

No. 18-0749

IN THE
SUPREME COURT OF TEXAS

IN RE ED ENGLISH,
Relator.

ORIGINAL PROCEEDING

**CITY OF AUSTIN'S RESPONSE IN OPPOSITION TO
ORIGINAL EMERGENCY PETITION FOR
WRIT OF MANDAMUS**

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STATEMENT OF THE CASE

Nature of the case

The petitioner, Mr. English, in this original mandamus proceeding challenges the validity of a provision in a city ordinance calling a general and special election for November 6, 2018, and adopting language for the election ballot.

Respondent

The respondent is the City of Austin, a home rule city in Travis County, which acted through its city council to call an election and adopt the language for items on the ballot, including the challenged language.

Challenged Action of Respondent

Mr. English challenges the sufficiency of the ballot language that the city council adopted for the special election on a measure concerning a “proposed citizen-initiative ordinance regarding an efficiency study” of the City’s operational and fiscal performance. The challenged language will appear as Proposition K on the November 2018 ballot. *See* App. Tab 2 (Ordinance No. 20180809-113, (Aug. 9, 2018) at 52 (Part 9).

ISSUES PRESENTED

- I. Did the Austin City Council violate any ministerial duty imposed by Article IV, § 5, of the Austin City Charter in adopting the ballot language for Proposition K for the November 2018 election?

- II. Did the Austin City Council violate any ministerial duty imposed by Texas common law in adopting the ballot language for Proposition K for the November 2018 election?

STATEMENT OF FACTS

A. Austin's Initiative Process

Austin citizens may engage in direct legislation through the initiative process. City Charter Art. IV, § 1. By initiative, they may propose ordinances by collecting the requisite number of signatures from “qualified [city] voters” on a petition and then submitting the petition, with the “initiated ordinance,” to Austin’s city clerk for verification of whether the signature requirements are met. If they are, the city clerk certifies the petition and initiated ordinance to the city council.

Upon receipt of a verified petition and initiated ordinance, the council has two options. It may pass the ordinance, as is, within ten days of certification to the council. *Id.*, § 4(a). Or it may order an up-or-down election on the ordinance, as is, on the next “allowable election date.” *Id.*, § 4(b).

If the council chooses the latter option—putting the proposed ordinance to a popular vote—the charter establishes the ballot form for the council. *Id.* § 5. The ballot must state “the caption of the ordinance,” with lines below it for voting for or against. *Id.*

B. The Proposed Ordinance

Sometime during the spring of 2018, a petition was circulated to obtain signatures supporting presentation of an initiated ordinance to the Austin city council.¹ The petition was labeled “Austin Efficiency Audit Petition.” English Pet. Tab A, 1st page.

The proposed ordinance propounded by the petition did not have a caption. *Id.* 2nd page. Instead, it was simply headed “Proposed Efficiency Study Ordinance,” followed by recitation of a proposed City “Efficiency Study” to review Austin’s entire “operational and fiscal performance,” extending to all city departments and all Austin-owned utilities. The study was to culminate with production of a “Government Efficiency Blueprint” that would recommend “opportunities” to “reduce tax burdens,” or increase the “quantity and quality of [city] services,” or both.

The ordinance would require that the study be conducted by an experienced “independent third party entity” empowered to demand “full cooperation and assistance” from all arms of city government and its publicly-owned utilities, which would have to give

¹ See English Pet. Tab B, first column (petition page showing signatures on May 25, 2018).

the entity “unfettered access to all data and information requested” and “free and open access” to all facilities and equipment.

The ordinance has no timeline for completing the study—or, for that matter, initiating it. It does not include any funding provision or mechanism to pay the “independent third party entity” for its work producing the ultimate blueprint, and it has no cost cap provision. Finally, it contains no implementation requirements, directives, or instructions and requires no city action in response to the blueprint, whenever it is finished and published.

C. Council Adopts Proposition K Language

Those in charge of circulating the initiative petition submitted the petition to Austin’s city clerk on July 12, 2018, so that it could be reviewed to determine whether it had the requisite number of valid signatures. App. Tab 1 at 2 (¶¶ 4-5).² Three weeks later, the city clerk’s office completed review and concluded that the signature requirement had been satisfied. App. Tab 4 at 108. The City Clerk certified the authorized initiative petition to the city council on August 3, 2018. App. Tab 1 at 2 (¶ 6).

² The appendix materials are paginated sequentially at the very bottom of the pages.

Less than a week later, the two options for a certified initiative petition were placed as separate items on the council agenda for August 9, 2018. *Id.* This was the first regularly scheduled council session after the certification and the last one for officially calling the November election. *Id.*

The council opted to place the initiative on the November ballot. *Id.* So the council took up debate on the ballot language for the measure.³ The cost of performing the initiative study and the role of the independent auditor were both topics of the debate.

Responding to inquiries from Austin's Mayor, the treasurer of the group pushing to put the initiated ordinance on the ballot told the council that that he had contacted two firms about the possible cost range and their estimate was "one to two million dollars." App. Tab 3 at 81-83. Also in response to an inquiry from the Mayor, Austin's City Manager told the council that his finance staff had reviewed costs for these kinds of surveys. When asked

³ The video link to the full council session is provided in App. Tab 3 at 74. A transcript of the part of the session on the proposition at issue in this case is at the same appendix tab at 76-106. It should be noted that exercising the option of putting the proposition on the November ballot made it unnecessary to take up the agenda item about the council itself adopting the initiated ordinance. App. Tab 3 at 105.

whether the cost range that the council was considering putting into the ballot language—that is, \$1 million–\$5 million—“accurately reflect[ed]” the city finance staff’s estimate, the City Manager answered, “It does.” *Id.* at 99-100.

The City Manager’s response to the Mayor’s inquiry on costs of implementing the initiated ordinance was not off-the-cuff. The City Manager had met with a main proponent of the initiative in the summer of 2018 and was provided background information. App. Tab 7 at 132 (¶ 6). He then had his financial staff look into a company noted by the proponent and try to learn about the scope and potential cost of the kind of work outlined in the initiative. *Id.* at 132-33 (¶ 7). This work yielded information on costs in the \$2.6 million to \$5 million range for recent statewide reviews and other costs for smaller, more focused studies of individual city departments. *Id.* at 133 (¶¶ 8-10). The above-quoted exchange with the Mayor at the August 9th council session drew directly on this background work and led the City Manager to “confirm[] that the

estimate of \$1-5 million for a potential cost is accurate.” *Id.* at 134 (¶ 12).⁴

As to the matter of the independent third party entity that would be mandated to conduct the study, council members supported language clarifying that the third party would be separate and apart from the city’s own auditors. The Austin charter and code provisions about the position of City Auditor and the duties of the job are quite detailed, App. Tab 5, and include provisions for independence and performance and finance-related audits of City functions, programs, and services, *id.* at 113-14. *See also* App. Tab 6 (City Auditor’s review of basic functions). The duties include the hiring of outside consultants and auditors. *Id.* at 129 (¶¶ 7-8).

Aware of these duties, a council member spoke in support of the added language because he thought it important to “mak[e] sure that we don’t confuse voters into thinking that they are vot-

⁴ Mr. English highlights a fiscal note that went with the agenda items on the initiative and implies that it means the impact of the measure would be zero. English Pet. 2, Tab E, Tab F. This reflects a misunderstanding of the fiscal impact being assessed. What is being assessed is the fiscal impact of just passing the ordinance. It is not an estimate of the fiscal impact of implementing the ordinance if it passes and then entering into a contract for performance of the work. App. Tab 7 at 134-35 (¶¶ 15-17). The latter—actual implementation of the ordinance—would be subject to a new and separate impact statement, if and when the time comes. *Id.* at 135 (¶ 17).

ing to instate” the city’s current auditor. *Id.* at 98-99. Another council member, the Mayor Pro Tem, agreed: “I do think it’s important to clarify for voters that we have an internal auditor already.” *Id.* at 99.

After debate, the council voted to place the following proposition on the November ballot with respect to the initiated ordinance:

Without using the existing internal City Auditor or existing independent external auditor, shall the City Code be amended to require an efficiency study of the City’s operational and fiscal performance performed by a third-party audit consultant, at an estimated cost of \$1 million - \$5 million?

App. Tab 2 (Ordinance No. 20180809-113) at 52 (Part 9) (Proposition K). The ordinance itself—the one adopted if a majority of those voting in the election approved the proposition—is fully reproduced in Part 11 of the election ordinance. *Id.* at 53-55.

D. Relief Requested And Ballot Schedule

1. Requested mandamus relief

In his August 13th mandamus petition, Mr. English challenges two phrases in the adopted ballot language for Proposition K: (i) the introductory phrase “Without using the existing internal City

Auditor or existing external auditor”; and (ii) the concluding phrase “at an estimated cost of \$1-\$5 million.” English Pet. vi. He claims standing to raise this challenge because he signed the petition. *Id.* 1 (citing App. Tab B, line 6). He seeks mandamus relief before the November ballot goes to print, requiring the council to reformulate the ballot language for Proposition K to his liking. *Id.*

2. Ballot printing schedule

August 20th is the latest date by which the Austin city council could call a November election. Tex. Elec. Code § 3.005(c); App Tab 1 at 2 (¶ 7). As already mentioned, the August 9th council session was the last regularly scheduled one in the timeframe for adopting an ordinance calling an election for the November 2018 election. The ballot language needs to be locked in place by no later than September 4th for the Travis County Clerk to be able to have the full ballot ready in time to go to the printer on September 7th. English Pet. viii. The Open Meetings Act requires 72 hours notice of a council session. Tex. Gov’t Code § 551.043(a).⁵ Assuming council action would need to precede the county clerk’s internal

⁵ Even if it were otherwise permissible, adopting ballot language for an election under the emergency meeting notice provisions of § 551.045(a) of the Government Code seems inadvisable.

deadline by at least one work day, notice of a council meeting would have to be posted by August 28th at the latest. This deadline, in turn, means that, were Proposition K's language invalid, any such ruling would need to issue by Friday, August 24th, at the latest in order to meet statutory and administrative deadlines for the November election.⁶

ARGUMENT

Mr. English argues that he is entitled to mandamus relief because the council-adopted Proposition K ballot language violates ministerial duties separately imposed on the council by the Austin city charter and common law. English Pet. 9-10 (charter), 11-13 (common law). He is wrong on both counts. None of the wording of the proposition is deceptive, prejudicial, or without factual foundation. The real complaint is that the proposition language for the measure gives more information about it than Mr. English wants voters to have.

Austin faced a similar complaint some years back about the ballot language for a bond proposition, when some citizens com-

⁶ The next weekday, Monday, August 27th, is a state holiday. Tex. Gov't Code § 662.003(b)(5).

plained about the city providing too much information to the voters. The appeals court ruled for the City, explaining that the court had been unable to find “any Texas authority holding invalid a ballot because its contains *too much* language describing the proposition.” *Bischoff v. City of Austin*, 656 S.W.2d 209, 212 (Tex.App.—Austin 1983, writ ref’d n.r.e.), *cert. denied*, 466 U.S. 919 (1984) (emphasis in original). In the years since, things have not changed in this area of the law. The City has not found any authority for striking down ballot language providing additional information to the voters, and Mr. English has not identified any such authority.

I. Mandamus Relief Is An Extraordinary, Discretionary Remedy Available Only For Factually Undisputed Violations Of Ministerial Duties.

The Election Code authorizes mandamus relief. Tex. Elec. Code § 273.061. But whether such relief is available and appropriate in any given instance is subject to the rules governing mandamus relief.

Mandamus is an extraordinary and discretionary remedy and is not issued as a matter of right. *Rivercenter Assocs. v. Rivera*, 858 S.W.2d 366, 367 (Tex. 1993). Although it is a legal remedy, the

Court takes equitable considerations into account in determining whether to grant the extraordinary remedy. *Id.* Mandamus relief is unavailable, however, if there are material disputed facts. *See, e.g., West v. Solito*, 563 S.W.2d 240, 243 (Tex. 1978).

Mandamus relief may be used to compel public officials to perform a “ministerial act.” *Anderson v. City of Seven Points*, 806 S.W.2d 791, 793 (Tex. 1991). But a ministerial act is not just any government action of which someone disapproves. Rather, it is an act for which “the law clearly spells out the duty to be performed with sufficient certainty that nothing is left to the exercise of discretion.” *Id.*; *In re Woodfill*, 470 S.W.3d 473, 475 (Tex. 2015) (*per curiam*).

These principles govern Mr. English’s claims under the city charter and the common law. He is not entitled to relief under either one.

II. The City Council Did Not Violate A Ministerial Duty Imposed By The City Charter In Adopting The Proposition K Ballot Language.

The ballot language for Proposition K does not violate any directive in the Austin city charter. The charter contains only one

provision that instructs the city council on the form of ballot for an initiated ordinance. It states in pertinent part:

The ballot used in voting upon an initiated or referred ordinance shall state *the caption of the ordinance*[.]

Austin Charter, Art. IV, § 5 (emphasis added).

The efficiency study ordinance proffered by supporters of the initiative lacked a caption. A review of the ordinance confirms this assertion, and it is undisputed by Mr. English. He quotes the charter's § 5 instruction, then immediately admits that "the Efficiency Audit ordinance does not have a designated 'caption.'" English Pet. 10.

Without a captioned ordinance, the council was faced with a situation in which the only charter provision directing its choice of ballot language was inapplicable. This took the council's actions outside the purview of the city charter and triggered the provision of Texas election law which provides that, "[e]xcept as otherwise provided by law, the authority ordering the election shall prescribe the wording of a proposition that is to appear on the ballot." Tex. Elec. Code § 52.072(a).

Aside from the opening clause of Section 52.072(a)—which is addressed in Part III, below—the inapplicability of the only charter provision on the topic of ballot language for initiatives put the choice of ballot wording into the city council’s hands to exercise its informed discretion. Long-established law provides that “the framing of the proposition on the ballot” is “left to the discretion of the municipal authorities.” *Bischoff, supra*, 656 S.W.2d at 212.⁷

Under the facts of this case, the council’s exercise of discretion in choosing the appropriate ballot language is not subject to mandamus. There is no ministerial duty whose performance can be compelled by a writ of mandamus. There is thus no basis in Austin’s charter for invalidating the Proposition K language on the ground that it violates some charter-imposed ministerial duty.

Mr. English does not seriously argue otherwise. He concedes that the ordinance had no caption. English Pet. 1 (“does not technically have a caption”). And he is unable to summon any authority to support his entreaty to the Court that it independently find something in the ordinance that is “at least the equivalent to a

⁷ *Bischoff* notes that the discretion is subject to common law rules. 656 S.W.2d at 212. Part III, below, addresses the common law issue.

proper caption.” *Id.* 10. Here, Mr. English is requesting the Court to rewrite the city charter and create a judicially-fashioned caption where, admittedly, none exists. But the choice of the form of the initiated ordinance—as opposed to the form of the ballot language putting that ordinance before the electorate—lay with those propounding the ordinance in the first place. That they failed to include a caption suitable for triggering the requirements of § 5 of Article IV of Austin’s charter was due to the choice that they made when they circulated it. The responsibility for the absence of a caption rests with the proponents of the petition drive, not the city council. The equitable considerations that the Court brings to bear on whether to exercise its discretion to grant mandamus relief work against Mr. English, not the Austin city council.

