the Help America Vote Act State Plan Update (the Plan). As part of the public comment process, we would like to highlight some areas of interest that emerged upon review of the document.

Voter Education and Pollworker Training Funding

Many counties have found the recent developments regarding a referenced Election Assistance Commission (EAC) opinion extremely problematic. (See for example the reference to EAC "guidance", page 36 bottom paragraph.) We would hope that the

State Plan would not be positioned to accept this opinion as final and/or non-controversial since it – in mid stream and without notice – changed the general character of California counties long and short term commitments to voter education and pollworker training.

That is, from the initiation of state 301 contracts and up to the time that this EAC opinion was made known to counties, there can be no doubt that counties were under the specific impression that there would be ongoing funding for HAVA related Voter Education and Pollworker training programs and had planned operations as such and, indeed in some cases, incurred significant costs based on this impression.

We would suggest that the Plan reflect this state of affairs.

RESPONSE

The Secretary of State's office agrees without question that voter education and poll worker training is a critical link in improving the administration of elections generally and in implementing a law as sweeping as HAVA.

However, the EAC guidance is clear and determinative. This guidance was issued in direct response to a request from the Secretary of State's office in an effort to minimize the risk that expenditures might be disallowed in an audit of the state's HAVA program and trigger a need for the state or counties to refund disallowed expenses to the federal government. The Secretary of State appealed the EAC staff decision to the EAC Commissioners at a March 20, 2008, public hearing, and made a request for an advisory opinion on July 10, 2008. Unfortunately, the staff decision was upheld by the Commission and as a result funding for voter education and poll worker training is allowable under only fairly narrow circumstances – when a new voting system is deployed, or when counties use a paper-based, centrally tabulated voting system and use a voter education program to prevent overvoting as provided for in HAVA Section 301 (a)(1)(B).

Your point that the EAC has the option of reversing its guidance in the future is important. As such, language will be added to the State Plan update to emphasize that the EAC decision was made at a point in time and could be altered or reversed in the future.

Election Training Fund

Page 43 and 73 of the Plan state that, "California's initial State Plan and 2004 update contemplated the creation of Election Academy to train prospective election officials. A significant amount of the funding - \$25 million was earmarked for this purpose, but there is no indication that any curriculum or program design work was initiated." The Plan then goes on to cite election official education efforts that are ongoing including the CACEO California Professional Elections Administration Credential (CalPEAC) election officials training classes which address HAVA implementation that have taken place during the course of the prior Plans.

Although we recognize the value of the efforts outside of the Election Academy idea that are listed on pages 43 and 73, we feel that the implementation of the Election Academy – or something very similar and funded at the same level – would contribute significantly to the election profession in California.

As the Plan currently reads, it is not necessarily clear that there is or is not a commitment to follow through with the Election Academy idea. We would suggest that the Plan address this concern clearly.

We would also specifically suggest that the first sentence of the last bullet on page 73 read "Finally, the initial State Plan allocated \$25 million for an Election Academy, which was incorporated into the 2004 State Plan updated, was not implemented" to include the exact dollar figure that was originally allocated.

RESPONSE

This issue is also subject to the limitation placed on the use of the Title II funds budgeted in the State Plan update. As indicated previously, these funds must be used exclusively for the purpose of meeting Title III requirements. Those Title III requirements, as noted earlier, are purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights under HAVA Section 302; and creation of a statewide voter registration system as described by HAVA Section 303.

An Election Academy as described in California's initial 2003 HAVA State Plan is not a Title III requirement and is therefore not an allowable expense. The Secretary of State has, in the absence of creating an Election Academy taken other allowable steps to inform and educate elections officials about HAVA. Those steps include maintaining continual contact to serve as a liaison with federal agencies and clarify HAVA administrative and policy matters; issuing memos on an as needed basis for those same purposes; developing a HAVA compliance manual in collaboration with counties; and providing Title I funding, which can be used for this purpose, to help fund the most recent California Association of Clerks and Election Officials (CACEO) California Professional Election Administration Credential (CalPEAC) program, the election officials' training and certification classes, which include HAVA curriculum.

Regarding the request for the exact dollar figure that was originally allocated, the sentence quoted verbatim from the State Plan update includes the exact dollar figure that was originally allocated – \$25 million.

VoteCal

Page 4 of the Plan documents the steps that have been taken in the development of VoteCal, and concludes by stating, "The Secretary of State will be moving quickly to assess lessons learned on the VoteCal project so far and determine the appropriate next steps, including renewing efforts to contract with a private vendor to build and deploy the VoteCal system." Though the events leading to the VoteCal vendor contract termination happened recently, it would be helpful to include a projected timeline for completion of the various stages of VoteCal's development. Additionally, it would be

helpful to identify the funding mechanism for the continuation of this project. If Title III funding is to be used, it would be helpful to state why and how this money will be used here and in other sections that describe the VoteCal project.

RESPONSE

The projected timeline for the VoteCal is an estimate that became available on July 19, 2010 – 10 days after the close of the public comment period for the State Plan update. The estimate for full deployment to all counties of the VoteCal system – June 2014 – is included in a Special Project Report (SPR) that is still awaiting approval from state oversight agencies. That approval must be granted before the Secretary of State can begin preparing for release of a Request for Proposal (RFP) to seek bids for the project. However, that projected timeline in the SPR is speculative – the schedule for full deployment of the VoteCal system to all counties will be finalized in collaboration with the vendor that is selected for the project. The expected timeline for award of a contract to a vendor, which is also subject to change, anticipates awarding the contract to a system integration vendor in September 2011. This new information will be added to the State Plan update.

As to the question about the funding for the project, again, the VoteCal project is a Title III requirement (see HAVA Section 303) and is required to be included in the State Plan update budget. That is why the budget in Section 6 of this State Plan update clearly includes the use of these funds for this purpose. Again, the budget in Section 6 identifies the \$195 million that has been allocated to counties for voting system purchases to meet the requirements of Section 301, and includes the best available estimate at this time of \$65.6 million to establish and deploy the VoteCal voter registration system because these are the Title III requirements for which HAVA Title II money, the money budgeted under this State Plan update, are intended as a first priority.

Cost Summary

Although costs incurred and projected to be incurred appear throughout the document, it would be extremely beneficial for the Plan to include a summary chart or line item list in the Overview or in an appendix of total costs incurred to date and fund balance and – if possible – line item projections of costs to be incurred. Although we understand that this may be difficult given that the document points out that HAVA implementation issues are still in flux, it still seems that it would be of much value to include such a summary document.

RESPONSE

This comment includes two different requests for information.

The first request is for an accounting of HAVA funds previously allocated and spent. As the comment indicates, information on prior use of HAVA funds is provided throughout the document, giving the reader the programmatic context of the expenditures, in addition to the dollar values (see Sections 1, 2, 3, 6, 10 and 12). To help clarify how money has been spent, the Secretary of State will add a summary sheet showing receipt of funds, descriptions and amounts of expenditures and balances to the State

Plan update. The spending summary requested by the comment will be provided in Section 12 of the State Plan because that section provides readers with information about how the State succeeded in carrying out the State Plan in previous years.

The second request appears to reference information already provided in Section 6. In that section, the budget clearly identifies, as required by HAVA, the dedication of the funding that is the subject of this State Plan update – Title II funding – which is used to meet Title III requirements. Title III requirements include purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights; and creation of a statewide voter registration system as described by HAVA Section 303. The budget in Section 6 reflects the continued commitment of the Secretary of State to the \$195 million allocated to counties through contracts for voting system upgrades and allowable poll worker training and voter education first initiated in December 2005. These funds, in fact, are the funds allocated to counties, for voting system replacement/modernization. This budget is the clear statement of intent to preserve that funding allocation that the comment requests. Furthermore, the Secretary of State is in the process now of extending the contractual deadline for expenditure of those funds from December 31, 2010, to December 31, 2012, subject to legislative approval. As the comment notes, completion of the VoteCal project – the statewide voter registration database – required by HAVA Section 303 is the other Title III eligible expense identified in the budget. The VoteCal project is one of the four priority areas in Title III mentioned above that the funds being budgeted by this State Plan update must be spent on first. As such, VoteCal is the other major expenditure identified in this State Plan update budget.