In rejecting the mandamus petition’s argument that the city council failed to perform a ministerial duty imposed by the city charter, the Court need not address the question of whether merely reproducing the caption of an initiated ordinance, *without more*, is sufficient under the city charter. It is enough on the facts of this case to find that, because there was no caption, the city council did

not violate the charter requirement that the caption language be included in the ballot language.

III. The City Council Did Not Violate Any Common Law Ministerial Duty In Adopting The Proposition K Ballot Language.

The Court recognizes the broad discretion that municipalities have in wording ballot propositions. *Dacus v. Parker*, 466 S.W.3d 820, 826 (Tex. 2015). Limits on the discretion can be set by city charters, but those limits were not transgressed by Austin’s city council, as detailed in Part II, above.

A. A Proposition Is Supposed To Identify A Measure For What It Is.

The common law also sets some limits on the otherwise broad discretion afforded city councils in devising ballot language. *In re Williams*, 470 S.W.3d 819, 822 (Tex. 2015) (per curiam). The basic common law requirement is that the ballot proposition must identify a measure—here, it would be the initiated ordinance—by “its chief features, showing its character and purpose.” *Dacus*, 466 S.W.3d at 825. The proposition must capture a measure’s “essence” by ensuring that the voters, even though they may already have acquired some familiarity with the measure at issue, by identifying measures “for what they are.” *Id.*

The Austin city council took this instruction on the law's requirements seriously when it chose the proposition language to describe the Austin Efficiency Study ordinance it has sent to the voters for an up-or-down vote this November. It determined that it was important to draw a clear distinction for the voters between the third-party entity that would have to be hired to conduct the efficiency study contemplated in the ordinance and the auditors that the City already had in place or had been using. It also determined that the voters should be given a reasonable sense of the expected cost that would accompany passage and implementation of the ordinance. Mr. English's complaints about the city council's wordsmithing fail to cast any serious doubt on the fact that the council did precisely what it was supposed to do: inform the voters about what they would be voting to do and how much doing it was likely to cost.

B. Clarifying That The Work Under The Ordinance Would Not Be Done By Specified Auditors Is Accurate And Consistent With The Ordinance's Own Design.

The city council adopted introductory language for the proposition to clarify that the audit consultant that would do the work

under the ordinance would *not* be either the City’s own internal auditor or its existing independent external auditor. Mr. English complains that this clarification is improper because it is misleading and prejudicial. English Pet. 3, 4-5. But it is not only not misleading; it accurately highlights a key feature of the proposed ordinance, which is that the would-be auditor under the ordinance would not have any connection with the City. It emphasizes the very independence from City connections (and, it is surely implied, influence) that those propounding the ordinance deliberately built into it.

Council members familiar with the City Auditor’s role in city governance expressed concern about the potential for voter confusion on this very point during debate on the language for the proposition. The introductory language was inserted to lessen the potential for voter confusion by explaining that the City would not be involved through its auditors—internal or independent—with the auditor that would conduct the efficiency study.

The precise source of Mr. English’s concern about this seemingly innocuous clarification is not entirely clear. It appears to be

that the explanation about city-related auditors not being involved might lead some voters into thinking that the job outlined in the ordinance is already being done. But the main point of the ordinance is that such work needs to be done by some entity with no ties at all to the City. The added phrase makes that point even clearer than it otherwise would have been—which would seem to be a point in its favor. Regardless of whether Mr. English agrees with this latter characterization, it still remains that it is the city council’s job, not Mr. English’s, to craft the ballot language. The common law does not require this level of fly-specking. The language that the city council added on the auditor issue is firmly inside the boundaries set by the common law for the exercise of their discretion.

C. Including A Cost Estimate, Rather Than Omitting One, Is Important Information For Voters Considering Whether To Support The Planned Undertaking.

The addition of the closing language about the potential costs of the measure is in perfect keeping with the purported objectives of the study that would occur under the ordinance. It is part and parcel of, to paraphrase *Dacus’s* apt observation, ensuring that the

proposition identifies the efficiency study for “what it is.” The City would be remiss were it *not* to inform voters that they may be voting to expend a considerable amount of money if they vote for a proposition that adopts a measure that requires financial resources for its implementation.

Dacus warns against propositions omitting chief features that reflect the character of a measure being put to a vote. 466 S.W.3d at 826. In fact, *Dacus* invalidated a proposition because it omitted reference to a drainage charge and thus failed to answer an important question for voters: “will they directly pay for it.” *Id.* As *Dacus* noted, the courts invariably uphold propositions that “mention widespread charges” and disclose “the costs” citizens might bear. *Id.* at 827.

In short, the key problem leading to invalidation of the proposition in *Dacus* is nearly identical to the problem the Austin city council resolved by adding the language about costs that Mr. English dislikes and asks the Court to extirpate. It would set a quite dangerous precedent for fiscal responsibility in the State to strike

language advising voters about the costs of voting to implement a measure.

The City is not aware of any precedent that would support such a holding. Again, as with the added language clarifying the matter of the auditor, the city council was comfortably within its broad discretion in adding the cost language that Mr. English seeks to strike.

The gravamen of Mr. English's complaint about the costs appears to be two-fold. He claims that the estimate is a "wild guess" and that it fails to counterbalance the costs with savings that might ensue.⁸ English Pet. 4. Neither of these is a valid basis for invalidating the added language.

As explained earlier in the Statement of Facts, the cost estimate is not a wild guess. It is instead a considered estimate. A main proponent of the initiative himself told the council that he

⁸ He also engages in his own surmise, suggesting that the third party entity might be willing to enter into a contingent fee arrangement. That, of course, is pure speculation. On the reasonable assumption that the entity would be performing accounting services, subchapter A of Chapter 2254 of the Government Code would be triggered. At least one court has invalidated a municipal contingency fee contract for accounting services under this provision. See *City of Denton v. Municipal Admin. Svcs., Inc.*, 59 S.W.3d 764 (Tex.App.—Fort Worth 2001, no pet.)

estimated the cost would be in the one to two million dollar range. The City Manager, working from background information and investigation by his financial staff, had seen costs for such work as high as \$ 5 million. That was for a study for a state, but it is better to err on the side of caution in this situation, especially when the ordinance establishing the study is completely open-ended about cost and timing. There are no controls at all; it just opens the city financial spigot. The added language qualified the cost statement, specifically stating that it is “estimated.” There was a solid basis for the estimate, contrary to the representations of Mr. English.

As to the counterbalance argument, it must be remembered that the ordinance does no more than authorize a study and a report. It contains no implementation requirements whatever. If the voters approve the study by voting for the proposition, it is impossible to know at this point whether potential savings will be identified or what the costs of such savings would be in terms of jettisoned city services and programs. And, most importantly, it is impossible to know whether the recommendations, whatever they might turn out to be, would be adopted by the city council.

So there is no basis to Mr. English’s objections to the cost estimate. And, even if there were some basis discerned, it would be based on disputed facts that cannot be resolved in a mandamus proceeding. *See West v. Solito, supra*. Therefore, the Court should reject the objections and uphold the cost estimate language.

CONCLUSION AND PRAYER

The Court should deny the emergency petition for writ of mandamus. Alternatively only, if the Court grants the writ of mandamus, it should allow the Austin city council adequate time to craft and adopt ballot language consistent with the Court’s ruling.⁹

Respectfully submitted,

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⁹ Mr. English concedes that “courts may not dictate to the City Council what the ballot language will be.” English Pet. 8.

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CITY OF AUSTIN

CERTIFICATE OF COMPLIANCE

In compliance with Texas Rule of Appellate Procedure 9.4(i)(2)-(3), I certify that this response contains 4,338 words, excluding the portions of the response exempted by Tex. R. App. Proc. 9.4(i)(1). This is a computer-generated document created in Microsoft Word 2010 using 14-point Century Schoolbook (12-point for footnotes), with 14- and 15-point Calibri for headings. In making this certification, I relied on the word count provided by the software used to prepare the document.

 /s/ Renea Hicks _____
Renea Hicks

CERTIFICATE OF SERVICE

I hereby certify that on August 16, 2018, the foregoing City of Austin's Response in Opposition to Original Emergency Petition for Writ of Mandamus was served electronically in accordance with the Texas Rules of Appellate Procedure on the following counsel of record:

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_____/s/ Renea Hicks_____
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TAB 1

In the Supreme Court of Texas

**IN RE ED ENGLISH §
RELATOR §**

AFFIDAVIT OF JANNETTE GOODALL

STATE OF TEXAS ⊃
 ⊃
COUNTY OF TRAVIS ⊃

BEFORE ME, the undersigned Notary Public, on this day appeared JANNETTE GOODALL who, being by me first duly sworn, stated as follows:

1. "My name is Jannette Goodall. I am over the age of eighteen years and I am competent to make this affidavit. I have never been convicted of a felony or any crime involving moral turpitude.

2. The City Council for the City of Austin appointed me to the position of City Clerk effective January 27, 2013 and I have held the position continuously since that time.

3. Under the City of Austin Charter, the City Clerk is responsible for

Accepting Petitions including Initiative, Referendum and Recall Petitions. Additionally, the City Clerk is responsible for presenting Petitions that have been validated to the City Council. State law governs the process for validating petitions depending upon the nature of the petition.

4. On Thursday July 12, 2018, I received an Initiative Petition with associated signatures that proposes an Ordinance requiring Austin to perform an efficiency audit.

5. Upon receipt, my Office began the validation process.

6. On August 3, 2018, I certified the petition as sufficient and valid and presented my certification to the City Council.

7. As part of the August 9, 2018 regularly scheduled City Council Meeting, the Council acted to call the November 6, 2018 election by passing an Ordinance that included numerous ballot items, including the language for the Austin efficiency Audit. Council considered this item as part of the August 9, 2018 agenda because it was the last regularly scheduled City Council meeting before the statutory deadline of August 20, 2018 to Order the November 6, 2018 election.

8. I have read the foregoing affidavit, and I declare under penalty of perjury that I have personal knowledge of the facts stated therein, and they are true and correct.”

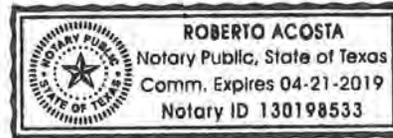
SIGNED this 16th day of August, 2018.


JANNETTE GOODALL

BEFORE ME, personally appeared Jannette Goodall, proved to me through a government issued identification to be the person whose name is subscribed in the foregoing instrument and acknowledged to me that he executed the same for purposes and consideration thereby expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on this 16th day of August, 2018, to certify which witness my hand and official seal.


NOTARY PUBLIC - STATE OF TEXAS



TAB 2



THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of Ordinance Number 20180809-113, consisting of 54 pages; an Exhibit A, consisting of one page; an Exhibit B, consisting of two pages; an Exhibit C, consisting of one page; and an Exhibit D, consisting of eleven pages, for a total of 69 pages, as approved by the City Council of Austin, Texas, at a Regular Meeting on the 9th day of August, 2018, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 15th day of August, 2018.



Jannette S. Goodall
JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS

ORDINANCE NO. 20180809-113

AN ORDINANCE ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF AUSTIN ON NOVEMBER 6, 2018, FOR THE PURPOSE OF ELECTING A MAYOR (AT LARGE) AND CITY COUNCIL MEMBERS (SINGLE MEMBER DISTRICTS) FOR DISTRICT 1, DISTRICT 3, DISTRICT 5, DISTRICT 8, AND DISTRICT 9; ORDERING A SPECIAL ELECTION FOR THE PURPOSE OF AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS; ORDERING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING PROPOSED CHARTER AMENDMENTS TO THE VOTERS; ORDERING A SPECIAL ELECTION FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A PROPOSED CITIZEN-INITIATED ORDINANCE REGARDING WHETHER THERE MUST BE BOTH A WAITING PERIOD AND SUBSEQUENT VOTER APPROVAL BY ELECTION BEFORE ANY COMPREHENSIVE REVISIONS OF THE CITY'S LAND DEVELOPMENT LAWS MAY GO INTO EFFECT; ORDERING A SPECIAL ELECTION TO SUBMIT TO THE VOTERS A PROPOSED CITIZEN-INITIATED ORDINANCE RELATING TO AN EFFICIENCY STUDY OF THE CITY'S OPERATIONAL AND FISCAL PERFORMANCE; PROVIDING FOR THE CONDUCT OF THE GENERAL MUNICIPAL AND SPECIAL ELECTIONS; AUTHORIZING THE CITY CLERK TO ENTER INTO JOINT ELECTION AGREEMENTS WITH OTHER LOCAL POLITICAL SUBDIVISIONS AS MAY BE NECESSARY FOR THE ORDERLY CONDUCT OF THE ELECTIONS; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. A general municipal election shall be held in the City of Austin on November 6, 2018. At the election there shall be elected by the qualified voters of the City a Mayor (at large) and City Council Members (single member districts) for District 1, District 3, District 5, District 8, and District 9. The candidates for Mayor shall meet all requirements and shall be residents of the City of Austin, and shall be elected by majority vote of the City at large. The candidates for Districts 1, 3, 5, 8, and 9 shall meet all requirements and shall be residents of their respective districts, and shall be elected by majority vote of voters residing in each respective district.

PART 2. A special election shall be held in the City of Austin on November 6, 2018, for the voters to consider the issuance of general obligation bonds and notes. The Council establishes that the following propositions shall be presented to the voters at the special election:

Proposition A (Affordable Housing)

CITY OF AUSTIN, TEXAS PROPOSITION A

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, renovating, improving, and equipping affordable housing facilities and related infrastructure for low and moderate income persons and families; acquiring land and interests in land and property necessary for such purposes; funding affordable housing and home repair programs as may be permitted by law; funding loans and grants for affordable housing purposes, pursuant to an economic development program now or hereafter approved; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$250,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition B (Libraries, Museums and Cultural Arts Facilities)

CITY OF AUSTIN, TEXAS PROPOSITION B

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, renovating, improving, and equipping community and cultural facilities, libraries, museums, and cultural arts facilities, which include creative spaces dedicated to the creation, exhibition, or preservation of art and creative expression; acquiring land and interests in land and property for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$128,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and

pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition C (Parks and Recreation)

CITY OF AUSTIN, TEXAS PROPOSITION C

Shall the City Council of the City of Austin, Texas, be authorized to issue general obligation bonds and notes of the City for park and recreation purposes, to wit: planning, designing, acquiring, constructing, renovating, improving and equipping public parks, recreation centers and other park buildings and infrastructure, natural areas, and other related facilities, including, without limitation, playgrounds, hike and bike trails, athletic fields, swimming pools, sports and aquatics facilities, and related parking lot and roadway infrastructure; acquiring land and interests in land and property necessary for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$149,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition D (Flood Mitigation, Open Space and Water Quality Protection)

CITY OF AUSTIN, TEXAS PROPOSITION D

Shall the City Council of the City of Austin, Texas, be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, and installing improvements and facilities for flood mitigation and control, erosion control, water quality, water quantity, and storm-water drainage and acquiring land, open spaces and interests in land and property for the conservation, preservation and protection of natural areas and the

region's water quality; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$184,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition E (Health and Human Services)

CITY OF AUSTIN, TEXAS PROPOSITION E

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for the public purposes of planning, designing, acquiring, constructing, and equipping a new neighborhood public health and human services facility in the Dove Springs area, to be owned and operated by the City; acquiring land and interests in land and property necessary for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$16,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition F (Public Safety)

CITY OF AUSTIN, TEXAS PROPOSITION F

Shall the City Council of the City of Austin, Texas be authorized to issue general obligation bonds and notes of the City for public safety purposes, to wit: planning, designing, renovating, improving, and equipping existing fire department facilities and existing emergency medical service facilities in the City; and all matters necessary or

incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$38,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

Proposition G (Transportation Infrastructure)

CITY OF AUSTIN, TEXAS PROPOSITION G

Shall the City Council of the City of Austin, Texas, be authorized to issue general obligation bonds and notes of the City for transportation and mobility purposes, to wit: planning, designing, constructing, reconstructing, equipping and improving roads, streets, intersections, sidewalks, bridges, urban trails, and related utility and drainage infrastructure; improving traffic signal synchronization and communications and control systems; acquiring and installing traffic signals and related technology; acquiring land and interests in land and property necessary for such purposes; and all matters necessary or incidental thereto; with the bonds and notes to be issued in one or more series or issues, in the aggregate principal amount of \$160,000,000, to mature serially or otherwise and bear interest at a rate or rates not to exceed the respective limits prescribed by law at the time of issuance, and to be sold at the price or prices as the City Council determines and shall there be levied and pledged, assessed, and collected annually ad valorem taxes on all taxable property in the City in an amount sufficient, within the limits prescribed by law, to pay the annual interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes at maturity?