Repeated Elements

We greatly respect the need for the Plan to be comprehensive and its treatment of each of the 13 sections – without doubt – was aimed at being as thorough as possible. However, in being comprehensive, many elements are repeated several times – verbatim or nearly so - which contributes to the documents length. That length may make the Plan difficult to approach or understand.

We would suggest that there may be an opportunity to make the document more approachable by using references to elements instead of repeating them verbatim or nearly so. For example, there is language regarding the Statewide database and the Top-to-Bottom-Review that is repeated exactly or almost exactly in some areas of the document. Our suggestion would be that those elements – when they are subsequently repeated – be repeated by reference rather than at length.

RESPONSE

HAVA is a complex measure and the implementation measures taken to respond to HAVA requirements are even more complex. It was considered helpful for purposes of clarity, therefore, to provide a full explanation of the steps taken for HAVA implementation in each section of the plan where it was appropriate. This approach makes it possible to read each section of the plan independently without losing content and context.

Revising the State Plan update as proposed could have the unintended effect of making the document less clear and more ambiguous, and risks leaving out information the public may consider useful and helpful.

Approval Orders

Page 46, second paragraph, the Plan states that on August 3, 2007, “withdrawal of approval and approval orders based upon the findings of the top-to-bottom review for voting systems by three vendors” were released. We feel that it would be more accurate to state that the final approval orders were issued at the end of October 2007.

RESPONSE

The Secretary of State issued the final withdrawal and approval orders on August 3, 2007. However, as the comment indicates, those final withdrawal and approval orders were subsequently amended in October 2007. The State Plan update will be amended on Page 46 to reflect this fact.

Plan Deviation

Page 71 describes “factors that contributed to deviations in steps outlined in earlier State Plans ...” We would suggest that point number 4 (“Delay in receiving HAVA funding and HAVA guidance”) should contain more information regarding specific details regarding ongoing interpretations that effectively made budget planning throughout the state a kind of moving target. (See, for example, the EAC interpretation that is referenced in ***Voter Education and Pollworker Training Funding*** above.)

RESPONSE

This comment is correct and the State Plan update will be amended on Page 71.

Modified Primary vs. Proposition 14

Page 10 of the Plan describes various unique circumstances that add to the complexity of California’s election, including the third bullet point which describes primary election participation rules. This section will need to be updated to reflect the new Proposition 14 primary election system and the handling of decline to state voters, if this section is to remain at all.

RESPONSE

The passage of Proposition 14 at the June 8, 2010, Statewide Primary Election preceded the release of the State Plan update on June 10 by two days. The State plan update will be amended to note the passage of Proposition 14.

(END OF COMMENTS)

Thank you again for accepting our commentary regarding the State Plan.

If you have questions, please contact CACEO Vice-President Gail Pellerin at 831-454-2419.

Sincerely,

Rebecca Martinez
CACEO President



Gail L. Pellerin
CACEO Vice-President

From: *Sacramento County Registrar of Voters Jill LaVine (email message)*

"Thank you for this opportunity to comment. I have read the comments made by the CACEO and I agree with all of them. In addition I had a few suggestions.

RESPONSE

Regarding agreement with comments made by CACEO, see above responses.

Page 38 - Election Code 12309 is cited for the reason Inspectors are to be trained. You also need to include EC 19340 for the reason the first time poll workers need to be trained.

RESPONSE

The suggested clarification will provide readers with a better understanding of poll worker training requirements under California law and the State Plan update will be amended to include this clarification.

Page 63 - the document lists the benchmarks used to meet the HAVA requirements. After most of the bullet items, a link is listed for more details. Where is the link for the parallel monitoring reports? Is it no longer available? Can it be accessed by a paper copy?

RESPONSE

The State Plan update will be amended to include a link to these reports.

I have the same question for the bullet item on Monitoring and documenting Election Day concerns. No report or link is available.

RESPONSE

The State Plan update will be amended to include a link to the Election Day Observation and Poll Monitoring program reports.

Page 71 - after the bulleted list, this sentence is difficult to read/understand - "Actual experience with administering this critical federal program has also informed the SOS's efforts to implement the State Plan."

RESPONSE

The State Plan update will be amended to re-write the sentence to read: "The original State Plan was enacted in 2003 and updated in 2004. Both the original Plan and the subsequent update were done prior to the state embarking on any HAVA implementation efforts. Now, six years after the adoption of the last State Plan update, the Secretary of State has learned a great deal in terms of efforts to implement HAVA. This State Plan update is a reflection in part of what the Secretary of State has learned since the office first began to implement HAVA in 2005."

Page 81 - on June 7, 2010, it states that the SOS has mailed notice to 50 statewide organizations for comments. Could a list of these organizations be made available on request or referenced in this document?

RESPONSE

Adding this information to the State Plan update would increase the size and the cost of reproducing the State Plan update, as required, in the *Federal Register*. However, to make the process as transparent as possible, the Secretary of State will post this information, as well as other supporting documentation about the process of developing the Draft State Plan update, on the "HAVA State Plan 2010 Update" webpage at www.sos.ca.gov/elections/hava/state-plan/.

(END OF COMMENTS)

Jill

Jill LaVine, Registrar of Voters, County of Sacramento, 7000 65th Street, Suite A,
Sacramento, CA 95823, 916-875-6558, Fax 916-876-5130

From: Disability Rights California

July 9, 2010

Secretary of State
Attn: Chris Reynolds
1500 11th St., 6th Floor
Sacramento, CA 95814

Via Email to: havapubliccomments@sos.ca.gov

RE: HAVA State Plan Comments

Dear Secretary of State Bowen:

Disability Rights California is an independent, non-profit, statewide organization mandated by the federal government to provide legal services to individuals with disabilities in California regarding their disability, civil and service rights. Disability Rights California is authorized under various federal statutes to ensure the protection and advocacy of all individuals with disabilities in the state and is the protection and advocacy system in California. Under the Help America Vote Act of 2002 (HAVA), Disability Rights California is charged with ensuring "the full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places." 42 U.S.C. §15461.

Thank you for the opportunity to provide comments on the HAVA State Plan. Overall, Disability Rights California is pleased with the Plan, as it addresses many issues that people with disabilities have with voting systems in California. However, there are some areas of concern we wish to call your attention to.

Overview and Introduction

No comments.

Section One

No comments.

Section Two

According to the current HAVA plan description under Section Two [§254(a)(2)], the Secretary of State executes contracts with counties to engage in and be reimbursed for HAVA activities. Counties are only reimbursed for those activities which are authorized by HAVA, and thus can be effectively monitored for compliance with HAVA.

Unfortunately, even if a county's spending is in compliance with HAVA, the county might be prevented from the use of their purchases. In particular, we are concerned that counties will be prevented from using more than one accessible machine per polling

place, even where such purchases were authorized by HAVA. For example, we understand that Santa Cruz County was able to purchase several Section 301 (a)(3)(a) compliant voting machines, but when the Secretary of State decide, as part of the "Top-to-Bottom Review" process that only one of these systems can be in each polling place, they had to use their allotted funds to pay for storing the machines instead.

We believe voters with disabilities would be best served by increased availability of (and decreased stigmatization of) voting machines that are accessible to individuals with disabilities, i.e., voting machines which would meet the requirements of HAVA §301(a)(3).

We believe this can be best achieved if there is the option at the county level to obtain increased numbers of accessible voting machines, so that the local decision makers can arrange for increased accessible voting machines proportional to local need.

We therefore recommend that the Secretary of State encourage counties to evaluate whether additional accessible voting machines could be used in a particular polling place. If additional machines are needed, the Secretary of State should provide the county support in acquiring additional HAVA compliant machines with available HAVA or Maintenance of Effort (MOE) funding.