PART 3. The propositions will appear on the official ballot in substantially the following form, and the ballot shall be prepared to permit voting “for” or “against” each proposition:

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION A

The issuance of \$250,000,000 in tax supported general obligation bonds and notes for planning, constructing, renovating, improving, and equipping affordable housing facilities for low income and moderate income persons and families, and acquiring land and interests in land and property necessary to do so, funding loans and grants for affordable housing, and funding affordable housing programs, as may be permitted by law; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION B

The issuance of \$128,000,000 in tax supported general obligation bonds and notes for planning, acquiring, constructing, renovating, improving, and equipping community and cultural facilities, libraries, museums, and cultural and creative arts facilities, and acquiring land and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION C

The issuance of \$149,000,000 in tax supported general obligation bonds and notes for planning, acquiring, constructing, renovating, improving and equipping public parks, recreation centers, natural areas, and other related facilities, including, without limitation, playgrounds, hike and bike trails, sports courts, and swimming pools, and acquiring land and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION D

The issuance of \$184,000,000 in tax supported general obligation bonds and notes for flood mitigation, open space and water quality and quantity for planning, designing, acquiring, constructing, and installing improvements and facilities for flood control, erosion control, water quality, water quantity, and storm-water drainage, and acquiring land,

open spaces, and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION E

The issuance of \$16,000,000 in tax supported general obligations bonds and notes for planning, constructing, reconstructing, improving, and equipping a neighborhood public health and human services facility in the Dove Springs area; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION F

The issuance of \$38,000,000 in tax supported general obligation bonds and notes for planning, renovating, improving, and equipping existing public safety facilities, specifically fire and emergency medical services stations, buildings, and other related facilities; and the levy of a tax sufficient to pay for the bonds and notes.

CITY OF AUSTIN, TEXAS SPECIAL ELECTION
CITY OF AUSTIN, TEXAS PROPOSITION G

The issuance of \$160,000,000 in tax supported general obligation bonds and notes for planning, constructing, reconstructing, and improving roads, streets, intersections, sidewalks, bridges, urban trails and related utility and drainage infrastructure for the roads and streets; improving traffic signal synchronization and control systems; acquiring and installing traffic signals; and acquiring land and interests in land and property necessary to do so; and the levy of a tax sufficient to pay for the bonds and notes.

PART 4. Pursuant to Section 3.009, Texas Election Code: (i) the proposition language that will appear on the ballot is set forth in Part 3 hereof, (ii) the purposes for which the bonds and notes are to be authorized are set forth in Part 2 hereof, (iii) the principal amount of bonds and notes to be authorized is set forth in Part 2 hereof, (iv) if the issuance of bonds and notes is authorized by voters, taxes sufficient, within the limits prescribed by law, to pay the annual principal of and interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes may be imposed,

as set forth in Part 2 hereof, (v) bonds and notes authorized pursuant to this ordinance may be issued to mature over not to exceed 40 years from their date of issuance and bearing interest at the rate or rates as authorized by law and determined by the Council, (vi) as of the beginning of the City's current fiscal year, the aggregate amount of outstanding principal of the City's debt obligations was \$1,378,485,000 and the aggregate amount of outstanding interest on the City's debt obligations was \$494,427,000, and (vii) the City's ad valorem debt service tax rate as of the date of adoption of this ordinance is \$.1055 per \$100 of taxable property.

Based upon market conditions as of the date of this ordinance and using taxable assessed values for the 2017 tax year (2017/2018 fiscal year), without adjustment for anticipated growth in taxable assessed value in future years, if the bonds and notes are authorized, the estimated total tax rate of the City is expected to be approximately \$.5440 per \$100 of taxable assessed value, (which represents an increase of \$.0992 per \$100 taxable assessed valuation as compared to the City's total tax rate as of the date of the adoption of this ordinance), based on current State law, which is subject to change. The estimated total tax rate represents the sum of (i) the most recently adopted tax rate for operations and maintenance, which is \$.3393 per \$100 of taxable assessed valuation, plus (ii) the estimated tax rate for debt obligations of the City, including the bonds and notes, which is expected to be approximately \$.2047 per \$100 of taxable assessed valuation.

If approved by voters, the bonds and notes will be secured by an ad valorem tax that is sufficient, within the limits prescribed by law, to pay the principal of and interest on the bonds and notes and to provide a sinking fund to pay the bonds and notes. Actual tax rates, interest rates, maturity dates, aggregate outstanding indebtedness and interest on such debt, will only be established and known at the time that bonds and notes are issued. In addition, actual tax rates will depend upon, among other factors, the assessed valuation of taxable property, prevailing interest rates, the market for the City's bonds and notes and general market conditions at the time that bonds and notes are issued.

The estimated tax rates and other statements contained in this Part 4 are (i) based on certain assumptions (including assumptions concerning prevailing market and economic conditions at the time(s) of issuance of the bonds and notes) and derived from projections obtained from the City's financial advisor, (ii) subject to change to the extent that actual facts, circumstances and conditions prevailing at the time that the bonds and notes are issued differ from such assumptions and projections, (iii) provided solely in satisfaction of the requirements of Section 3.009, Texas Election Code, and for no other purpose, without any assurance that such projections will be realized, and (iv) not intended to give rise to a contract with voters or limit the

authority of the Council to issue bonds and notes in accordance with the propositions submitted herein.

If the issuance of bonds and notes is approved by a majority of the voters voting on the proposition to issue bonds and notes for affordable housing (Proposition A), funding of affordable housing projects shall be in accordance with guidelines of the City relating to affordable housing now and hereafter existing, including but not limited to guidelines for rental housing, home ownership, and home repair. The guidelines have been developed by staff after consulting with bond counsel. The guidelines governing affordable housing projects comprise a program established in part under authority of Chapter 380 of the Texas Local Government Code, relating to the issuance of ad valorem tax supported obligations for this purpose, and Council approves and affirms this program, the guidelines governing the program, and their application to the issuance of bonds and notes for affordable housing purposes.

PART 5. A charter amendment election shall be held in the City on November 6, 2018, at which the ballot shall be prepared to permit voting "Yes" or "No" on the following propositions:

Proposition H: Shall the City Charter be amended to provide that the term of service and process for removal of the Planning Commission members be determined by ordinance?

Proposition I: Shall the City Charter be amended to make non-substantive corrections to grammar, typographical errors, capitalization, punctuation, and sentence structure; and to change or remove charter language that is obsolete?

PART 6 – If Proposition H is approved by the majority of voters voting at the election, the City Charter is amended to read as follows:

ARTICLE X. – PLANNING.

§ 2. - THE PLANNING COMMISSION — ORGANIZATION.

There shall be established a planning commission which shall consist of citizens of the City of Austin who must be registered voters in the city and must have resided within the city for one year next preceding their appointment. The planning commission shall have a number of members equal to the number of members on the council plus two ~~[(2)]~~additional members, a minimum of two-thirds of the members who shall be lay members not directly or indirectly connected with real estate and land development. The city manager, the

chairperson of the zoning board of adjustment, the director of public works and the president of the board of trustees of the Austin Independent School District shall serve as ex officio members. The members of said commission shall be appointed by the council for a term of up to two [(2)] years [~~five (5) members to be appointed in every odd-numbered year and four (4) members in every even-numbered year~~]. The timing of appointments, as well as a process for removing commissioners prior to expiration of a term, shall be established by ordinance. The commission shall elect a chairperson from among its membership and shall meet not less than once each month. Vacancies in an unexpired term shall be filled by the council for the remainder of the term.

PART 7. If Proposition I is approved by the majority of voters voting at the election, the City Charter is amended to read as follows:

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT, POWERS.

§ 1. - INCORPORATION.

The inhabitants of the City of Austin, [~~Travis County,~~] Texas, within its corporate limits, as established by Chapter 90, page 634, Special Laws of Texas, 1909, 31st Legislature, and as extended by ordinances of the City of Austin enacted subsequent thereto, shall continue to be and are hereby constituted a body politic and corporate, in perpetuity, under the name the "City of Austin," hereinafter referred to as the "city," with such powers, privileges, rights, duties, and immunities as are herein provided.

§ 3. - GENERAL POWERS.

The city shall have all the powers granted to cities by the constitution [~~Constitution~~] and laws of the State of Texas, together with all the implied powers necessary to carry into execution such granted powers. The city may use a corporate seal; may sue and be sued; may contract and be contracted with; may cooperate with the government of the State of Texas or any agency or political subdivision thereof, or with the federal government or any agency thereof, to accomplish any lawful purpose for the advancement of the interest, welfare, health, morals, comfort, safety, and convenience of the city and its inhabitants; may acquire property within or without its corporate limits for any municipal purposes in fee simple, or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, and control such property as may now or hereafter be owned by it; may pass ordinances and enact such regulations as may be expedient for the maintenance of the good

government, order, and peace of the city and the welfare, health, morals, comfort, safety, and convenience of its inhabitants. In addition to the powers enumerated herein, and subject only to the limitations imposed by the state constitution, the state laws, and this Charter, the city shall have, without the necessity of its express enumeration in this Charter, each and every power which, by virtue of Article XI, Section 5, of the Constitution of Texas, the people of the city are empowered by election to grant to or confer upon the city by expressly and specifically granting and enumerating the same herein.

§ 4. - STREETS AND PUBLIC PROPERTY.

The city shall have exclusive dominion, control, and jurisdiction[;] in, upon, over, and under the public streets, sidewalks, alleys, highways, public squares, and public ways within the corporate limits of the city, and in, upon, over, and under all public property of the city. With respect to each and every public street, sidewalk, alley, highway, public square, or other public way within the corporate limits of the city, the city shall have the power to establish, maintain, alter, abandon, or vacate the same; to regulate, establish, or change the grade thereof; to control and regulate the use thereof; and to abate and remove in a summary manner any encroachment thereon.

§ 5. - STREET DEVELOPMENT AND IMPROVEMENT.

The city shall have the power to develop and improve, or cause to be developed and improved, any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits of the city by laying out, opening, narrowing, widening, straightening, extending and establishing building lines along the same; by purchasing, condemning, and taking property therefor; by filling, grading, raising, lowering, paving, repaving, and repairing, in a permanent manner, the same; and by constructing, reconstructing, altering, repairing, and realigning curbs, gutters, drains, sidewalks, culverts, and other appurtenances and incidentals in connection with such development and improvements. The city may make or cause to be made any one or more of the kinds or classes of development and improvement authorized hereinabove, or any combination or parts thereof. The cost of such development and improvement shall be paid by the city, or partly by the city and partly by assessments levied against the property abutting thereon and the owners thereof, and such assessments may be levied in any amounts and under any procedure now or hereafter permitted by state law.

If improvements be ordered constructed in any part of the area between and under rails, tracks, double-tracks, turnouts and switches, and two [(2)] feet on each

side thereof, of any railway[;] using, occupying, or crossing any such highway, portion or portions thereof, ordered improved, then the city council shall have power to assess the whole cost of improvements in such area against such railway, and shall have power, by ordinance, to levy a special tax upon such railway, and its road-bed, ties, rails, fixtures, rights and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except state, county, and city ad valorem taxes, and which may be enforced either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the city, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest, not to exceed eight percent [(8%)] per annum, and same, if not paid when due, shall be collectible, together with interest, to expenses of collection and reasonable attorney's fees, if incurred. The city council shall have power to cause to be issued assignable certificates in evidence of any such assessments.

As an alternate and cumulative method of developing, improving, and paving any and all public streets, sidewalks, alleys, highways, and other public ways within the corporate limits, the city shall have the power and authority to proceed in accordance with Chapter 106, page 489, Acts 1927, Fortieth Legislature, First Called Session, as now or hereafter amended,[;-] to adopt plans and specifications pursuant thereto; to pay to the contractor, the successful bidder, in cash, that part of the cost which may be assessed against the abutting property and the owners thereof; to reimburse itself for the amount paid such contractor by levying assessments against the abutting property and the owners thereof, after the hearing and notice prescribed in the aforesaid statutes, in an amount permitted by said statutes and not in excess of the enhancement in value of such property occasioned by the improvements; and to issue assignable certificates in favor of the city for such assessments, said certificates to be enforceable in the manner prescribed by the aforesaid statutes. The city shall likewise have the power to make any such development, improvement or paving with its own forces if, in the opinion of the council, the work can be done more expeditiously or economically, and in such event the city shall have the power to reimburse itself for the cost of such improvement in the same amount and in the same manner as if the work had been performed by a successful bidding contractor.

§ 6. - ANNEXATION FOR ALL PURPOSES.

The city [City] council [Council] shall have the power by ordinance to fix the boundary limits of the City of Austin; and to provide for the alteration, reduction, and the extension of said boundary limits, and the annexation of additional territory lying adjacent to the city, with or without the consent of the territory and inhabitants annexed. Before the city [City] may institute annexation or disannexation

proceedings, the city [City] council [Council] shall provide an opportunity for all interested persons to be heard at a public hearing. Prior notice of such hearings shall be published in accordance with state law in a newspaper having general circulation in the city [City] and in the territory proposed to be annexed. Upon the final passage of any such ordinance, the boundary limits of the city [City] shall thereafter be fixed in such ordinance; and when any additional territory has been so annexed, same shall be a part of the City of Austin, and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions, and regulations of the city [City].

§ 7. - LIMITED PURPOSE ANNEXATION.

In addition to the power to annex additional territory for all purposes, the city [City] shall have the power, by ordinance, to fix, alter, and extend the corporate boundary limits of the city [City] for the limited purposes of planning, zoning, health, and safety and to annex for such limited purposes additional territory lying adjacent to the city [City], with or without the consent of the property owners or inhabitants of such annexed territory; provided, however, that no such territory which lies farther than five miles from the corporate boundary limits enclosing the territory which is a part of the city [City] for all purposes, as those corporate boundary limits are now or may hereafter be established, shall be annexed for any limited purpose or purposes. Whenever the boundary limits annexed for such limited purposes are not coterminous with the corporate boundary limits enclosing the territory which a part of the city [City] for all purposes, such boundary limits of the limited purpose territory shall be known as "Limited Purpose Boundary Limits." Every ordinance by which territory is to be annexed to the city [City] for limited purposes shall state clearly the limited purpose or purposes for which it is being annexed, and shall be published one time, in a newspaper of general circulation in the city [City] and in the form in which it is to be finally adopted, not less than 30[~~thirty~~(30)] days prior to its final passage.

When any additional territory has been annexed for said limited purpose or purposes, it shall be a part of the city for such limited purpose or purposes only. However, in dealing with the property and inhabitants thereof, the city [City] shall have every power which it otherwise possesses and which is reasonable and expedient for the accomplishment of the limited purpose or purposes for which such property is annexed, and the power of the city [City] to deal with the property and inhabitants of such limited purpose territory shall include the powers enumerated in the next two [(2)] succeeding sentences but shall not be limited or restricted thereto. With regard to territory annexed for the limited purpose of planning or zoning, the

city [City] shall have the power to control and regulate the use of property and the density of structures, to require compliance with reasonable zoning regulations, to control and regulate the subdivision of property and to control and regulate the construction of buildings. With regard to territory annexed for the limited purpose or purposes of health or safety, the city [City] shall have the power to adopt all reasonable regulations pertaining to health and safety and to require compliance with such regulations. Every inhabitant of territory annexed for limited purpose or purposes, who is otherwise qualified, shall be entitled to vote in city [City] elections on every issue where the question[s] is the election or recall of a city [City] council member or the amendment of this Charter, and every such inhabitant shall be deemed to be a citizen of the city [City] in connection with any ordinance, regulation, or action which is, or is alleged to be, applicable to him or her or his or her property because of such limited purpose annexation, but will not be eligible to run for any office in the City of Austin. The city [City] shall have no power to levy any tax for municipal purposes on either the property or [of] the inhabitants of territory annexed for limited purpose or purposes, and no funds of the city [City] shall be spent in such territory except where reasonable and expedient for the accomplishment of the limited purpose or purposes for which the territory is annexed; but the city [City] may collect reasonable charges from property owners and inhabitants of such territory for services rendered by the city [City] in the accomplishment of the limited purpose or purposes for which the territory is annexed.

ARTICLE II. - THE COUNCIL.

§ 3. - REDISTRICTING.

(A) For purposes of this section, the following terms are defined:

(4) PANEL means the Applicant Review Panel of three qualified, independent auditors that screens applicants for the commission [Commission].

(B) In 2013 and thereafter in each year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, the commission [Commission] shall adjust the boundary lines of the 10 single-member districts in conformance with the standards and process set forth in this article. The commission [Commission] shall be fully established no later than July 1, 2013, and thereafter no later than March 1 in each year ending in the number (1). The commission [Commission] shall not draw district lines at any other time, except if the districts must be redrawn because of a judicial decision invalidating the then existing district

plan, in whole or in part, or the date of the city election is moved. If the date of the city election is moved, then the dates in this article shall be adjusted to ensure the commission has sufficient time to draw the lines prior to the election date.

(C) The commission shall:

- (1) conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines;
- (2) draw district lines according to the redistricting criteria specified in this section; and
- (3) conduct themselves with integrity and fairness. This selection process is designed to produce a commission that is independent from influence by the city [City] council [Council] and is reasonably representative of this city's diversity.

(D) The commission shall consist of 14 members.

- (1) Each commission member shall be a voter who has been continuously registered in the City of Austin for five or more years immediately preceding the date of his or her appointment. Each commission member, except the student member described below, shall have voted in at least three of the last five City of Austin general elections immediately preceding his or her application. One commission member shall be a student duly enrolled in a community college or university in the City of Austin and who resides and is registered to vote in the City of Austin.
- (2) The term of office of each member of the commission expires upon the appointment of the first member of the succeeding commission in the year following the year in which the national census is taken.
- (3) Nine members of the commission shall constitute a quorum. Nine or more affirmative votes shall be required for any official action, including approval of a final plan establishing the boundaries of any council district.
- (4) Each commission member shall apply this section in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A commission member shall be ineligible, for a

period of 10 years beginning from the date of appointment, to hold elective public office for the City of Austin. A member of the commission shall be ineligible, for a period of three years beginning from the date of appointment, to hold appointive public office for the City of Austin, to serve as paid staff for, or as a paid consultant to, the City of Austin, the city [City] council [Council] or any member of the city [City] council [Council], or to receive a noncompetitively bid contract with the City of Austin. This three year ban on having a paid consultancy or entering noncompetitively bid contracts applies to the member individually and all entities for which the member is a controlling person.

- (E) The commission shall establish the boundaries of the council districts for the City of Austin in a plan using the following criteria as set forth in the following order of priority:
- (1) districts shall comply with the United States Constitution. Each council district shall have reasonably equal population with other districts, except where deviation is required to comply with the federal Voting Rights Act or is allowable by law.
 - (2) districts shall comply with the federal Voting Rights Act (52[42] U.S.C. Sec. 10101[1971] and following) and any other requirement of federal or state law.
 - (3) districts shall be geographically contiguous.
 - (4) the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subsections. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.
 - (5) to the extent practicable, district boundaries shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant populations.

- (6) to the extent practicable, district boundaries shall be drawn using the boundaries of existing election precincts.
 - (7) to the extent practicable, district boundaries shall be drawn using geographically identifiable boundaries.
- (G) By December 1, 2013, and thereafter by November 1 in each year ending in the number one [~~4~~], the commission shall adopt a final plan for the City of Austin specifically describing the district boundaries for each of the council districts prescribed above. Upon adoption, the commission shall certify the plan to the city [~~City~~] council [~~Council~~]. The city council may not change the plan. The plan shall have the force and effect of law.
- (1) The commission shall issue a report that explains the basis on which the commission made its decisions in achieving compliance with the criteria listed above and shall include definitions of the terms and standards used in drawing the final plan.
 - (2) If the commission does not adopt a final plan by the dates in this section, the city attorney for the City of Austin shall immediately petition state court for an order prescribing the boundary lines of the single-member districts in accordance with the redistricting criteria and requirements set forth in this section [~~Section~~]. The plan prescribed by the court shall be used for all subsequent city council elections until a final plan is adopted by the commission to replace it.
- (H) The commission has the sole legal standing to defend any action regarding a certified final map, and shall inform the city [~~City~~] council [~~Council~~] if it determines that funds or other resources provided for the operation of the commission are not adequate. The city [~~City~~] council [~~Council~~] shall provide adequate funding to defend any action regarding a certified map. The commission has sole authority to determine whether the city attorney or other legal counsel retained by the commission at its discretion shall represent the commission in defense of a certified final map.
- (I) Commission Selection Process.
- (1) No later than December 1, 2012, and thereafter by June 1 in each year ending in the number zero, the City of Austin Auditor shall initiate and widely publicize an application process, open to all registered City of Austin voters who meet the requirements of subdivision 3(D)(1) above,

in a manner that promotes a large, diverse (by race, ethnicity, gender, and geography) and qualified commissioner~~[Commissioner]~~ applicant pool. The City Auditor shall take all reasonable and necessary steps to ensure that the pool has the requisite numbers, diversity, and qualifications. This process shall remain open until February 1, 2013, and thereafter until September 30 in each year ending in the number zero.

- (2) No later than December 1, 2012, and thereafter by June 1 in each year ending in the number zero, the City of Austin Auditor shall initiate and widely publicize an application process, open to all qualified independent auditors that reside in the City of Austin and who meet the requirements of subdivision 3(A)(5) above, in a manner that promotes a large pool of applicants and applicant diversity by race, ethnicity, gender, and geography. This process shall remain open until February 1, 2013 and thereafter until September 1 in each year ending in the number zero.
- (3) The City of Austin Auditor shall remove from the commissioner or independent auditor applicant pool any person with conflicts of interest including:
 - (a) Within the five years immediately preceding the date of application, either the applicant or their spouse, shall have done any of the following:
 - (i) been appointed to, elected to, or have been a candidate for state or city office.
 - (ii) served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective state, county or city office.
 - (iii) been a registered state or local lobbyist.
 - (iv) contributed or bundled \$1,000 or more in aggregate to candidates for City of Austin elective office in the last city election.
 - (b) A person who has been, within the three years immediately preceding the date of application: a paid employee of the City of Austin; person performing paid services under a professional or

political contract to the City of Austin, to the city [City] council [Council], or to any member of the city [City] council [Council]; any controlling person of any such consultant; or a spouse of any of the foregoing.

- (4) No later than February 15, 2013, and no later than October 1 in each year ending in the number zero, the City [~~of Austin~~] Auditor shall review the auditor review panel applicants and remove those who do not meet the prescribed qualifications in subdivision 3(A)(5) or have conflicts of interest as defined by subdivision 3(I)(3). No later than February 15, 2013, and no later than October 1 in each year ending in the number zero, the City [~~of Austin~~] Auditor shall at a public meeting randomly draw the names of three qualified independent auditors from a pool consisting of all qualified independent auditors, without conflicts of interest, that have applied to serve on the Applicant Review Panel. After the drawing, the City Auditor shall notify the three qualified independent auditors whose names have been drawn that they have been selected to serve on the panel. If any of the three qualified independent auditors declines to serve on the panel or is disqualified because of any conflict of interest prescribed above in subdivision 3(I)(2), the City [~~of Austin~~] Auditor shall resume the random drawing at a public meeting as soon as possible until three qualified independent auditors who meet the requirements of this section have agreed to serve on the panel.
- (5) No later than March 1, 2013, and thereafter no later than October 31 in each year ending in the number zero, the City [~~of Austin~~] Auditor shall have reviewed and removed individuals with conflicts of interest as defined in subdivision 3(I)(3), or who fail to meet the qualification prescribed in subdivision 3(D)(1), from among the commission applicants, and then shall publicize the names in the applicant pool and provide copies of their applications to the Applicant Review Panel.
- (6) No later than May 1, 2013, and thereafter by January 15 in each year ending in the number one, the Applicant Review Panel shall select a pool of 60 applicants from among the qualified applicants. These persons shall be the most qualified applicants on the basis of relevant analytical skills, ability to be impartial, residency in various parts of the city [City], and appreciation for the City of Austin's diverse demographics and geography. The members of the Applicant Review Panel shall not communicate directly or indirectly with any elected

member of the city [City] council [Council], or their representatives, about any matter related to the nomination process or any applicant prior to the presentation by the panel of the pool of recommended applicants to the city [City] council [Council].

- (7) No later than May 2, 2013, and by January 16 in each year ending in the number one thereafter, the Applicant Review Panel shall submit its pool of 60 recommended applicants to the city [City] council [Council]. Each member of the city [City] council [Council] within five days in writing may strike up to one applicant from the pool of applicants. No reason need be given for a strike. Any applicant struck by any member of the city [City] council [Council] must be removed from the pool of applicants. No later than May 8, 2013, and thereafter by January 22 in each year ending in one, the Applicant Review Panel shall submit the pool of remaining applicants to the City [~~of Austin~~] Auditor.
- (8) No later than May 9, 2013, and thereafter by January 23 in each year ending in the number one, the City [~~of Austin~~] Auditor shall randomly draw at a public meeting eight names from the remaining pool of applicants. These eight individuals shall serve on the commission[~~Citizens Redistricting Commission~~].
- (9) No later than June 30, 2013, and thereafter by February 28 in each year ending in the number one, the eight commissioners shall review the remaining names in the pool of applicants and, from the remaining applicants in that pool, shall appoint six applicants to the commission. These six appointees must be approved by at least five affirmative votes among the eight commissioners. These six appointees shall be chosen to ensure that the commission reflects the diversity of the City of Austin, including, but not limited to, racial, ethnic, and gender diversity. However, it is not intended that formulas or specific ratios be applied for this purpose. Applicants shall also be chosen based on relevant analytical skills and ability to be impartial. As for geographic diversity, for the first redistricting in 2013, the eight commissioners shall appoint the remaining six members to ensure geographic diversity and that at least three commissioners come from each of the four existing Travis County Commissioners precincts[~~districts~~], to the extent feasible with the remaining six open seats. As for the redistricting in each year ending in the number one thereafter, the eight commissioners shall ensure that at least one commission member

resides in each of the then current council districts, to the extent feasible with the remaining six open seats.

- (10) Once constituted, the commission shall conduct hearings and adopt a plan for the boundaries of the city's council districts as required by the Charter~~[charter]~~ of the City of Austin.
- (J) Citizens Redistricting Commission Vacancy, Removal, Resignation, or Absence.
- (1) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the commission, having been served written notice and provided with an opportunity for a response, may be removed by a vote of 10 of the commissioners~~[Commissioners]~~.
 - (2) Any vacancy, whether created by removal, resignation, or absence, in the 14 commission positions shall be filled by the commission~~[Commission]~~ within 15 days after the vacancy occurs, from the remaining pool of applicants and in compliance with the applicant requirements of subdivision 3(I)(8). Nine members must agree to any appointment.
- (K) The activities of the commission~~[Citizens Redistricting Commission]~~ are subject to all of the following:
- (1) the commission shall comply with all state and city requirements for open meetings.
 - (2) the records of the commission and all data considered by the commission are public records that will be made available in a manner that ensures immediate and widespread public access.
 - (3) commission members and commission staff may not communicate with, or receive communications about, redistricting matters from anyone outside of a public hearing. This paragraph does not prohibit communication between commission members, commission staff (which shall exclude staff of any council members), legal counsel, and consultants retained by the commission that is otherwise permitted by state and city open meeting requirements.

- (4) the commission shall select one of its members to serve as the chair and one to serve as vice chair. The chair and vice chair shall remain voting members of the commission.
- (5) the commission shall hire commission staff, legal counsel, and consultants as needed; provided, however, that compensation of such persons shall be limited to the period in which the commission is active. The commission shall establish clear criteria for the hiring and removal of these individuals, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest listed in subdivision 3(I)(3) to the hiring of staff, legal counsel, and consultants. The commission shall require that at least one of the legal counsel hired by the commission has demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (52[42] U.S.C. Sec. 10101[1971] and following). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by nine or more affirmative votes.
- (6) notwithstanding any other provision of law, no employer shall discharge, threaten to discharge, intimidate, coerce, or retaliate against any employee by reason of such employee's membership on the commission or attendance or scheduled attendance at any meeting of the commission.
- (7) the commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through an extensive outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall begin with hearings to receive public input before the commission votes and approves a preliminary redistricting plan. In 2013, there shall be at least two such public hearings, before the commission votes on a preliminary plan, in each of the four Travis County Commissioner p[P]recincts, and in each year ending in the number one thereafter, there shall be at least one such public hearing, before the commission votes on a preliminary redistricting plan in each of the then existing 10 council districts. In addition, these hearings shall be supplemented with all other appropriate activities to further increase opportunities for the public to observe and participate in the review process.

Following the commission's vote approving the preliminary plan, there shall be at least four public hearings, geographically dispersed, with at least one hearing in each of the four Travis County Commissioners' precincts, and each hearing shall be held on a different date. The commission also shall display the approved preliminary plan for written public comment in a manner designed to achieve the widest public access reasonably possible. Written public comment shall be taken for at least 14 days from the date of public display of the approved preliminary plan. The commission then shall vote on a proposed final plan and then it shall hold two subsequent public hearings, one north of Lady Bird Lake and one south of Lady Bird Lake and take at least five days of written public comments. The commission[~~Commission~~] then shall be finished with all hearings and adopt a final plan by no later than December 1, 2013, and thereafter by November 1 in each year ending in the number one.