RESPONSE

The withdrawals of approval and re-approvals issued for two of the voting systems subjected to the top-to-bottom review, Sequoia and Diebold/Premier, specified that one direct recording electronic (DRE) voting unit shall be deployed per precinct. The re-approvals do allow counties to have a second DRE voting unit per precinct so a back-up unit is available in the event a DRE voting unit is taken out of service for any reason. The reapproval condition allowing one DRE voting per voting precinct does not apply to one of the voting systems subjected to the top-to-bottom review – the Hart Intercivic voting system. There is also no restriction on the number of ES&S Automark ballot-marking devices that can be deployed per voting precinct.

These conditions of voting system use are in place because the Secretary of State's top-to-bottom review detailed a number of security vulnerabilities in all of the voting systems tested. Based on these findings, the Secretary of State has limited the use of certain DRE voting machines. It was also determined that some of the problems discovered in the review can be mitigated if appropriate security and auditing procedures are in place. Therefore, the Secretary of State placed new conditions that will enhance the security of these voting systems. For these reasons, this condition of use for these voting systems will remain in place.

Section Two also addresses Secretary of State Bowen's 2010 expansion of the 2006 poll worker training guidelines. We strongly support the portion of these guidelines that covers the following topics:

- How to operate the DRE, or other voting machines accessible to individuals with disabilities. At such time as poll workers are trained on how to set up the

accessible voting machines, they should also be trained on how to cast a vote using the machine so they can instruct the voter.

- Disability sensitivity.
- Information on the legal rights of people with disabilities to vote. For example, people with disabilities have the right to vote unless a judge has ruled the person incapable of casting a vote.
- Ensuring that the entire polling place is accessible to persons with disabilities, including monitoring the location to check that the building remains accessible, and making sure that any signs directing voters to the accessible entrance are accurate.

However, in the course of observing poll worker trainings in four counties in California, we have noticed that not all of these issues are covered in every poll worker training, with some issues not covered in my of the trainings we observed.

Therefore, we would like; to see increased oversight by the Secretary of State to ensure that the guidelines are actually applied in practice.

RESPONSE

Although accessibility is one of the dominant themes in HAVA, the specific Title III requirement for accessibility is found in voting system standards in Section 301. And as indicated in responses to other comments on the State Plan update, poll worker training is not a requirement of Title III. Again, EAC guidance (FAO 08-011) limits the ability to use HAVA funds for these purposes. However, the Secretary of State has taken a number of steps, especially recently, on her own and under the grant program found in HAVA Section 261. As the comment indicates, the Secretary of State recently took the initiative to expand the standards for poll worker training. The guidelines used to assess the accessibility of polling places, which were last issued in 2001, were updated this year also. An earlier \$3.345 million grant program allocated funds to all counties to improve physical access to polling places, and \$2.6 million in competitive grants have been awarded to 21 counties in the last two years. In the past six months, the Secretary of State allocated \$176,000 in grants to counties, so county surveyors could be trained on the new guidelines, as well as conduct surveys and purchase mitigation supplies to improve accessibility. A DVD of the training classes conducted by the California Department of Rehabilitation is being produced that will be provided to all counties in the coming months.

These steps were accomplished with the resources available to the Secretary of State and it is hoped county elections officials, which have statutory authority and responsibility for training poll workers have benefited from these efforts.

Section Three

Leading up to the November 2004 General Election, the Secretary of State earmarked \$9.9 million in HAVA Section 101 funding to counties for poll worker training and voter education grants.

California's initial State Plan and 2084 update contemplated the creation of an Election Academy to train prospective election officials. A significant amount of funding- \$25 million-was earmarked for this purpose, but there is no indication that an actual curriculum or program design was initiated.

As stated above, Disability Rights California staff observed poll worker training in four counties. In spite of the existence of the poll worker training guidance on the Secretary of State web site, the trainings were strikingly dissimilar, especially as they related to voters with disabilities. We encourage you to consider developing an "Election Academy". Were there an academy - there could be uniformity in instructors who travel from county to county giving uniform, comprehensive instruction to poll workers.

RESPONSE

As indicated in responses to other comments on the State Plan update, this issue is subject to the limitation placed on the use of the Title II funds budgeted in the State Plan update. As indicated previously (see response to Los Angeles County and CACEO comments), at this time these funds are to be used exclusively for the purpose of meeting Title III requirements. Those Title III requirements, as noted earlier, are purchasing voting systems that meet HAVA Section 301 standards; providing voter information at polling places and providing provisional voting rights under HAVA Section 302; and creation of a statewide voter registration system as described by HAVA Section 303. An Election Academy as described in California's initial 2003 HAVA State Plan is not a Title III requirement and is therefore not an allowable expense. The Secretary of State has, in the absence of the creation of an Election Academy taken other allowable steps to inform and educate elections officials about HAVA. Those steps include maintaining continual contact to serve as a liaison with federal agencies and clarify HAVA administrative and policy matters; issuing memos on an as needed basis for those same purposes; developing a HAVA compliance manual in collaboration with counties; and providing Title I funding, which can be used for this purpose, to help fund the most recent California Association of Clerks and Election Officials (CACEO) CalPEAC election officials training and certification classes.

Section Four

We continue to disagree with the Secretary of State's requirement that counties have one and only one direct recording electronic voting system (DRE) per precinct that is accessible to people with disabilities. This unnecessarily limits equal access to voting for people with disabilities and is contrary to Section 301(e)(3)(81) of the Help America Vote Act.

At the conclusion of the "Top to Bottom Review," it was decided that counties can only have one DRE machine at each polling place. See Press Release from the Office of the

Secretary of State dated August 3, 2007, available at <https://www.sos.ca.gov/voting-systems/oversight/ttbr/db07-042-ttbr-system-decisions-release.pdf>. This is contrary to federal law, which requires at least one DRE or other accessible voting system per polling place.

We acknowledge that ballots cast on a DRE may raise some security concerns for some voters. However, limiting the number of accessible voting systems to only one prohibits counties from making individualized decisions about the number of accessible voting systems that will meet the needs of voters with disabilities in their region. County election officials are in the best position to determine the number of accessible voting machines to place at a polling location. For example, at a poll monitor training that Disability Rights California staff attended, a poll monitor asked if they could request additional accessible voting machines since there are a lot of voters with disabilities in the precinct and there is usually a line for the DRE. Unfortunately, the answer was no, because only one accessible machine is allowed per polling place.

Only allowing one accessible machine per polling place perpetuates the stigmatization and segregation of people with disabilities. In many counties, voters use an accessible machine can be presumed to be voters with disabilities since nondisabled voters are often discouraged from using DREs. Disability Rights California staff observed poll worker training in four counties. In two of those counties, poll workers were told to only encourage voters with obvious mobility or vision disabilities to use DREs. This perpetuates stigma and discrimination of people with disabilities, and may raise privacy concerns if only one or two people use the DRE.¹

Disability Rights California encourages the restoration of the HAVA requirement that *at least one* accessible voting system be available in each polling place rather than restricting the policy to only one per polling place.

RESPONSE

The assertion that the Secretary of State's decision to limit the use of certain DRE machines to one per precinct is not consistent with federal law is inaccurate. Federal law requires at least one accessibly voting unit to be available in each polling place and the Secretary's voting system approval documents comply with that requirement entirely.

Section Five, Six, Seven

No comments.

Section Eight

We continue to strongly recommend that the Secretary of State survey all voters who use the accessible voting system polling places to identify problems and issues with accessible voting systems after each state election.

¹ We appreciate the Secretary of State's repeal of the rule requiring five people using a DRE voting machine before the votes could be counted.

One of the main points of Section 301 is to provide accessible voting systems for people with disabilities so they can vote in a private and independent manner. It is important that voters have an opportunity to tell the election officials and the Secretary of State whether or not this goal has been met. We do not believe simply identifying "incident reports" will capture the information needed to evaluate the accessibility of California's voting systems.

Additionally, we noted an error on page 63 for the link to the Election Day Observation reports. When we clicked on the link www.sos.ca.gov/elections/voting_systems/historic/historic_pm.htm, we reached a page stating "The page you are looking for cannot be found." However, we located the document at the following address: <http://www.sos.ca.gov/voting-systems/oversight/eday-reports.htm>.

RESPONSE

Surveying voters, particularly voters with disabilities, to gain insight into their experiences with the electoral process has been discussed by the Voting Accessibility Advisory Committee established by the Secretary of State. The Secretary of State looks forward to reviewing any survey data gathered by Disability Rights California and any other organization regarding the Election Day experiences of voters.

The appropriate link will be provided for the Election Day Observation reports in the final State Plan update.

Section Nine

Information about the State's HAVA complaint process remains difficult to find on the Secretary of State's website. This is due to the fact that the same complaint form is used by the State for general complaints as well as those directed towards fraud allegations and HAVA compliance problems.

We recommend that the HAVA complaint process and form be accessible from the home page and identified clearly with a banner and link.

We also recommend that the complaint form be revised in a manner which helps the complainant identify the HAVA violation at issue. For example, the addition of boxes which the voter could check to indicate the topic(s) of their complaint such as "I was not able to cast my ballot in private" or "I was not allowed an opportunity to verify my selections before casting my ballot."²

² See, Mississippi's HAVA Complaint form at:

<http://www.sos.ms.gov/links/elections/home/tab1/HAVAComplaintForm.pdf>

See also, Colorado's HAVA complaint form at:

http://www.elections.colorado.gov/content/Documents/Clerks%20Corner/SOS%20Approved%20Forms/2008_forms/HAVA_complaint_form_05.15.08.pdf.

Lastly, we recommend providing information on the website about how a voter who encounter accessibility barriers in completing the complaint form may request a reasonable accommodation from the Secretary of State's office.

RESPONSE

A direct link to the complaint form referenced in the comment is provided on the Secretary of State's Elections Division main page under the heading "Voter Information." This is the same location as complaint forms from other states recommended to the Secretary of State in the footnote, and seems an appropriate location.

A separate complaint form is now provided for HAVA complaints, in part because federal requirements for HAVA complaints differ from state requirements (HAVA complaints must be notarized, for instance).

The form currently includes "For more information or assistance" and lists the Secretary of State's voter information hotline contact number. However, specifying that assistance "filling out the form" will be provided may be a useful clarification and will be added to the form.

Section Ten

We suggest adding more detail to this section. Although it gives a general sense of where the money allocated for the purposes noted was spent, it includes little specifics concerning the programs. It would be helpful to know specifically what the nature of the funded programs were, who the partners were, how often the activities were conducted and how many voters or poll workers were trained. The lack of data makes it difficult to determine the effectiveness of the funded programs.

RESPONSE

This comment is similar to those provided by Los Angeles County and the CACEO. As indicated in responses to those comments, to help clarify how money has been spent, the Secretary of State will add a summary sheet showing receipt of funds, descriptions and amounts of expenditures and balances to the State Plan update. The summary will be provided in Section 10 of the State Plan because that section provides readers with information about Title I expenditures for the purposes of meeting HAVA Title III requirements, the spending the comment seeks to summarize.

Section Eleven

The state has made meaningful steps to increase communication about the implementation of HAVA. We hope the Secretary of State's office will continue to do all it can to meet with stakeholders and get input from the public.

RESPONSE

The Secretary of State will continue those meaningful steps to communicate with interested parties, including taking proactive steps such as meeting with members of the Voting Accessibility Advisory Committee established by the Secretary of State and

maintaining continual communication with elections officials through participation in CACEO monthly meetings and in monthly calls with all counties initiated by the Secretary of State.

(END OF COMMENTS)

In closing, thank you again for the opportunity to provide input and feel free to contact us if you have any questions about our comments. Further if you would like us to give you specific language in "addition and strikeout" style, please let us know.

Very truly yours,

Margaret Johnson
Advocacy Director

Hillary Sklar
Staff Attorney

Fred Nisen
Staff Attorney

From: *California Common Cause*

July 9, 2010

Honorable Debra Bowen
California Secretary of State
Attn: Chris Reynolds
1500 11th Street, Sixth Floor
Sacramento, CA 95814

RE: HAVA State Plan 2010 Update

Dear Secretary Bowen:

On behalf of California Common Cause, I write to thank you for convening the Help America Vote Act State Plan Advisory Committee (HAVA Advisory Committee) to participate in a process of providing insight and input to California's 2010 State Plan Update. In particular, we acknowledge the tremendous amount of time and effort that Chris Reynolds and numerous other Secretary of State staff have put into meeting with the HAVA Advisory Committee and writing the various iterations of a draft State Plan. I believe there was a significant amount of concurrence between the various members of the HAVA Advisory Committee, which included county voter registrars, voting rights organizations, good government groups, and academics.

Based on the overall discussion of the HAVA Advisory Committee, the consensus of the group was to create a State Plan Update that would both provide both a historical review of California's experience with election issues and efforts to meet the requirements of the Help America Vote Act, as well as serve as a road map for how the state would meet its continuing HAVA obligations as well as to set a standard for effective, responsive and accessible voting in the future. The SOS staff have effectively written a document that provides a good historical review.

Introduction

The language in the Introductory Section is much improved and reflects many of the comments provided by the HAVA Advisory Committee. In a joint letter from several Committee members sent in February 2009, we recommended a list of goals which we observe have been largely included in the Introduction. One omission was any reference to goals surrounding the implementation of a statewide voter registration database. Our recommended sentence was: "California will ensure that the statewide voter registration database is designed and maintained in a manner that is integrated with its voter registration efforts." We do suggest that some language be included in this statement of goals that references the creation of a functional statewide database.

RESPONSE

The specific language provided to the Secretary of State seems somewhat ambiguous with respect to intent, since the main purpose of a statewide voter registration database is to ensure people who want to register to vote have their registration information accurately captured. The Secretary of State will add the following language to the Introduction section: "The Secretary of State will ensure the statewide voter registration system required by HAVA is designed and operated in a manner that is consistent with HAVA Section 303 requirements to ensure that every legally registered voter is included in the VoteCal system and that no eligible voters be removed from the list."

Section 6

However, we believe that the State Plan Update should reflect the input of the HAVA Advisory Committee to include a more clear description of plans for the future. Both in meeting discussions as well as in a letter sent in February 2010, the HAVA Advisory Committee members made specific recommendations of future plans and performance measures that should be included. At least two sections where future plans can be delineated in greater detail are Sections 6 and 8.

The HAVA Advisory Committee generally agreed that plans should be laid out in Section 6 for how HAVA funds should be spent, in the event that all HAVA requirements had been met, including the implementation of the Statewide Voter Registration Database. The HAVA Advisory Committee proposed in a February letter that the Secretary of State set up Local Government Grant Program similar to other states to review proposals from counties to disperse grants that would fulfill the overall mission of HAVA. We believe that the current draft does an excellent job of laying out the plans for expending funds to establish the database, as the final specific requirement of HAVA left for the state to fulfill. The State Plan should additionally lay out a framework for

deciding how any residual funds would be spent. This framework might not be implemented until after the database was implemented and operational. However, setting up the framework, whether it is the Local Government Grant Program, or another framework, in advance would lead to greater transparency about the process and allow counties to make longer term plans around voting systems and operations investments.

The Overview of the State Plan lays out the steps that have been taken in the development of VoteCal. We recommend that the language in Section 6, starting on Page 49 not simply be a restatement of the language in the Overview, but that it provide greater detail as to the challenges of implementing a statewide database in California, and also include a projected timeline for completion of the various stages of the Statewide Voter Registration Database's development.

RESPONSE

As discussed in responses to similar comments raised by Los Angeles County, the Secretary of State appreciates the benefits to be gained from providing additional resources for the types of activities identified by the advisory committee, including voter education programs, election official and poll worker training, maintaining voting equipment and modernizing polling places.

However, as the comment and State Plan update draft language describing the grant program notes, such a program would be contingent upon EAC guidance as to when State Plan update budgeted funds may be used to improve the administration of elections.