- (8) members of the commission shall not be compensated for their service. Members of the panel and the commission are eligible for reimbursement of reasonable and necessary personal expenses incurred in connection with the duties performed pursuant to this act.
- (9) the city [~~City~~] council [~~Council~~] shall appropriate sufficient funds to meet the operational cost of the commission and the cost of any outreach program to solicit broad public participation in the redistricting process.
- (10) the commission shall remain inactive except when necessary to comply with its duties under this ordinance and the Charter[~~charter~~] of the City of Austin.

§ 4. – REPEALED[TRANSITION].

~~[(A) This section provides for a transition from the seven member council elected at large to the 11 member council provided by this article. Except as provided in this section, and after the transition as prescribed in this section, the mayor and council members shall serve three year terms.~~

~~[(B) The three council members elected at large in May 2011 shall serve three year terms. The mayor and three council members elected at large in the May 2012 general election shall serve two year terms.~~

- ~~(C) A general election shall be held for the council in May 2014, at which the mayor and the 10 council members elected from council districts shall be elected.~~
- ~~(D) As soon as practicable after assuming office after the May 2014 general election, the City Clerk shall divide at a public hearing the council members elected from council districts into two classes by drawing lots. Class One shall consist of five council members who shall serve initial two year terms. Class Two shall consist of five council members who shall serve three year terms.~~
- ~~(E) At the May 2016 general election, the five Class One council members elected by districts will be elected for three year terms.~~
- ~~(F) At the May 2017 general election, the Mayor and five Class Two council members elected by districts will be elected for three year terms, marking the end of the transition period.]~~

§ 5. - TERM LIMITS.

- (A) Except as provided in subsection~~[Subsection]~~ (C), a person may not be elected to, or serve in the office of mayor~~[Mayor]~~, for more than two consecutive terms, and a person who has held the office of mayor~~[Mayor]~~ for more than two years of a term to which some other person was elected mayor~~[Mayor]~~ may not be elected to the office of mayor~~[Mayor]~~ more than once in succession.
- (B) Except as provided in subsection~~[Subsection]~~ (C), a person may not ~~[shall]~~ be elected to, or serve on, the city ~~[City]~~ council ~~[Council]~~ in a position other than mayor~~[Mayor]~~ for more than two consecutive terms, and a person who has held a position other than mayor~~[Mayor]~~ for more than two years of a term to which some other person was elected to the position may not be elected to a position other than mayor~~[Mayor]~~ more than once in succession.
- (C) A person subject to a term limit with respect to an office may become a candidate for the office and serve if elected, if the person's application to be a candidate for the office is accompanied by a petition requesting that the person be authorized to be a candidate and the petition is signed by at least five percent of the qualified voters of the territory from which the office is elected.

§ 6. - VACANCIES.

Where a vacancy in any place on the council shall occur, the vacant place shall be filled by a special election, and, where necessary, by a run-off election, in the same manner as provided in this Charter for the regular election of a council member. Such special election shall be held on the next available state uniform election date following the creation of the vacancy, and the run-off election shall be held according to state law following the preceding election; provided, however, that where a vacancy shall occur within [~~ninety~~ (90)] days of a regular election, no special election to fill the vacancy shall be called, unless more than one vacancy occurs.

§ 10. - MAYOR AND MAYOR PRO TEM.

The council member elected to and occupying the place designated "mayor" shall be the mayor of the City of Austin. At its first meeting following each regular election of council members, the council shall, by election, designate one of its number as mayor pro tem, who shall serve in such capacity at [~~during~~] the pleasure of the council. The mayor shall preside at all meetings of the council and shall be recognized as head of the city government for all ceremonial purposes, for the purpose of receiving service of civil process, and for military purposes, but he or she shall have no regular administrative duties. The mayor, as a member of the council, shall be entitled to vote upon all matters considered by the council, but shall have no veto power. The mayor pro tem shall act as mayor during the absence or disability of the mayor, and shall have power to perform every act the mayor could perform if present.

§ 12. - MEETINGS OF THE COUNCIL.

The council shall meet in regular session at the City Hall at least once each week at such time as may be prescribed by ordinance, unless otherwise ordered by the council for reasons to be documented in [~~spread upon~~] the minutes. Special meetings of the council shall be called by the city clerk upon written request of the mayor or two [~~2~~] members of the council. All meetings shall be open to the public except as may be authorized by the laws of the State of Texas.

§ 14. - PROCEDURE TO ENACT LEGISLATION.

The council shall legislate by ordinance only, and the enacting clause of every ordinance shall be, "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN." Before any ordinance shall be adopted, the city attorney shall approve such ordinance in writing or shall file with the city clerk his or her written legal

objections thereto. Every ordinance enacted by the council shall be signed by the mayor, mayor pro tem, or by two council members, and shall be filed with and recorded by the city clerk before the same shall become effective. Unless otherwise provided by law or this Charter, no ordinance shall become effective until the expiration of 10 days following the date of its final passage, except where an ordinance relating to the immediate preservation of the public peace, health or safety, is adopted as an emergency measure by the favorable votes of at least two-thirds of the council members and contains a statement of the nature of the emergency.

§ 16. - CODE OF ORDINANCES.

Within six ~~[(6)]~~ months after the effective date of this section, the council shall cause all general ordinances of the city to be compiled and printed in code form. For the purpose of this section, general ordinances shall be deemed to be those ordinances of a permanent or continuing nature which affect the residents of the city at large. Every general ordinance enacted subsequent to the original codification required above shall be enacted as an amendment to the code. After the original codification, the council shall have the power to cause all general ordinances to be recodified and reprinted whenever in its discretion such is deemed desirable, and it shall be mandatory upon the council to cause all general ordinances to be recodified and reprinted before the expiration of any ~~10~~~~ten~~~~(10)~~ consecutive years following the last preceding codification or recodification. When adopted by the council, the printed codes of general ordinances contemplated by this section shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper.

ARTICLE III. - ELECTIONS.

§ 2. - ELECTION DATE; COUNCIL TERMS; ELECTION BY MAJORITY AND RUN-OFF ELECTIONS.

- (A) The c[C]ity's general election shall be held on the November uniform election date authorized by state law in even-numbered years. Notwithstanding any other provision of this Charter, the regular term of the mayor and council members is four years. Council terms shall be staggered so that a general election is held every two years, and half, or as near to half as is practical, of the council is elected at each election.

~~[(1) The council shall provide by ordinance for the transition from three-year terms to four-year terms and for staggering the terms of council members. The ordinance may provide for drawing lots for initial terms~~

~~or temporarily lengthening or shortening individual council member's terms to accomplish the transition. If a council member's term is shortened by more than a year, for the purpose of the transition, that shortened term does not count as a term for the purpose of Article II Section 5 of this Charter. When this paragraph has served its purpose, it expires, and need not be reprinted in future versions of the Charter.]~~

- (C) The regular term of a council member begins on the date set by ordinance. A council member may qualify for office on that date or as soon thereafter as practicable. In the case of a special election to fill an unexpired term, the person elected may qualify and assume office as soon as practicable after the canvass of the election.

§ 3. - REGULATION OF ELECTIONS.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with the ordinances adopted by the council for the conduct of elections. ~~The~~Provided that the council shall appoint the election judges and other election officials. Voting precincts shall be established by ordinance and may be altered from time to time in like manner.

§ 4. - FILING OF CANDIDATES.

Any qualified person who desires to become a candidate for election to a place on the council shall file with the city clerk, at least ~~45~~forty five (45) days prior to the election day, an application for his or her name to appear on the ballot. Such application shall be accompanied by a filing fee of ~~\$500.00~~five hundred dollars (\$500.00). ~~Such~~ If the petition is sufficient to satisfy statutory requirements, the filing fee may be reduced by ~~\$1.00~~one dollar (\$1.00) per signature for each registered voter who signs a petition requesting that the name of the candidate be placed on the ballot, if such petition is sufficient to satisfy statutory requirements. In case of a district position, the petition shall be signed by registered voters residing in the particular district. Such application shall clearly designate by number the place on the council to which the candidate seeks election and shall contain a sworn statement by the candidate that he or she is fully qualified under the laws of Texas and the provisions of this Charter to hold the office he or she seeks.

§ 6. - CANVASSING ELECTION AND DECLARING RESULTS.

The returns of every municipal election shall be delivered by the election judges to the city clerk not later than ~~12~~twelve (12) hours after the closing of the polls. The council shall canvass the returns and declare the official results of the

election in accordance with state law. The returns of every municipal election shall be recorded in the minutes of the council, by precinct totals for each candidate.

§ 8. - LIMITS ON CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.

(A) Limits On Contributions To Candidates.

- (1) No candidate for mayor~~[Mayor]~~ or city ~~[City]~~ council ~~[Council]~~ and his or her campaign committee shall accept campaign contributions in excess of \$300 per contributor per election from any person, except for the candidate and small-donor political committees. The amount of the contribution limit shall be modified each year with the adoption of the budget to increase or decrease in accordance with the most recently published federal government~~[,]~~ Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most recently published Consumer Price Index on May 13, 2006, shall be used as a base of 100 and the adjustment thereafter will be to the nearest \$50.00.
- (2) Each candidate may authorize, establish, administer, or control only one campaign committee at one time.
- (3) No candidate and his or her committee shall accept an aggregate contribution total of more than \$30,000 per election, and \$20,000 in the case of a runoff election, from sources other than natural persons eligible to vote in a postal zip code completely or partially within the Austin city limits. The amount of the contribution limit shall be modified each year with the adoption of the budget to increase or decrease in accordance with the most recently published federal government~~[,]~~ Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most recently published Consumer Price Index on May 13, 2006, shall be used as a base of 100 and the adjustment thereafter will be to the nearest \$1,000.00.

(B) Small-Donor Political Committees.

- (1) A small-donor political committee is a political committee which has accepted no more than \$25 from any contributor during any calendar year, has had at least 100 contributors during either the current or previous calendar year, has been in existence for at least six months, and has never been controlled by a candidate.

- (2) Such a committee shall not contribute more than \$1000 per candidate per election for the offices of mayor[~~Mayor~~] and city [~~City~~] council [~~Council~~].

(F) Time Restrictions On Candidate Fundraising; Officeholder Accounts.

- (1) In this section terms have the same meaning as they have in Title 15 of the Texas Election Code. The term "officeholder account" means an account in which funds described by subsection (F)(4) must be kept. "Officeholder" means the mayor or a council member.
- (2) An officeholder, a candidate for mayor or city council, or an officeholder's or candidate's committee, may not solicit or accept a political contribution except during the last 180 days before an election for mayor or council member or in which an officeholder faces recall.
- (3) Except as provided by subsection (F)(6), no later than the 90th day after an election, or if a candidate is in a runoff election no later than the 90th day after the runoff, a candidate or officeholder shall distribute the balance of funds received from political contributions in excess of any remaining expenses for the election:
 - (a) to the candidate's or officeholder's contributors on a reasonable basis,
 - (b) to a charitable organization, or
 - (c) to the Austin Fair Campaign Fund.
- (4) An unsuccessful candidate who, after an election, has unpaid expenses remaining, or who has unreimbursed campaign expenditures from personal funds that were made with the intent to seek reimbursement from political contributions, may solicit and accept political contributions after the election until the unpaid expenses are paid and the unreimbursed expenditures are reimbursed.
- (5) An officeholder who, after an election, has unpaid expenses remaining, or who has unreimbursed campaign expenditures from personal funds that were made with the intent to seek reimbursement from political contributions, may solicit and accept political contributions after leaving office until the unpaid expenses are paid and the unreimbursed expenditures are reimbursed. An officeholder may also pay the unpaid

expenses and reimburse the unreimbursed expenditures from political contributions received during a subsequent campaign.

- (6) An officeholder may retain up to \$20,000 of funds received from political contributions for the purposes of officeholder expenditures.
- (7) An officeholder shall keep funds retained under subsection (F)(6) in an account separate from any other funds including personal funds of the officeholder and any other political funds of the officeholder. The funds kept in an officeholder account may be used only for officeholder expenditures. The funds kept in an officeholder account may not be used for campaign expenditures. The funds kept in an officeholder account may not exceed \$20,000.00 at any time.
- (8) When an officeholder leaves the council[~~Council~~], the funds remaining in an officeholder account must be paid to the Austin Fair Campaign Fund.

(G) Applicability To Council M[~~m~~]embers. Any incumbent mayor or council member is subject to the regulations applied to candidates for the office he or she holds.

(I) Enforcement. The city council may by ordinance adopt penalties and enforcement procedures for violations of this article[~~Article~~].

ARTICLE IV. - INITIATIVE, REFERENDUM, AND RECALL.

§ 2. - POWER OF REFERENDUM.

The people reserve the power to approve or reject at the polls any legislation enacted by the council which is subject to the initiative process under this Charter, except an ordinance which is enacted for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency, and which is adopted by the favorable votes of eight[~~five (5)~~] or more of the council members. Prior to the effective date of any ordinance which is subject to referendum, a petition signed by qualified voters of the city equal in number to the number of signatures required by state law to initiate an amendment to this Charter may be filed with the city clerk requesting that any such ordinance be either repealed or submitted to a vote of the people. When such a petition has been certified as sufficient by the city clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless it is approved by the voters as herein provided.

§ 3. - FORM AND VALIDATION OF A PETITION.

A petition under ~~section~~[Section] 1 or ~~section~~[Section] 2 of this article is subject to the requirements prescribed by state law for a petition to initiate an amendment to this Charter, and shall be in the form and validated in the manner prescribed by state law for a petition to initiate an amendment to this Charter.

§ 4. - COUNCIL CONSIDERATION AND SUBMISSION TO VOTERS.

When the council receives an authorized initiative petition certified by the city clerk to be sufficient, the council shall either:

- (a) Pass the initiated ordinance without amendment within 10~~ten~~ (10) days after the date of the certification to the council; or
- (b) Order an election and submit said initiated ordinance without amendment to a vote of the qualified voters of the city at a regular or special election to be held on the next allowable election date authorized by state law after the certification to the council.

When the council receives an authorized referendum petition certified by the city clerk to be sufficient, the council shall reconsider the referred ordinance, and if upon such reconsideration such ordinance is not repealed, it shall be submitted to the voters at a regular or special election to be held on the next allowable election date authorized by state law after the date of the certification to the council. Special elections on initiated or referred ordinances shall not be held more frequently than once each six ~~[(6)]~~ months, and no ordinance on the same subject as an initiated ordinance which has been defeated at any election may be initiated by the voters within two ~~[(2)]~~ years from the date of such election.

§ 5. - BALLOT FORM AND RESULTS OF ELECTION.

The ballot used in voting upon an initiated or referred ordinance shall state the caption of the ordinance and below the caption shall set forth on separate lines the words, "For the Ordinance" and "Against the Ordinance."

Any number of ordinances may be voted on at the same election in accordance with the provisions of this article. If a majority of the votes cast is in favor of a submitted ordinance, it shall thereupon be effective as an ordinance of the city. An ordinance so adopted may be repealed or amended at any time after the expiration of two ~~[(2)]~~ years by favorable vote of at least three-fourths of the council. A

referred ordinance which is not approved by a majority of the votes cast shall be deemed thereupon repealed.

§ 6. - POWER OF RECALL.

The people of the city reserve the power to recall any member of the council and may exercise such power by filing with the city clerk a petition, signed by qualified voters of the territory from which the council member is elected, equal in number to at least 10 percent of the qualified voters of the territory from which the council member is elected, demanding the removal of a council member. The petition shall be signed and verified in the manner required for an initiative petition, shall contain a general statement of the grounds for which the removal is sought, and one of the signers of each petition paper shall make an affidavit that the statements therein made are true.

§ 7. - RECALL ELECTION.

Within 20 days after a recall petition is filed, the city clerk shall examine the same. The provisions regulating examination, certification, and amendment of initiative petitions shall apply to recall petitions. If the petition is certified by the city clerk to be sufficient and the council member whose removal is sought does not resign within five days after the certification to the council, the council shall order and hold a recall election in the territory from which the council member is elected on the first authorized election date that allows sufficient time to comply with other requirements of law.

§ 8. - RECALL BALLOT.

Ballots used at recall elections shall conform to the following requirements:

- (1) With respect to each person whose removal is sought, the question shall be submitted "Shall (name of council member[Councilmember]) be removed from the office of city[City] council member[Councilmember]?"
- (2) Immediately below each such question there shall be printed the two [(2)] following propositions, one above the other, in the order indicated:
"For the recall of (name of council member[Councilmember])."
"Against the recall of (name of council member[Councilmember])."

§ 9. - RESULTS OF RECALL ELECTION.

If a majority of the votes cast at a recall election shall be against removal of the council_member named on the ballot, he or she shall continue in office. If the majority of the votes cast at such election be for the removal of the council_member named on the ballot, the council shall immediately declare his or her office vacant, and such vacancy shall be filled in accordance with the provisions of this Charter for the filling of vacancies. A council_member thus removed shall not be a candidate to succeed himself or herself in an election called to fill the vacancy thereby created.

§ 10. - LIMITATION ON RECALL.

No recall petition shall be filed against a council_member within six [(6)] months after he or she takes office, and no council_member shall be subject to more than one recall election during a term of office.

ARTICLE V. - ADMINISTRATIVE ORGANIZATION.

§ 1. - THE CITY MANAGER.

The council shall appoint a city manager who shall be the chief administrative and executive officer of the city. He or she shall be chosen by the council solely on the basis of his or her executive and administrative training, experience, and ability, and need not, when appointed, be a resident of the City of Austin; however, during the tenure of his or her office, he or she shall reside within the city.

The city manager shall not be appointed for a definite term, but may be removed at the will and pleasure of the council by a majority vote of the entire membership of the council. If removed after serving six [(6)] months, he or she may demand written charges and the right to be heard thereon at a public meeting of the council prior to the date on which his or her final removal shall take place. Pending such hearing, the council may suspend him or her from office. The action of the council in suspending or removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the council. The city manager shall receive such compensation as may be fixed by the council.

No member of the council shall, during the time for which he or she is elected or for two [(2)] years thereafter, be chosen as city manager.

§ 4. - DIRECTORS OF DEPARTMENTS.

At the head of each department there shall be a director who shall be appointed, and who may be removed, by the city manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. Two [(2)] or more departments may be headed by the same individual, and the city manager may head one or more departments.

§ 5. - DEPARTMENTAL ORGANIZATION.

The work of each department shall be distributed among such divisions as may be established by ordinance; provided[~~Provided~~], however, that no departmental division shall be made until the city manager shall have been heard and have made his or her recommendations with respect thereto. Pending passage of ordinances establishing departmental divisions, the manager may establish temporary divisions in any department.

§ 6. - CITY ATTORNEY.

There shall be a department of law, the head of which shall be the city attorney, who shall be appointed by the city manager. The city attorney shall be a competent attorney who shall have practiced law in the State of Texas for at least five [(5)] years immediately preceding his or her appointment. The city attorney shall be the legal advisor of, and attorney for, all of the officers and departments of the city, and he or she shall represent the city in all litigation and legal proceedings. He or she shall draft, approve, or file his or her written legal objections to [e]very ordinance before it is acted upon by the council, and he or she shall pass upon all documents, contracts, and legal instruments in which the city may have an interest.

There shall be such assistant city attorneys as may be authorized by the council, who shall be authorized to act for and on behalf of the city attorney.

ARTICLE VI. - MUNICIPAL COURT.

§ 2. - JUDGE OF THE MUNICIPAL COURT.

The municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. He or she shall be appointed by the council for a four-year term beginning on January first of even numbered years. He or she shall be removed only for cause or disability as defined in the Texas[~~State~~] Constitution. He or she shall have been admitted to practice law in the State of Texas

for not less than two [(2)] years and shall have resided in the city for a period of not less than two [(2)] years immediately preceding his or her appointment.

In the event the judge of the municipal court is unable to act for any reason, the council shall appoint an attorney possessing the qualifications required above to act in his or her place. The judge, or anyone acting in his or her place, shall receive such compensation as may be set by the council.

The council shall have the power to create and establish additional municipal courts, and to appoint more than one judge of each municipal court, whether one or more, each of whom shall be a magistrate and shall have the qualifications and serve the term of office prescribed in the first paragraph of this section.

If any judge of a municipal court announces candidacy, or in fact becomes a candidate, in any general, special, or primary election, for any elective public office, at a time when the unexpired term of the judge's office exceeds one year, the judge's announcement or candidacy is an automatic resignation of the office of municipal judge.

§ 3. - CLERK OF THE MUNICIPAL COURT.

There shall be a clerk of the municipal court who shall be appointed by, and who shall serve at the pleasure of, the council. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process ~~for~~ such court and conducting the business thereof.

There shall be such deputy clerks of the municipal court as may be authorized by the council, who shall have authority to act for and on behalf of the clerk of the municipal court, and who shall be appointed by the clerk of the municipal court.

ARTICLE VII. - FINANCE.

§ 2. - DIRECTOR OF FINANCE — POWERS AND DUTIES.

The director of finance shall administer all financial affairs of the city, other than the assessment and collection of taxes. He or she shall have authority and be required to:

- (1) Maintain a general accounting system for the city government and exercise financial control over all offices, departments, and agencies thereof;

- (2) Certify as to the availability of funds for all proposed expenditures. Unless the Director of Finance shall certify that there is an unencumbered balance in the appropriation and funds available, no appropriation shall be encumbered, and no expenditure shall be made;
- (3) Submit to the council, through the city manager, a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the city;
- (4) Prepare, as of the end of the fiscal year, a complete financial statement and report.

§ 3. - FISCAL YEAR.

The fiscal year of the city which began on January 1, 1953, shall end on December 31, 1953. The next succeeding fiscal year shall begin on January 1, 1954, and end on September 30, 1954, and shall constitute an interim fiscal period. After September 30, 1954, the fiscal year of the city shall begin on the first day of October and end on the last day of September of each calendar year. The fiscal year established by this section shall also constitute the budget and accounting year. As used herein, the term "budget year" shall mean the fiscal year for which any budget is adopted and in which it is administered. All funds collected by the city during any fiscal year, including both current and delinquent revenues, shall belong to such fiscal year and, except for funds derived to pay interest and create a sinking fund on the bonded indebtedness of the city, shall be applied to the payment of expenses incurred during such fiscal year. Any revenues uncollected at the end of any fiscal year shall become resources of the next succeeding fiscal year.

§ 6. - BUDGET PREPARATION AND ADOPTION.

At least 30~~thirty (30)~~ days prior to the beginning of each budget year, the city manager shall submit to the council a proposed budget in the form required by this Charter. At the meeting of the council at which the budget is submitted, the council shall order a public hearing on the budget and shall cause to be published, at least 10~~ten (10)~~ days prior to the date of such hearing, the time and place thereof. At the time and place so advertised the council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard. The budget shall be finally adopted not later than the twenty-seventh day of the last month of the fiscal year. Upon final adoption the budget shall be in effect for the budget year, and copies thereof shall be filed with the city clerk, the county~~County~~ clerk~~Clerk~~ of Travis County, and the state comptroller of public

accounts. The final budget shall be reproduced and sufficient copies shall be made available for use of all offices, departments, and agencies of the city, and for the use of interested persons.

§ 7. - WORK PROGRAMS AND ALLOTMENTS.

At the beginning of each fiscal year the head of each department or agency of the city government, upon the direction of the city manager, shall submit to the department of finance a work program for the year. Said work program shall include all appropriations for operation, maintenance, and capital outlays and shall indicate the requested allotments of such appropriations by months for the entire fiscal year. The city manager shall review the requested allotments, and, after such alteration or revision as he may deem necessary, authorize such for expenditure. Thereafter the department of finance shall authorize all expenditures for departments and agencies to be made from the appropriations on the basis of the approved allotments and not otherwise. The approved allotments may be revised during the fiscal year by the city manager, or upon application by the head of any department or agency and approval by the city manager, but in no event shall the aggregate of departmental or agency allotments exceed the appropriation available to such departments or agencies for the fiscal year. If, at any time during the fiscal year, the city manager shall ascertain that available revenues will be less than total appropriations for the year, he or she shall reconsider the work program and allotments of the departments and agencies and revise them so as to prevent the making of expenditures in excess of available revenues.

§ 12. - REVENUE BONDS FOR CONSERVATION.

In order to conserve the energy-producing resources, water resources, and wastewater treatment facilities of the city and, therefore, to save money of the city, the city shall have power to borrow money for the purpose of providing conservation facilities, including facilities to be owned or operated by persons other than the city, and to issue revenue bonds, notes or other obligation in evidence of such borrowing. Such bonds shall be a charge upon and payable solely from the public utilities referred to in the first paragraph of [this] Section 11 and the income therefrom, and shall never be a debt of the city. All revenue bonds or obligations shall be issued in accordance with applicable laws of the State of Texas. The council shall have the authority to provide for the terms and form of any purchase agreement, contract, mortgage, bond or document desired or necessary for the issuance of revenue bonds and the providing of any such resource conservation facilities.

§ 15. - PURCHASE PROCEDURE.

All purchases made and contracts executed by the city shall be pursuant to a written requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be binding upon the city unless and until the director of finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Before the city makes any purchase or contract for supplies, materials, equipment or contractual services, opportunity shall be given for competition unless exempted by state statute. The city manager shall have the authority to contract for expenditures without further approval of the council for an expenditure that does not exceed forty-three thousand dollars annually. A contract or an amendment to a contract, involving an expenditure of more than forty-three thousand dollars annually must be expressly approved by the council. All contracts or purchases involving more than \$5,000.00 [~~five thousand dollars (\$5,000.00)~~] shall be let to the bid deemed most advantageous to the city after there has been an opportunity for competitive bidding; provided, however, that the council shall have the right to reject any and all bids. Contracts for personal or professional services shall not be let on competitive bids and each such contract, or amendment to a contract, involving more than forty-three thousand dollars annually shall be approved by the council. The city manager may not contract for personal or professional services under the manager's authority if the manager knows or reasonably should know that the contractor's full scope of work will exceed the limit of the manager's authority. The amount of the forty-three thousand dollar annual limitation shall be modified each year with the adoption of the budget to increase or decrease in accordance with the most recently published federal government, Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average), U.S. City Average. The most recently published Consumer Price Index on May 4, 2002, shall be used as a base of 100 and the adjustment thereafter will be to the nearest \$1,000.00 [~~one thousand dollars (\$1,000.00)~~].

ARTICLE IX. - PERSONNEL.

§ 1. - CLASSIFIED CIVIL SERVICE.

- (B) There is hereby established a classified civil service in which all employment and promotions shall be made on the basis of merit and fitness. The civil service shall include all appointive offices and employments in the administrative service and in other agencies and offices of the city[City], except the following:

- (1) members of the city council and their direct staff;
- (2) persons who are appointed or elected by the city council pursuant to this Charter;
- (3) the city manager and assistant city managers;
- (4) department directors and assistant department directors;
- (5) the city attorney and all assistant city attorneys;
- (6) temporary and seasonal employees; and
- (7) employees covered by a state civil service statute.

§ 2. - MUNICIPAL CIVIL SERVICE COMMISSION.

- (C) Each commissioner must be a qualified voter of the city[City] who does not, during the commissioner's term, hold or become a candidate for any other public office of the city[City] or of the State of Texas.
- (G) The commission shall:
- (1) hear appeals and make final, binding decisions in the case of any municipal civil service employee or appointee who is discharged, suspended, demoted, denied a promotion, or put on disciplinary probation;
 - (2) recommend the adoption of civil service rules and perform services under the civil service rules as provided in this section;
 - (3) conduct any investigations it may consider desirable or which it may be required to make by the city council or the city manager concerning the administration of municipal civil service, and report its findings and recommendations to the city [City] council [Council];
 - (4) perform other duties regarding the municipal civil service, not inconsistent with this article, that the city [City] council [Council] may require;
 - (5) issue subpoenas and subpoenas duces tecum to witnesses, whether at the request of interested parties or on its own motion, when reasonably necessary to obtain pertinent evidence at a hearing or investigation; and

- (6) administer oaths to witnesses appearing at a hearing or investigation.

§ 5. – EMPLOYEES' RETIREMENT SYSTEM.

There shall be a retirement system for the employees of the city which shall be known as the employees' retirement system of the City of Austin. After the first six [(6)] months of employment, all municipal employees except the mayor, members of the council, members of boards and commissions, employees of the fire department, and part-time or temporary employees, shall become members of such system. Such system shall be governed by a board of directors composed of such members and selected in such a manner as may be provided by ordinance of the council, provided that classified employees shall have representation on the board. Such system shall be financed by a retirement fund created by contributions of the members and of the city, and the contributions by the city shall always be equal to or greater than the contributions of the members. The benefits payable to any member upon retirement shall be based upon the amount of contributions made on behalf of such member, and shall be determined on an actuarial basis. Upon separation of any member from the service of the city before retirement, such member shall be entitled to receive only the amount of his or her contributions to the fund and interest thereon.

Establishment of the employees' retirement system shall not preclude the council from merging such system with, or adopting, any voluntary statewide or national retirement system where the general benefits of such merger or change are at least equal to those under the employees' retirement system. The council shall likewise not be precluded from consolidating any retirement system maintained by employees of the fire department with the employees' retirement system of the City of Austin under terms agreeable to both systems.

§ 6. - COUNCIL APPOINTEES.

(A) Notwithstanding any other provision of this Charter:

- (1) each member of the city [City] council [Council] may hire assistants and other office staff as may be necessary to carry out the duties and responsibilities of the city council, and as may be authorized by ordinance;
- (2) each of the salaried city employees that this Charter provides be appointed by the city [City] council [Council] shall hire and manage the appointee's own staff as may be authorized by ordinance;

(3) the city [City] council [Council] may by ordinance provide for the adoption of the personnel policies for the employees subject to this section.

(B) If an officer or employee who is appointed by the city council under this charter, other than a judge of a municipal court, announces candidacy, or in fact becomes a candidate, in any general, special, or primary election, for any elective public office, the officer's or employee's announcement or candidacy is an automatic resignation of the office or employment.

ARTICLE X. - PLANNING.

§ 4. - THE PLANNING COMMISSION — POWERS AND DUTIES.