According to HAVA, once the state certifies it complies with the HAVA Title III requirements noted above, these funds may be used to improve the administration of elections (see HAVA Sections 254(b)(2) and 251(b)(2)(A)). The Secretary of State has not yet certified to HAVA Title III compliance. Therefore, funds budgeted under this State Plan update must be used to meet Title III requirements. With the exception of voting system maintenance, the elements proposed under the advisory committee's Local Government Grant Program are not Title III requirements. Voting system maintenance is clearly an allowable expense and the Secretary of State has reimbursed counties for these expenses. In addition, the Secretary of State's office has allowed counties to expend funds for voter education and poll worker training activities in certain circumstances, as described in EAC guidance FAO 08-011 and whenever those costs fall under the minimum requirements payment program created by the Secretary of State pursuant to HAVA Section 251 (b)(2)(B).

Finally, the advisory committee's proposed Local Grant Program recommended that counties be allowed to use funds to improve polling place accessibility. There is an existing program for these purposes that uses HAVA Section 261 funds, funding that is not reflected in this State Plan update. Under that polling place accessibility improvement program, the Secretary of State provided all counties with a proportionate share of \$3.345 million in HAVA Section 261 funds. In addition, the Secretary of State has awarded, through a competitive grant program, an additional \$2.6 million to 21 counties. A third round of competitive grants available to counties that had not previously been awarded grants will be awarded later this year. Lastly, in 2010 the

Secretary of State updated the statewide guidelines used to assess the physical access to polling places and allocated \$176,000 in grants to counties, so county surveyors could be trained on the new guidelines, as well as conduct surveys and purchase mitigation supplies to improve accessibility.

Despite the limitations placed on the use of funding by HAVA, this State Plan update provides the necessary flexibility to respond to the kinds of needs described in the advisory committee's proposed Local Government Grant Program in the future. As the budget in Section 6 explains, funds that do not need to be budgeted for Title III purposes at this time will be used in the future either to meet Title III requirements or to improve the administration of elections. As noted, the VoteCal statewide voter registration system, a Title III requirement, has not yet gone out for rebid and Title III compliance has not been certified at this time. Final costs for the VoteCal project, including maintenance and operation costs, are unknown at this time. However, at the appropriate time, this State Plan update, as drafted, will provide the Secretary of State with the flexibility to meet mandated costs and other appropriate needs.

For these reasons, the advisory committee's proposed Local Government Grant program will not be included in the State Plan update.

As regards additional language to describe the challenges and timeline for implementing the VoteCal project, there is information on the Secretary of State's website that describes in great detail the efforts that have been made thus far at www.sos.ca.gov/elections/votecal/, which speak to the complexity of the project. It should be noted that the scope of the VoteCal project is undergoing review, based on lessons learned to date, a process that will take months to complete. That process may result in changes to the project scope.

The projected timeline for the VoteCal is an estimate that became available on July 19, 2010 – 10 days after the close of the public comment period for the State Plan update. The estimate for full deployment to all counties of the VoteCal system – June 2014 – is included in a Special Project Report (SPR) that is still awaiting approval from state oversight agencies. That approval must be granted before the Secretary of State can begin preparing for release of a Request for Proposal (RFP) to seek bids for the project. However, that projected timeline in the SPR is speculative – the schedule for full deployment of the VoteCal system to all counties will be finalized in collaboration with the vendor that is selected for the project. The expected timeline for award of a contract to a vendor, which is also subject to change, anticipates awarding the contract to a system integration vendor in September 2011. This new information will be added to the State Plan update.

A link to information about the VoteCal project and this new information about the projected timeline for the project will be added to the State Plan update.

Section 8

The HAVA Advisory Committee discussed adding performance measures in Section 8 such as: 1) measuring voter accessibility for voters with language assistance needs; 2)

analyzing the patterns and underlying causes of provisional ballot usage; and 3) in addition to evaluating California polling places, also continuing to observe poll workers from county to county to refine poll worker training guidelines, particularly with regard to accessibility and handling special issues such as provisional ballot usage. We strongly advocate these recommendations be included in the State Plan.

RESPONSE

As was discussed by advisory committee members, some of these measures are difficult to design and implement, especially with limited resources. Nonetheless, the Secretary of State has taken steps to address these issues:

- A statewide assessment of language needs down to the precinct level was recently accomplished in collaboration with the UC Berkeley Institute for Governmental Studies.
- Information on provisional voting ballot use is being gathered through the EAC Election Day Survey and is available on the Secretary of State's website at www.sos.ca.gov/elections/nvra/ca-biennial-report-to-eac.htm.
- New standards for poll worker training were created.
- Allowable HAVA funding was provided to the CACEO to fund CalPEAC training classes
- Election Day and poll worker training observation programs were conducted
- New guidelines on physical access to polling places were issued in 2010.
- Funding for elections officials to be trained on those standards was awarded.
- Money was provided to counties over the past four years for training, surveying and mitigation of inaccessible polling places through grant programs over the last four years.

(END OF COMMENTS)

I appreciate the opportunity to review the final draft and present comments. Please feel free to contact me at (213) 252-4552 if you would like to discuss any of these recommendations in greater detail.

Sincerely,

Kathay Feng
Executive Director
California Common Cause

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EXHIBIT R



City of Huntington Beach

INTER-DEPARTMENT COMMUNICATION

TO: Honorable Mayor and City Councilmembers

FROM: Robin Estanislau, City Clerk

DATE: July 31, 2023

SUBJECT: SUPPLEMENTAL COMMUNICATION FOR AGENDA ITEM NO. 28
– CHARTER AD HOC COMMITTEE PROPOSED CHARTER
AMENDMENT NO. 7 – LOCAL CONTROL OVER ELECTIONS

Attached for your reference and the official record for Agenda Item No. 28 is a Press Release issued February 10, 2022 by the Orange County Registrar of Voters alerting the public of the County's receipt of ISO 9001 Certification, an internally recognized standard. The County received this same distinguished certification in 2023.

In addition, I've attached audit reports from the 2022 Primary and General Elections provided to me by current County Registrar of Voters Bob Page.

c: File

SUPPLEMENTAL COMMUNICATION

Meeting Date: 8/1/2023

Agenda Item No.: 28 (23-670)

Moore, Tania

From: Aguilar, Steven
Sent: Monday, July 31, 2023 12:21 PM
To: Moore, Tania; Switzer, Donna
Subject: FW: Media Release: OC Registrar of Voters



Steven D. Aguilar, CMC
Assistant City Clerk
City of Huntington Beach, City Clerk's Office
Work (714) 536-5260

From: Estanislau, Robin <Robin.Estanislau@surfcity-hb.org>
Sent: Monday, July 31, 2023 12:21 PM
To: Aguilar, Steven <Steven.Aguilar@surfcity-hb.org>
Subject: FW: Media Release: OC Registrar of Voters

Please print and include with the Bob Page reports. 😊

From: OC Registrar of Voters <ocrovnews@ocgov.info>
Sent: Thursday, February 10, 2022 3:41 PM
To: Estanislau, Robin <Robin.Estanislau@surfcity-hb.org>
Subject: Media Release: OC Registrar of Voters



Orange County, CA Elections Receives ISO 9001 Certification

The Registrar of Voters underwent a rigorous evaluation and audit process to be granted ISO 9001:2015 certification.

SANTA ANA, CA – February 10, 2022 – Following a year long process, the Orange County Registrar of Voters has been granted [ISO 9001:2015 certification, an internationally recognized standard](#) that ensures its services meet the needs of stakeholders through the use of an effective quality management system.

It is rare for government institutions to receive ISO 9001:2015 certification, which is typically applied in leading private industries.

To become ISO 9001:2015 certified, the Registrar of Voters underwent a demanding evaluation process that included the development of a quality management system, a review of management system documentation and

several audits. The audits were conducted by a third-party ISO 9001 specialist and verified that all areas of the operation comply with a meticulous set of quality management standards.

Quote by Registrar of Voters Neal Kelley:

“Being awarded ISO 9001 certification helps to build confidence among voters with the assurance that we are holding ourselves to the highest level of quality management standards.” said Neal Kelley, Registrar of Voters. “The certification process was rigorous and ensures that we are hyper focused on detail, accuracy and integrity.”

###

About the Registrar of Voters:

The Registrar of Voters is responsible for conducting elections in the County of Orange, the fifth largest voting jurisdiction in the United States with 1.8 million registered voters. We are a County agency, which receives funding from the County's General Fund and periodic reimbursement from the federal government, the State of California and local jurisdictions. [Read more >>](#)

Media Contacts:

Neal Kelley
Registrar of Voters
714-567-5139
neal.kelley@rov.ocgov.com

For Background Information Only:

714-567-5197

Source:

Orange County Registrar of Voters

NOTE TO EDITORS: For additional information visit the [About Us](#) page or call the Registrar of Voters media help line at 714-567-5197.

This email was sent to robin.estanislau@surfcity-hb.org using GovDelivery Communications Cloud on behalf of: County of Orange, California · 333 West Santa Ana Blvd · Santa Ana, CA 92701 · 855-886-5400





Risk-Limiting Audit Results

2022 General Election

Summary

Orange County conducted a ballot comparison risk-limiting audit for the November 8, 2022 General Election. In accordance with California regulations, the risk limit was set to 5%.

The random seed selection was conducted on November 11, 2022 at 11:30 a.m. The 20-digit random seed was generated using multiple ten-sided dice, individually rolled by various members of the Registrar of Voters staff and members of the public. The random seed, contest results, ballot sheet manifest, and cast vote record file were entered into Arlo, the risk-limiting audit tool provided by the California Secretary of State, which generated a sequence of ballots to audit.

The physical examination of ballots began on November 29, 2022 at 3:30 p.m. The RLA tool determined that 1,197 ballots were needed to meet the risk limit. Thirteen ballots selected were in a placeholder batch and a second random seed was created on Friday, December 2, 2022. The risk-limiting audit was completed on December 2, 2022 at 2:30 p.m. after auditing a total of 1,197 ballots.

All parts of the audit process were open to public observation and live streamed on the Registrar of Voters website. Video recording of the random seed generating process along with the ballot manifest can be found online at ocvote.gov/rla.

Risk-Limiting Audit Report

Random Seed:	71314311996088492407
Placeholder Batch Random Seed:	31309036658351876436
Ballot Cards Audited:	1,197
Rounds of Sampling:	1
Ballots Cast:	994,227
Discrepancies:	0
Person-hours to prepare RLA:	220 person-hours
People involved in preparing RLA:	9 people
Person-hours to conduct RLA:	340 person-hours
People involved in conducting RLA:	18 people
Number of Observers:	4

	TYNA NGUYEN		
Z-City of Yorba Linda	YES	30,696	923
	NO		
ORANGE COUNTY WATER DISTRICT Director, Division 1	DINA NGUYEN	47,035	1007
	RAY HIEMSTRA		
County Supervisor 4th District	DOUG CHAFFEE	152,116	1037
	SUNNY PARK		
L-City of Huntington Beach	YES	82,916	1197
	NO		

Audited Ballots:

List of audited ballots attached.

Affirmation

I hereby affirm that the results presented in this report are accurate to the best of my knowledge.

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Risk-Limiting Audit Results

2022 Statewide Direct Primary Election

Summary

Orange County conducted a ballot comparison risk-limiting audit for the June 7, 2022, Statewide Direct Primary Election. The risk limit was set to 5%.

The random seed selection was conducted on June 10, 2022 at 10 a.m. The 20-digit random seed was generated using multiple ten-sided dice, individually rolled by various members of the Registrar of Voters staff and members of the public. The random seed, contest results, ballot sheet manifest, and cast vote record file were entered into Arlo, the risk-limiting audit tool supplied by the California Secretary of State, which generated a sequence of ballots to audit.

The risk-limiting audit began on June 22, 2022 at 2 p.m. The RLA tool determined that 257 ballots were needed to meet the risk limit. Two ballots selected were in a placeholder batch. A second random seed was created on Friday, June 24, 2022. The risk-limiting audit was completed on June 24, 2022 at 1:30 p.m. after auditing a total of 257 ballots.

All parts of the audit process were open to public observation and live streamed on the Registrar of Voters website. Information and downloadable files, such as the ballot manifest, can be found online at ocvote.gov/rla.

Risk-Limiting Audit Report

Random Seed:	6 8 2 7 0 1 9 7 0 8 4 8 9 4 7 4 8 9 8 3
Random Seed:	3 6 3 6 1 9 7 5 6 1 1 5 4 6 8 5 7 3 1 0
Ballot Cards Audited:	257
Rounds of Sampling:	1
Ballots Cast:	636,497
Discrepancies:	0
Person-hours to prepare RLA:	190 person-hours
People involved in preparing RLA:	9 people
Person-hours to conduct RLA:	201 person-hours
People involved in conducting RLA:	11 people
Number of Observers:	1

MEMBER, COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	MARI BARKE	74,868	257
	MARTHA FLUOR	40,776	
	CHRISPHER R. GANIERE	11,850	
MEMBER, COUNTY BOARD OF EDUCATION TRUSTEE AREA 5	LISA SPARKS	98,682	195
	SHERINE SMITH	53,641	
ASSESSOR	CLAUDE PARRISH	387,926	35
	RICHARD "RICK" FOSTER	137,321	
	LARRY BALES	22,516	
CLERK-RECORDER	HUGH NGUYEN	453,783	22
	SANDY KIMBLE	43,435	
	STEVE ROCCO	39,227	
DISTRICT ATTORNEY-PUBLIC ADMINISTRATOR	TODD SPITZER	352,415	38
	PETE HARDEN	119,886	
	BRYAN CHEHOCK	46,425	
	MICHAEL A. JACOBS	45,190	

Audited Ballots:

Ballot Card Selected (Container-Tabulator-Batch-Ballot Position)	Audited	Discrepancy
In-Person - In Person - 2-34-11	Yes	No
In-Person - In Person - 2-39-150	Yes	No
In-Person - In Person - 2-70-37	Yes	No
In-Person - In Person - 2-161-11	Yes	No
In-Person - In Person - 2-196-192	Yes	No
In-Person - In Person - 2-203-1	Yes	No
In-Person - In Person - 2-456-214	Yes	No
In-Person - In Person - 2-521-267	Yes	No
In-Person - In Person - 2-526-168	Yes	No
In-Person - In Person - 5-92-86	Yes	No
In-Person - In Person - 5-99-248	Yes	No
In-Person - In Person - 5-108-14	Yes	No
In-Person - In Person - 5-185-213	Yes	No
In-Person - In Person - 5-188-20	Yes	No
In-Person - In Person - 5-211-125	Yes	No
In-Person - In Person - 5-224-267	Yes	No
In-Person - In Person - 5-263-289	Yes	No
In-Person - In Person - 5-289-262	Yes	No
In-Person - In Person - 5-325-41	Yes	No
In-Person - In Person - 5-351-241	Yes	No
In-Person - In Person - 5-366-211	Yes	No

Mail-1-842-227	Yes	No
Mail-1-893-103	Yes	No
Mail-1-917-221	Yes	No
Mail-1-929-245	Yes	No
Mail-1-957-148	Yes	No
Mail-1-974-12	Yes	No
Mail-1-981-17	Yes	No
Mail-1-1000-312	Yes	No
Mail-1-1010-322	Yes	No
Mail-1-1011-309	Yes	No
Mail-1-1016-253	Yes	No
Mail-1-1019-171	Yes	No
Mail-1-1021-154	Yes	No
Mail-1-1052-259	Yes	No
Mail-1-1060-170	Yes	No
Mail-1-1068-291	Yes	No
Mail-1-1073-239	Yes	No
Mail-1-1081-274	Yes	No
Mail-1-1083-31	Yes	No
Mail-1-1092-158	Yes	No
Mail-1-1098-1	Yes	No
Mail-1-1126-335	Yes	No
Mail-1-1132-404	Yes	No
Mail-1-1180-326	Yes	No
Mail-1-1209-190	Yes	No
Mail-3-33-205	Yes	No
Mail-3-53-142	Yes	No
Mail-3-89-39	Yes	No
Mail-3-92-241	Yes	No
Mail-3-119-6	Yes	No
Mail-3-175-59	Yes	No
Mail-3-187-66	Yes	No
Mail-3-220-85	Yes	No
Mail-3-232-220	Yes	No
Mail-3-242-275	Yes	No
Mail-3-245-46	Yes	No
Mail-3-261-373	Yes	No
Mail-3-265-195	Yes	No
Mail-3-272-216	Yes	No
Mail-3-350-288	Yes	No
Mail-3-363-44	Yes	No
Mail-3-386-3	Yes	No
Mail-3-390-142	Yes	No
Mail-3-402-197	Yes	No