The planning commission shall:

- (1) Review and make recommendations to the council regarding the adoption and implementation of a comprehensive plan (as defined by section[~~Section~~] 5 of this article) or element or portion thereof prepared under authorization of the city council and under the direction of the city manager and responsible city planning staff;
- (2) After a comprehensive plan or element or portion thereof has been adopted in conformity with this article:
 - (a) Review and make recommendation to the council on all amendments to the comprehensive plan or element or portion thereof;
 - (b) Review and make recommendations to the council on all proposals to adopt or amend land development regulations for the purpose of establishing the relationship of such proposal to, and its consistency with, the adopted comprehensive plan or element or portion thereof. For purposes of this article and subsection, "land development regulations" includes zoning, subdivision, building and construction, environmental, and other police power regulations controlling, regulating, or affecting the use or development of land;
- (3) Pursuant to ordinances adopted by the council, exercise control over platting and subdividing land within the corporate limits and the extraterritorial jurisdiction of the city to insure the consistency of any

such plats or subdivision with the adopted comprehensive plan or element or portion thereof;

- (4) Submit annually to the city manager, not less than 90[ninety (90)] days prior to the beginning of the budget year, a list of recommended capital improvements, which in the opinion of the commission are necessary or desirable to implement the adopted comprehensive plan or element or portion thereof during the forthcoming five-year period;
- (5) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend annually to the council any changes in or amendments to the comprehensive plan as may be desired or required;
- (6) Prepare periodic evaluation and appraisal reports on the comprehensive plan, which shall be sent to the council at least once every five [(5)] years after the adoption of the comprehensive plan or element or portion thereof;
- (7) Require information from the city manager relative to its work;

The commission shall be responsible to and act as an advisory body to the council and shall perform such additional duties and exercise such additional powers as may be prescribed by ordinance of the council not inconsistent with the provisions of this Charter.

§ 5. - THE COMPREHENSIVE PLAN.

The council shall adopt by ordinance a comprehensive plan, which shall constitute the master and general plan. The comprehensive plan shall contain the council's policies for growth, development, and beautification of the land within the corporate limits and the extraterritorial jurisdiction of the city, or for geographic portions thereof including neighborhood, community or areawide plans. The comprehensive plan shall include the following elements: (1) a future land use element; (2) a traffic circulation and mass transit element; (3) a wastewater, solid waste, drainage and potable water element; (4) a conservation and environmental resources element; (5) a recreation and open space element; (6) a housing element; (7) a public services and facilities element, which shall include but not be limited to a capital improvement program; (8) a public buildings and related facilities element; (9) an economic element for commercial and industrial development and redevelopment; and (10) health and human service element.

The council may also adopt by ordinance other elements as are necessary or desirable to establish and implement policies for growth, development, and beautification within the city, its extraterritorial jurisdiction, or for geographic portions thereof, including neighborhood, community, or areawide plans. The council shall provide for financing of all elements contained in the comprehensive plan in accordance with law.

The several elements of the comprehensive plan shall be coordinated and be internally consistent. Each element shall include policy recommendations for its implementation and shall be implemented, in part, by the adoption and enforcement of appropriate land development regulations.

The planning commission shall forward the proposed comprehensive plan or element or portion thereof to the city manager, who shall thereupon submit such plan, or element or portion thereof, to the council with recommendations thereon.

The council may adopt, or adopt with changes or amendments, the proposed comprehensive plan or element or portion thereof, after at least one public hearing. The council shall act on such plan, element or portion thereof, within 60[sixty (60)] days following its submission by the city manager. If such plan or element or portion thereof is not adopted by the council, it shall, with policy direction, return such plan or element thereof the planning commission, which may modify such plan or element or portion thereof, and again forward it to the city manager for submission in like manner to the council. Furthermore, all amendments to the comprehensive plan or element or portion thereof recommended by the planning commission shall be forwarded to the city manager and shall be subject to review and adoption in the same manner as for the original adoption of the comprehensive plan as set forth above.

§ 6. - LEGAL EFFECT OF COMPREHENSIVE PLAN.

Upon adoption of a comprehensive plan or element or portion thereof by the city council, all land development regulations including zoning and map, subdivision regulations, roadway plan, all public improvements, public facilities, public utilities projects, and all city regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan, element or portion thereof as adopted. For purposes of clarity, consistency, and facilitation of comprehensive planning and land development process, the various types of local regulations or laws concerning the development of land may be combined in their totality in a single ordinance known as the Land Development Code of the City of Austin.

§ 7. - LEGAL EFFECT OF PRIOR COMPREHENSIVE PLAN.

Any comprehensive plan or element or portion thereof adopted pursuant to the authority of Article X of this Charter or other law, but prior to the effective date of this amendment, shall continue to have such force and effect as it had at the date of its adoption and until appropriate action is taken to adopt a new comprehensive plan or element or portion thereof as required and authorized by this amendment.

ARTICLE XI. - FRANCHISES AND PUBLIC UTILITIES.

§ 1. - INALIENABILITY OF PUBLIC PROPERTY.

The right of control and use of the public streets, highways, sidewalk, alleys, parks, public squares, and public places of the city is hereby declared to be inalienable by the city, except by ordinances not in conflict with the provisions of this Charter. No act or omission by the council or any officer or agent of the city shall be construed to grant, renew, extend, or amend by estoppel or indirection any right, franchise, or easement affecting said public streets, highways, sidewalks, alleys, parks, public squares, public places, and other real property.

§ 2. - POWER TO GRANT FRANCHISE.

The council shall have the power by ordinance to grant, renew, and extend all franchises of all service providers placing or installing facilities or equipment in, on or over the city[City] rights of way and of all public utilities of every character operating within the city, and, with consent of the franchise holder, to amend the same; provided[-Provided], however, that no franchise shall be granted for a term of more than 25[~~twenty-five (25)~~] years, and that no franchise shall be granted, renewed, extended, or amended, except on condition that the city shall have the right at any time within five [~~5~~] years of the expiration of the term thereof to purchase the property of the franchise holder at a price to be determined according to the method agreed upon in the ordinance granting, renewing, extending, or amending the franchise.

§ 3. - ORDINANCE GRANTING FRANCHISE.

Every ordinance granting, renewing, extending, or amending a franchise shall be read at three [~~3~~] regular meetings of the council, and shall not be finally acted upon until 30[~~thirty (30)~~] days after the first reading thereof. Within five [~~5~~] days following each of the three [~~3~~] readings of the ordinance, the full text thereof shall be published one time in some newspaper of general circulation in the city, and the expense of such publication shall be borne by the prospective franchise holder. No

such ordinance shall become effective until the expiration of 60~~[sixty (60)]~~ days following the date of its final adoption by the council, and every such ordinance shall be subject to the referendum procedure provided by state law.

§ 6. - REGULATION OF RATES.

The council shall have full power after notice and hearing to regulate by ordinance the rates, charges, and fares of every franchise holder operating in the city to the fullest extent allowed by state and federal law; provided, however, ~~[.Provided]~~ that no such ordinance shall be passed as an emergency measure. Any franchise holder requesting an increase in its rates, charges, or fares shall have, at the hearing on such request, the burden of establishing by clear and convincing evidence the value of its investments and the amount and character of its expenses and revenues. No franchise holder shall institute any legal action to contest any rate, charge, or fare fixed by the council until such franchise holder has filed a motion for rehearing with the council specifically setting out each ground of its complaint against the rate, charge or fare fixed by the council, and until the council shall have acted upon such motion.

ARTICLE XII. - GENERAL PROVISIONS.

§ 2. - OFFICERS, ETC. — IMPROPER ACTS OF.

Any officer or employee of the city who by solicitation or otherwise shall exert his/her influence directly or indirectly to influence any other officer or employee of the city to favor any particular person or candidate for office in the city shall be guilty of a misdemeanor and upon conviction thereof shall forfeit his or her office or employment and be punished by a fine not exceeding ~~[two hundred dollars]~~ ~~[(€)\$200.00(€)]~~. Officers and employees shall not be permitted to take an active part in any political campaign of another for an elective position of the city if they are in uniform or on active duty. The term "active part" means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes, and making public derogatory remarks about candidates for such elective positions. City officers and employees are prohibited from contributing or using city resources, equipment, or money for election campaigning.

Officers and employees coming under the provisions of this act are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any

official who attempts the same shall be guilty of violating the provisions of this section.

§ 3. - NOTICE OF CLAIMS.

Before the City of Austin shall be liable for damages for the death or personal injuries of any person or for damage to or destruction of property of any kind, which does not constitute a taking or damaging of property under Article I, Section 17, Constitution of Texas, the person injured, if living, or his or her representatives, if dead, or the owner of the property damaged or destroyed, shall give the city council or city manager notice in writing of such death, injury, damage or destruction, duly verified by affidavit, within 45~~[forty-five (45)]~~ days after same has been sustained, stating specifically in such written notice when, where, and how the death, injury, damage or destruction, occurred, and the apparent extent of any such injury, the amount of damages sustained, the actual residence of the claimant by street and number at the date the claim is presented, the actual residence of such claimant for six ~~[(6)]~~ months immediately preceding the occurrence of such death, injury, damage or destruction, and the names and addresses of all witnesses upon whom it is relied to establish the claim for damages; and the failure to so notify the council or city manager within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever. No act of any officer or employee of the city shall waive compliance, or estop the city from requiring compliance, with the provisions of this section as to notice, but such provisions may be waived by resolution of the council, made and passed before the expiration of the 45-day~~[forty-five-day]~~ period herein provided, and evidenced by minutes of the council.

§ 6. - ASSIGNMENT, EXECUTION AND GARNISHMENT.

The property, real and personal, belonging to the city~~[City]~~ shall not be liable for sale or appropriation under any writ of execution. The funds belonging to the city~~[City]~~, in the hands of any person, firm, or corporation, shall not be liable to garnishment, attachment, or sequestration; nor shall the city~~[City]~~ be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city~~[City]~~ nor any of its officers or agents shall be required to answer any such writ of garnishment on any account whatever unless specifically exempted by statute. The city~~[City]~~ shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors.

§ 12. - INTERIM MUNICIPAL GOVERNMENT.

From and after the date of the adoption of any amendment to this Charter and until the completion of the first city election thereunder and the qualification of the mayor and council members therein elected, the mayor and council members then in office shall continue in office and shall exercise all of the powers conferred upon the city by such amendment.

PART 8. A special municipal election shall be held in the City on November 6, 2018, to submit to the voters of the City a proposed citizen-initiated ordinance regarding whether there must be both a waiting period and subsequent voter approval before any comprehensive revisions of the City's land development laws may go into effect. The ballot shall be prepared to permit voting "Yes" or "No" on the proposition:

Proposition J: Shall a City ordinance be adopted to require both a waiting period and subsequent voter approval period, a total of up to three years, before future comprehensive revisions of the City's land development code become effective?

PART 9. A special municipal election shall be held in the City on November 6, 2018, to submit to the voters of the City a proposed citizen-initiated ordinance regarding an efficiency study of the City's operational and fiscal performance conducted by an independent third party. The ballot shall be prepared to permit voting "Yes" or "No" on the proposition:

Proposition K: Without using the existing internal City Auditor or existing independent external auditor, shall the City Code be amended to require an efficiency study of the City's operational and fiscal performance performed by a third-party audit consultant, at an estimated cost of \$1 million - \$5 million?

PART 10. If the proposition provided in Part 8 is approved by the majority of voters voting at the election, the City Code is amended to read as follows:

ARTICLE ____ . _____ .

§ _____ **REQUIRED WAITING PERIOD AND VOTER REFERENDUM FOR COMPREHENSIVE REVISIONS OF THE CITY'S LAND DEVELOPMENT LAWS.**

(A) Waiting Period. CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect legally, or any land entitlements be granted or vested under these laws, until the June 1st

following the next regularly scheduled council elections after Council adopts CodeNEXT or the comprehensive revisions. This waiting period is to ensure voters can learn about the proposed comprehensive revisions and elect council members with sufficient time to amend or reject the prior council's adopted comprehensive revisions before these laws may go into effect.

- (B) **Voter Approval.** After the waiting period in Subsection (A), CodeNEXT, or subsequent comprehensive revisions of the land development laws, shall not go into effect, or any land entitlements be granted or vested under these laws, until the registered voters of Austin approve these laws at the next available municipal election. Voters shall approve or disapprove CodeNEXT, or subsequent comprehensive revisions, in its entirety and not piecemeal. Should the voters fail to approve the comprehensive revisions, then the existing land development laws remain in effect. Notwithstanding any other provision, under no circumstances shall the voters' rejection of CodeNEXT or proposed comprehensive revisions under this Section be considered or interpreted as repealing the existing land development code.
- (C) This section overrides all city charter provisions, ordinances, and laws and should be liberally construed to uphold Austin citizens' sovereign rights to control their government and laws.
- (D) **Severability Clause.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

PART 11. If the proposition provided in Part 9 is approved by the majority of voters voting at the election, the City Code Chapter 2-3 (City Auditor) is amended to add new Section 2-3-12, to read as follows:

§ 2-3-12 EFFICIENCY STUDY.

MISSION

- (A) The City's Efficiency Study will provide an impartial, objective review of the city's operational and fiscal performance, including development of a Government Efficiency Blueprint which includes a comprehensive budget

analysis, efficiency and enhancement recommendations, and a targeted list of opportunities for operating savings.

QUALIFICATIONS

- (B) The efficiency study shall be conducted by an independent third party entity with extensive experience in government efficiency, and is knowledgeable in fiscal and budget analysis, public administration, and municipal finance and fiscal practices. The city may not contract with or hire, as an independent third party entity, an entity which has had a contract directly with the city within the past 5 years, or which employs an individual who:
- (1) has served as the City's mayor, a council member, city auditor or city manager or has had a contract directly with the city within five years before the date of hire; or
 - (2) is related, by affinity or consanguinity within the second degree, to the mayor, a council member, city auditor, or the city manager.

OBJECTIVES AND WORK PRODUCT

- (C) The efficiency study shall produce a Government Efficiency Blueprint (Plan) that recommends specific opportunities for consolidation, shared services, and other changes that permanently reduce tax burdens and/or increase the quantity and quality of services. The efficiency study shall include all City Departments, including all General Fund Departments and all publicly-owned utilities, including, but not limited to, Austin Energy, Austin Water, Austin Resource Recovery, all Enterprise Departments, including, but not limited to, the Austin Convention Center, the Austin Transportation Department, and all Internal Service Departments, including but not limited to, Law, Human Resources, Economic Development and Fleet Services. The Plan will identify specific targets for program efficiencies, cost savings, revenue enhancements, private/public partnership initiatives, and monetization of unused or underutilized city assets. The Plan shall include:
- (1) A comprehensive diagnostic analysis of the City's budget to identify spending and revenue trends and outliers. This Plan objective should include:
 - o Trend Analysis – Review and analysis of both historical and forecasted revenue and expense trends

- Benchmarking analysis – Comparison of the City’s revenue and expense spending levels to peer cities and other recognized benchmarks
- (2) Identify recommendations that prioritize target areas with large and substantial expenditures that affect the City’s general revenue fund and where the City can become more efficient and thereby provide cost savings.
 - (3) A prioritized listing of opportunities for operating savings, efficiency and enhancement recommendations both in written form and explained through testimony before the City Council and other responsible bodies. These recommendations should be classified into short-term opportunities which can be implemented within the current budget cycle, medium-term opportunities which can be implemented within one to three years, and long-term opportunities which may require three or more years to implement. The recommendations should be documented and the independent third party entity shall make the working papers available that detail the assumptions behind the cost and benefit estimates for each recommendation.
 - (4) The independent third party entity shall be available and willing to assist in the implementation of its recommendations. The Plan shall also include: a list of the required critical steps, including any statutory or regulatory changes, an estimate of the financial and personnel resources required, an estimate of the timeframe to implement the recommendations, and any deployment strategies, communication management, dashboards, and monitoring tools necessary for its implementation.