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Mail-3-1222-73	Yes	No
Mail-3-1244-35	Yes	No
Mail-3-1274-101	Yes	No
Mail-3-1293-98	Yes	No
Mail-3-1318-89	Yes	No
Mail-3-1341-179	Yes	No
Mail-3-1346-166	Yes	No
Mail-3-1384-219	Yes	No
Mail-3-1411-154	Yes	No
Mail-3-1420-179	Yes	No
Mail-3-1429-181	Yes	No
Mail-3-1446-417	Yes	No
Mail-3-1462-46	Yes	No
Mail-3-1468-231	Yes	No
Mail-3-1477-388	Yes	No
Mail-3-1478-118	Yes	No
Mail-3-1517-341	Yes	No
Mail-3-1522-285	Yes	No
Mail-3-1528-302	Yes	No
Mail-3-1543-201	Yes	No
Mail-3-1554-50	Yes	No
Mail-3-1560-73	Yes	No
Mail-3-1578-105	Yes	No
Mail-3-1581-10	Yes	No
Mail-3-1596-270	Yes	No
Mail-3-1609-382	Yes	No
Mail-3-1617-221	Yes	No
Mail-3-1619-158	Yes	No
Mail-3-1620-75	Yes	No
Mail-3-1628-15	Yes	No
Mail-3-1635-57	Yes	No
Mail-3-1659-142	Yes	No
Mail-3-1663-273	Yes	No
Mail-3-1670-176	Yes	No
Mail-3-1689-300	Yes	No
Mail-3-1689-311	Yes	No
Mail-3-1692-280	Yes	No
Mail-3-1722-302	Yes	No
Mail-3-1736-412	Yes	No
Mail-3-1745-339	Yes	No
Mail-3-1747-231	Yes	No
Mail-3-1751-25	Yes	No
Mail-3-1761-223	Yes	No
Mail-3-1770-90	Yes	No

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Mail-6-125-138	Yes	No
Mail-6-127-4	Yes	No
Mail-6-136-104	Yes	No
Mail-6-143-34	Yes	No
Mail-6-168-37	Yes	No
Mail-6-199-62	Yes	No
Mail-6-209-67	Yes	No
Mail-6-215-237	Yes	No
Mail-6-218-107	Yes	No
Mail-6-219-185	Yes	No
Mail-6-232-96	Yes	No
Mail-6-236-36	Yes	No
Mail-6-270-169	Yes	No
Mail-6-275-386	Yes	No
Mail-4-310-114	Yes	No
Mail-4-320-332	Yes	No

Affirmation

I hereby affirm that the results presented in this report are accurate to the best of my knowledge.

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Precinct	Type	Contest	Issue	Notes
14036	VBM	City of Garden Grove, Member City Council, District 4	Voter did not follow instructions in marking ballot and used a blue highlighter to complete ballot for multiple contests. Scanner only picked up 11 contests. Voter marked Trung; scanner did not pick up.	Audit board tallied vote for Trung
31002	VBM	City of Fountain Valley, Member City Council	Voter did not follow instructions in marking ballot and used a light blue pen and marked whole ballot in light blue ink. Voter marked Nancy Duguay; scanner did not pick up	Audit board tallied vote for Nancy Duguay
32196	VBM	Huntington Beach City School District, Governing Board Member, Trustee Area 5	Voter did not follow instructions in marking ballot, failing to fill in the box completely and used 'x' to select choices. The 'x' was out of target area and did not mark the target clearly. Scanner did not pick up. Voter marked Julie Norton; scanner did not pick up.	Audit team tallied for Julie Norton.
17251	VBM	City of La Habra, Member City Council, Full Term	Voter made a mark in the corner of the box for Jose Medrano. Scanner picked up the mark.	Hesitation mark for Jose Medrano. Scanner picked up. Audit team tallied as a vote for James Gomez, and an under vote.
14282	VBM	For Associate Justice Court of Appeals, Fourth District, Division One, Truc T. Do	Voter did not follow instructions in marking ballot, failing to fill in the box completely and used a checkmark to select choices. Checkmarks are outside of the target zone. Voter intended to vote 'yes;' - Scanner did not pick up on vote.	Scanner didn't pick up on checkmark outside of target zone. Audit team tallied as a vote for 'yes.'
71827	VBM	For Chief Justice of California Patricia Guerrero	Voter did not follow instructions in marking ballot, failing to fill in the box completely and used a checkmark to select choices. The checkmarks are checked outside of the target zone.	Audit team tallied vote as 'no'
71827	VBM	For Associate Justice, Court of Appeal, Fourth District, Division One, Truc T. Do	Voter did not follow instructions in marking ballot, failing to fill in the box completely and used a checkmark to select choices. Voter used a checkmark to indicate choices, and checked outside of the target zone. Voter intended to vote 'yes;' Scanner did not pick up on 'vote'.	Audit team tallied vote as 'no'
45104	VBM	United States Senator, Partial/Unexpired Term	Voter did not follow instructions in marking ballot and used a light blue pen and marked whole ballot in light blue ink. Voter used a light blue pen; scanner did not pick up. Voter intended to vote Alex Padilla.	Audit board tallied vote for Alex Padilla.
44113	VBM	City of Laguna Beach, Member, City Council	Voter did not follow instructions in marking ballot, failing to fill in the box completely and used a checkmark to select choices. Voter used checkmark to indicate choice for 'Jerome Pudwill,' and checked outside of the target area.	Audit board tallied vote for Jerome Pudwill.

48141	VBM	Member of the State Assembly, 74th District	Voter did not follow instructions in marking ballot, failing to fill in the box completely and used an 'x' to select choices. Voter made an 'x' outside of the target area. Scanner did not pick up.	Board tallied as a vote for Laurie Davies.
45104	VBM	For Associate Justice, Court of Appeal, Fourth District, Division One, Martin N Buchanan	Voter crossed out contests they did not want to vote for, and a stray mark made it into the target area. Scanner counted as a vote for 'Yes.'	Audit Board tallied vote as an undervote.
31002	VBM	City of Fountain Valley, Member City Council	Voter put a line in the box for Kim Constantine. Scanner read it as a selection for Kim Constantine. The box was marked enough for the scanner to pick up the vote, but the voter intent was determined to be an undervote.	Audit Board tallied vote as an undervote.
31002	VBM	CITY OF FOUNTAIN VALLEY, MEMBER, CITY COUNCIL (Vote for no more than Three)	Voter put a small dot in the box for Jim Cunneen. Scanner read dot as a vote for Jim Cunneen.	Audit Board tallied vote as an undervote.
32100	VBM	N - City of Huntington Beach	Voter did not follow instructions in marking ballot, failing to fill in the box completely. Voter made a diagonal line across "NO" slightly off target. Scanner counted voter as an undervote.	Board tallied as a vote for NO.
63036	VBM	Orange Unified School District Governing Board Member Trustee Area 7	Voter did not follow instructions in marking ballot, failing to fill in the box completely. Voter marked an "X" outside the target area. Scanner did not count the vote.	Board tallied as a vote for Rick Ledesma.
63036	VBM	City of Orange Mayor	Dan Slater was marked but scanner did not pick up the mark, because it was a light mark.	Audit Board tallied as a vote for Dan Slater.
17251	Vote Center	United States Representative 38th District	Voter marked outside the target area and scanner did not count vote for Linda T. Sanchez	Audit Board tallied it as a vote for Linda T. Sanchez.
45104	Vote Center	United States Representative 40th District	Voter made small mark inside of target area for Asif Mahmood and the scanner counted the vote for Asif Mahmood. It appears to be a hesitation mark.	Audit Board tallied vote as an undervote.
71262	Vote Center	Tustin Unified School District Governing Board Member Trustee Area 3	Voter did not follow instructions in marking ballot, failing to fill in the box completely. Voter circled the target but did not mark in the target area. Scanner read it as an undervote.	Audit Board tallied it as a vote for Kelly Felton.
63036	Vote Center	United States Senator Full Term	Voter did not follow instructions in marking ballot, failing to fill in the box completely. Voter checked Alex Padilla outside of the target area. Scanner did not pick it up.	Audit Board tallied as a vote for Alex Padilla.
63036	Vote Center	For Presiding Justice, Court of Appeal, Fourth District, Division One, Judith McConnell	Voter did not follow instructions in marking ballot, failing to fill in the box completely. Voter used check mark and checked Yes outside of the target area. Scanner did not pick it up.	Audit Board tallied as a vote for Yes.
63036	Vote Center	Municipal Water District, Director, Division 2	Voter did not follow instructions in marking ballot, failing to fill in the box completely. Voter marked a check outside of the target area for Larry D. Dick. It is likely the in-person scanner was unable to read the light mark.	Audit Board tallied as a vote for Larry D. Dick.

REPORT OF 1% MANUAL TALLY

[Elections Code section 15360]

County: Orange

Election: 2022 General Election

Manual tally method used: One Part [section 15360(a)(1)]

Two Part [section 15360(a)(2)]

Date and time notice provided (attach copy of the notice):

September 30, 2022 -

<https://ocvote.gov/press-releases/public-notice-of-observation-schedule-for-the-november-8-2022-e>

Internet website where additional information about the manual tally is posted, if applicable:

<https://ocvote.gov/rla>

Date and time the manual tally commenced, beginning with the random selection of precincts and batches (must be after the close of the polls on Election Day):

Thursday, November 10, 2022 at 11:00 am

Date and time the manual tally finished:

Friday, December 2, 2022 at 5:00 pm

Estimated number of members of the public who observed the process:

3

Total number of ballots counted in this election (official canvass numbers):

Polling place / vote center ballots (including provisionals)	164,065
Vote-by-mail ballots	830,162

Total number of ballots manually tallied:

Polling place / vote center ballots (including provisionals)	8,628
Vote-by-mail ballots	42,718

Precincts in the county for this election (attach list describing all precincts with the number of ballots in each, indicating whether ballots are polling place / vote center, vote-by-mail, or provisional):

Total number of precincts in the election	2169
Total number of precincts selected for the manual tally	90

Batches of vote-by-mail or provisional ballots (attach list describing each batch with the number of ballots in each, indicating whether ballots are polling place / vote center, vote-by-mail, or provisional):

Total number of batches in the election	Not applicable, since we tallied by precinct.
Total number of batches selected for the manual tally	Not applicable, since we tallied by precinct.

Method used to choose precincts and batch of ballots to manually tally (include description of random selection method):

We used DFM's One Percent Random Sample generator within EIMS.

attach additional pages if necessary

Description of any discrepancies noted (include details about each discrepancy and how each was resolved; also include anything unusual observed during the manual tally process or anything that may improve the manual tally process):

See attached

attach additional pages if necessary

This report is submitted pursuant to Elections Code section 15360(f).

Submitted on this date: 12/7/2022 by:

Elections Official Name: Bob Page Signature: _____

Precinct	Type	Contest	Issue	Notes
7137	VBM	Governor	The voter lightly checked the voting target for Gavin Newsom, not following the voting instructions. The ballot scanner did not pick up the vote, but the board called the vote for Gavin Newsom.	Board tallied as an undervote.
58800	VBM	Attorney General	The voter marked the voting targets for Rob Bonta and Nathan Hochman, and also wrote in the name of Rob Bonta in the write-in space. The manual resolution of the potential overvote gave the vote to Rob Bonta, but the board called the selection an overvote.	Board tallied as an overvote.
32102	VBM	Multiple	The voter marked multiple voting targets using marks inconsistent with other contests. Although the voting targets were partially marked, other contests' voting targets were completely filled in. The ballot scanner picked up these partially marked voting targets as votes, but the board determined they were inconsistent stray marks and called the selections as undervotes.	Board tallied contests as undervotes

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EXHIBIT S

ASSEMBLY BILL

No. 247

Introduced by Assembly Member Cox

**(Coauthors: Assembly Members Benoit, Bogh, Cogdill, Dutton,
Haynes, Houston, La Suer, Leslie, Maze, Plescia, Runner,
Samuelian, Strickland, and Wyland)**

(Coauthors: Senators Ackerman, Johnson, and Knight)

February 3, 2003

An act to add Section 14218.3 to the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

AB 247, as introduced, Cox. Elections: voting identification.

Existing law requires a person desiring to vote to announce his or her name and address to a precinct board member and to write them on the roster of voters.

This bill would require a voter, in addition, to present proof of his or her identity and residency to a member of the precinct board before receiving a ballot. It would specify the documents that may be used for this purpose and would authorize any other form of identification that the Secretary of State determines to be appropriate. It would permit a voter who is unable to present proof of identity or residency to cast a provisional ballot.

This bill, by requiring the county elections official to develop procedures to implement this bill in a manner that imposes the least burdensome requirements upon voters, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14218.3 is added to the Elections Code,
- 2 to read:
- 3 14218.3. (a) A voter shall present proof of his or her identity
- 4 and residency to a member of the precinct board before receiving
- 5 a ballot.
- 6 (1) Proof of identity may be established by presenting any of
- 7 the following documents:
- 8 (A) A California driver’s license.
- 9 (B) A California identification card.
- 10 (C) A valid voter registration card.
- 11 (D) A sample ballot pamphlet for the election with the voter’s
- 12 name and address printed thereon by the county elections official.
- 13 (E) A military identification card.
- 14 (F) A Certification of Citizenship issued by the Immigration
- 15 and Naturalization Service.
- 16 (G) A copy of a birth certificate.
- 17 (H) Any other form of identification that the Secretary of State
- 18 determines to be appropriate.
- 19 (2) Proof of residency may be established by presenting any of
- 20 the following documents:
- 21 (A) A California driver’s license.
- 22 (B) A California identification card.
- 23 (C) A valid voter registration card.
- 24 (D) A sample ballot pamphlet for the election with the voter’s
- 25 name and address printed thereon by the county elections official.



1 (E) A current utility or telephone bill or stub showing the
2 correct name and address.

3 (F) Any other form of identification that the Secretary of State
4 determines to be appropriate.

5 (b) The county elections official shall develop procedures to
6 implement this section in a manner that imposes the least
7 burdensome requirements upon voters.

8 (c) A voter who is unable to present proof of his or her identity
9 or residency as required by this section shall be entitled to vote a
10 provisional ballot, as provided in Section 14310.

11 SEC. 2. (a) The Legislature finds that the procedure under
12 current law requiring a voter to announce his or her name to a
13 precinct board member before receiving a ballot and allowing a
14 precinct board member to challenge a potential voter on specified
15 grounds is insufficient to ensure against voting fraud because the
16 potential for, and consequences of, abuse are too great.

17 (b) The Legislature has investigated many other methods to
18 eliminate voting fraud, and finds that each of the other methods is
19 more drastic than the method proposed by this act. Because the
20 current law is ineffective to ensure against voting fraud, the
21 Legislature finds that the method proposed by this act is the least
22 drastic means available.

23 (c) The Legislature finds that Section 1 of this act is necessary
24 to protect the integrity of the voting process, and by establishing
25 additional procedures to reduce voting fraud, this act serves a
26 compelling state interest and its provisions are narrowly tailored
27 to achieving these objectives.

28 SEC. 3. Notwithstanding Section 17610 of the Government
29 Code, if the Commission on State Mandates determines that this
30 act contains costs mandated by the state, reimbursement to local
31 agencies and school districts for those costs shall be made pursuant
32 to Part 7 (commencing with Section 17500) of Division 4 of Title
33 2 of the Government Code. If the statewide cost of the claim for
34 reimbursement does not exceed one million dollars (\$1,000,000),
35 reimbursement shall be made from the State Mandates Claims
36 Fund.

O