INDEPENDENCE AND NON-INTERFERENCE

- (D) The independent third party entity shall have the full cooperation and assistance of the City Manager, publicly-owned utilities, Enterprise Departments, Internal Services Departments and all other City Departments in providing unfettered access to all data and information requested. City employees shall provide free and open access to, and furnish copies of information in any medium, including a record, book, account, internal or external memorandum, tape, report, file, diskette, computer data, money, fund, or other information, and shall also provide free and open access to property, equipment, facilities, and operations for inspection or observation.

PART 12. The election shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. The precincts and locations of the election day polling places; the dates, hours, and locations of the early voting places; and the names of the officers appointed to conduct the election are provided in Exhibits A-D attached and incorporated as a part of this ordinance.

PART 13. A direct electronic recording voting system, as the term is defined in Title 8 of the Texas Election Code, shall be used for early voting and for voting conducted on election day. The central counting station is established at the Travis County Elections Division, 5501 Airport Boulevard, Austin, Texas.

PART 14. (a) Notice of this election shall be given by posting and publishing a copy of this ordinance in both English and Spanish. The notice and a copy of this ordinance shall be posted, in both English and Spanish, in three public places and at the City Hall notice kiosk not later than the 21st day before election day. The copy of the notice posted at City Hall shall be accompanied by a cover page, at the top of which shall appear the words "MUNICIPAL GENERAL AND SPECIAL ELECTIONS, NOVEMBER 6, 2018." Notice of this election shall be published, not earlier than the 30th day before the date of the election, in a newspaper of general circulation on the same day in each of two successive weeks, with the first publication occurring before the 14th day before the date of the election.

(b) A copy of this ordinance shall be posted, in both English and Spanish, on election day and during early voting by personal appearance, in a prominent location at each polling place.

(c) This ordinance, together with the notice of election and the contents of the propositions, shall be posted on the City's website, in both English and Spanish, during the twenty-one (21) days before the election.

PART 15. In accordance with Chapter 271 of the Texas Election Code, the November 6, 2018 municipal election may be held jointly with the various political subdivisions that share territory with the City of Austin and that are holding elections on that day. The City Clerk may enter and sign joint election agreements with other political subdivisions for this purpose, and their terms as stated in the agreements are hereby adopted.

PART 16. The Council finds that the need to immediately begin required preparations for this election constitutes an emergency. Because of this emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PART 17. This ordinance takes effect on August 20, 2018.

August 9, 2018

§
§
§



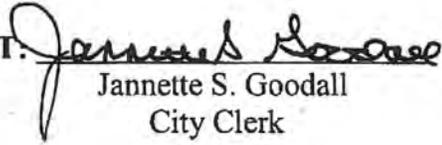
Steve Adler
Mayor

APPROVED:



Anne L. Morgan
City Attorney

ATTEST:



Jannette S. Goodall
City Clerk

Exhibits A – D (to be updated)

Exhibit A: Election Day Polling Places

Exhibit B: Main Early Voting Location Information

Exhibit C: Early Voting Polling Places

Exhibit D: Election Services Contract



DANA DEBEAUVOIR,
COUNTY CLERK

Travis County Early Voting Locations for the November 6, 2018 General Election

Sitios de Votación Adelantada del Condado de Travis, para la Elección General del 6 de noviembre de 2018

Early Voting begins Monday, Oct 22 and ends Friday, Nov 2

La Votación Adelantada empieza el lunes, 22 de octubre y termina el viernes, 2 de noviembre

Monday—Friday (7am-7pm) lunes—viernes (7am—7pm)

subject to change

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CENTRAL:	ACC Highland	6101 Airport Blvd.	Austin
	Fiesta Central - Delwood Shopping Ctr	3909 North IH-35	Austin
	Travis County Granger Building	314 W 11th St, room 115	Austin
	UT Flawn Academic Center	2400 Inner Campus Drive	Austin
	New UT Perry—Castañeda Library	101 E. 21st St.	Austin
EAST / ESTE:	Carver Branch Library	1161 Angelina St	Austin
	Dan Ruiz Branch Library	1600 Grove Blvd.	Austin
	Del Valle ISD Admin Building	5301 Ross Rd.	Del Valle
	Manor ISD Admin Building	10323 US-290	Manor
	Parque Zaragoza	2608 Gonzales St.	Austin
NORTH / NORTE:	Austin Area Urban League	8011 A Cameron Rd	Austin
	Ben Hur Shrine Center	7811 Rockwood Lane	Austin
	County Tax Office, Pflugerville	15822 Foothill Farms Loop	Pflugerville
	Disability Rights Texas	2222 W Braker Ln	Austin
	Hartfield Performing Arts Center - RRISD	5800 McNeil Dr.	Austin
	Old Quarry Library	7051 Village Center Dr.	Austin
	Randalls Research & Braker	10900 D Research Blvd	Austin
	New Pflugerville ISD Rock Gym	700 W. Pecan St.	Pflugerville
SOUTH / SUR:	Fiesta Mart Stassney	5510 South IH-35	Austin
	Gardner Betts Annex	2501 S Congress at Long Bow Ln.	Austin
	Randalls Ben White and Manchaca	2025 W. Ben White Blvd.	Austin
	Randalls Brodie	9911 Brodie Ln	Austin
	Randalls South MoPac	6600 S. MoPac at William Cannon	Austin
	Southpark Meadows	9600 IH-35 South, Suite 600	Austin
WEST / OESTE:	Bee Cave City Hall	4000 Galleria Pkwy	Bee Cave
	Howson Branch Library	2500 Exposition Blvd	Austin
	Randalls Flagship - West Lake Hills	3300 Bee Caves Rd	Austin
	Randalls Lakeway	2301 RR 620 S at Lohmans Crossing	Austin
	Randalls Steiner Ranch	5145 N FM 620 at N. Quinlan Park Rd.	Austin

DRAFT

plus 55 additional mobile early voting locations! - see complete list at www.traviscountyelections.org

www.traviscountyelections.org

(512) 283-VOTE (8683)

elections@traviscountytx.gov

rev. 7/19/2018

"Subject to approval of Travis County Commissioner's Court"

Exhibit B



Travis County Election Day Vote Centers Tuesday, November 6, 2018 (by precinct)

Sitios de Votación para el Día de Elección, martes 22 de mayo de 2018 (por precinto)

DANA DEBEAUVOIR,
CLERK COUNTY

Polls are open 7 am - 7 pm; Horas de Servicio 7 am - 7 pm

DRAFT
subject to change

VOTE CENTER ELECTION *Centros de Votación del Condado de Travis* On Election Day, eligible Travis County VOTERS MAY VOTE AT ANY of the locations listed on this page. Voters are NOT limited to only voting in the precinct where they are registered to vote; El día de elección votantes elegibles del Condado de Travis podrán votar en cualquier sitio indicado en esta página. Votantes tienen más opciones en dónde votar, sin limitarse al precinto en donde están registrados para votar.

Pct.	Polling Station	Address	Combined Precincts
101	Dailey Middle School	14000 Westall St	114, 116; 118; 117; 119; 120; 138
105	Manor ISD Admin Building	10335 Hwy 290	
106	Elgin High School	14000 County Line Rd	
107	New Sweden Lutheran	12809 New Sweden Church Rd	
108	Our Savior Lutheran	1513 E Yager Ln	102 ; 103
111	Nat Am Univ or Hana World Market	1700 W Parmer Ln #100	109
112	Dessau Elementary	1501 Dessau Ridge Ln	113
121	LBJ High School	7309 Lazy Creek Dr	128 ; 131 ; 134
122	YMCA East Communities Y	5315 Ed Bkastein Blvd	
123	Falcon Pointe Community Center	19015 Falcon Pointe Blvd	163
124	Carver Branch Library	1181 Angelina St	
129	Sims Elementary	1203 Springdale Rd	
130	Memorial United Methodist	6100 Berkman Dr	118 ; 151
132	East Nineteenth Missionary Baptist	3401 Rogge Ln	133
135	Messiah Lutheran	5701 Cameron Rd	
136	Pfuger Hall and Conference Center	203 B E Pecan St	146
137	Blackhawk Amenity Center	3111 Speidel Dr	161
139	Austin Area Urban League	8011 A Cameron Rd STE 100	141
140	Gus Garcia Rec Center	1201 E Rundberg Ln	104
148	County Tax Office, Pflugerville	15822 Foothill Farms Loop	145 ; 160
150	Park Crest Middle School	1500 N Railroad Ave	110
152	Fiesta Mart Central	3909 N I 35	126
153	Pioneer Crossing Elementary	11300 Samsung Blvd	
154	Bluebonnet Trail Elementary	11316 Farmhaven Rd	125 ; 127
156	ACC Highland	6101 Airport Blvd	142, 149
164	Barrington Elementary	400 Cooper Dr	
200	Winters Building	701 W 51st St	235
202	Red River Church	4425 Red River St	
203	Boulder Ridge Clubhouse	3300 Killingsworth Ln	227
205	Parmer Lane Baptist	12424 Scofield Farms Dr.	
207	Hartfield Performing Arts Center	5800 McNeil Dr	

Pct.	Polling Station	Address	Combined Precincts
208	UT Flawn Academic Center	2400 Inner Campus Dr	206, 277
209	UT-Perry-Castaneda Library	101 E 21st St	
210	O Henry Middle School	2610 W 10th St	251
211	St. Mark United Methodist	601 W. Braker Ln	226
214	Bryker Wood Elementary	3309 Kerbey Ln	
217	Lanier High School	1201 Payton Gin Rd	223 ; 224
218	Disability Rights Texas	2222 W Braker Ln	268
219	Caldwell Elementary	1718 Picadilly Dr	
221	Bridge Point Elementary	6401 Cedar St	212
225	Wells Branch MUD Rec Center	3000 Shoreline Dr	
229	Wells Branch Community Center	2106 Klattenhoff Dr	215 ; 216
231	Cat Mountain HOA	6007 Mt Bonnell Rd	
232	Canyon Ridge Middle School	12601 Country Trails Ln	
234	River Place Elementary	6500 Sitio Del Rio Blvd	233
236	Northwest Recreation Center	2913 Northland Dr	
237	Highland Park Baptist	5206 Balcones Dr	213 ; 220 ; 240
238	Murchison Middle School	3700 N Hills Dr	247
238	Old Quarry Library	7051 Village Center Dr	
239	Gullett Elementary School	6310 Treadwell Blvd	
242	Brentwood Bible Church	6301 Woodrow Ave	241
243	Ben Hur Shrine Center	7811 Rockwood Ln	
244	Randalls Steiner Ranch	5145 N FM 620	245
249	St. Matthew's Episcopal	8134 Mesa Dr	246
250	St Luke United Methodist	1306 West Lynn	
252	North Village Branch Library	2505 Steck Ave	248
253	Anderson High School	8403 Mesa Dr.	262
254	Brookdale North Austin	5310 Duval Rd	267
256	Howson Branch Library	2500 Exposition Blvd	266
258	St. John's Episcopal	11201 Parkfield Dr at Braker	222
259	Milwood Branch Library	12500 Amherst Dr.	
260	Jaime Padron Elementary	2011 W Rundberg Ln	228

Pct.	Polling Station	Address	Combined Precincts
263	United Christian	3500 W Palmer Ln	
273	Congregation Bath Israel	3901 Shoal Creek Blvd	
275	Church of Christ in Hyde Park	310 W 43rd St at Ave B	274
301	Sunset Valley City Hall	3205 Jones Rd	358
302	Bailey Middle School	4020 Lost Oasis Hollow	
307	Rollingwood Municipal Building	403 Nixon Dr	347 ; 356
308	Briarcliff POA	22801 Briarcliff Dr	
310	Manchaca United Methodist	1011 Farm to Market 1628	315
311	Austin Recreation Center	1301 Shoal Creek Blvd	
312	Travis County Sheriff West Command	3800 Hudson Bend Rd	
313	Senior Activity Center Lamar	2874 Shoal Crest Ave	
314	Oak Hill Fire Dept #302	4111 Barton Creek Blvd	357
316	Travis County Parks Office	14624 Hamilton Pool Rd	
317	Lost Creek Limited District	1305 Quaker Ridge Dr	
319	Lakeway Activity Center	105 Cross Creek	306
320	Randalls Lakeway	2301 Ranch Rd 620 S	
323	Randalls Research & Braker	10900 D Research Blvd	305 ; 321 ; 345
324	Bee Cave City Hall	4000 Galleria Pkwy	368
326	Laurel Mountain Elementary	10111 DK Ranch Rd	
327	Austin Fire Station #33	9409 Bluegrass Dr	
328	Renaissance Retirement Center	11279 Taylor Draper Ln	
328	Austin City Hall	301 W 2nd St	325 ; 341
329	Travis County Granger Building	314 W 11th St	
330	Laura Bush Community Library	9411 Bee Caves Rd	318
331	Kathy Caraway Elementary	11104 Oak View Dr	
332	Ziker Elementary	1900 Bluebonnet Lane	340
333	St. Thomas More Catholic	10205 N FM 620	334 ; 343
336	Hallmark Baptist	9023 Old Lampasas Trl	335
337	Lakewood HOA	7317 Lakewood Dr	
338	Travis County WCID #18	1502 San Juan Dr	
342	Barton Hills Elementary	2108 Barton Hills Dr	
344	Berkeley United Methodist	2407 Berkeley Ave.	
346	Serene Hills Elementary	3301 Serene Hills Dr	
349	Oak Hill United Methodist	7815 US-290	303
350	Randalls Brodie & Slaughter	9911 Brodie Ln	309, 352
351	Randalls South MoPac	6800 S MoPac Expy	339
354	Travis Country HOA	4504 Travis Country Cir	
358	Lake Travis ISD Education Dev Center	607 Ranch Rd 620 N	
360	Bowie High School	4103 W Slaughter Ln	
363	Shepherd of the Hills Presbyterian	5226 W William Cannon Dr	362
364	Randalls Flagship - West Lake Hills	3300 Bee Caves Rd	

Pct.	Polling Station	Address	Combined Precincts
365	Community Center at Oak Hill	6656 W Hwy 71	361
366	Mills Elementary	8201 Davis Ln	
367	Circle C Community Center	7817 LaCrosse Ave	304
369	Christ Episcopal	3520 W. Whitestone Blvd	
370	Travis County ESD 1 Fire Station 104	14401 Round Mountain Rd.	
371	K-Oaks Club House	7000 Bar K Ranch Rd	
372	Community Center at Jonestown	18649 FM 1431 STE 6A	
373	Lago Vista City Hall	5803 Thunderbird St	
374	Deer Creek Elementary	2420 Zeppelin Dr	
375	Volente Fire Dept	15406 FM 2769	
401	Del Valle ISD Admin Building	5301 Ross Rd	
402	Elroy Community Library	13512 FM 812	
403	Creedmoor Elementary	5604 FM 1327	
404	Blazier Elementary	8601 Vertex Blvd	
405	Ojeda Middle School	4900 McKinney Falls Pkwy	
406	St Alban's Episcopal	11819 I 35 S	417 ; 418
407	Community Center at Del Valle	3518 S FM 973	427
411	South Park Meadows Center	9600 I 35 S STE 600	416
414	Texas Oaks Baptist	9910 Bilbrook Place	408 ; 415
420	Parker Lane United Methodist	2105 Parker Ln	431 ; 440
421	Church on Congress Ave	1511 S Congress Ave	422
424	South Austin Rec Center	1100 Cumberland Rd	409
426	Parque Zaragoza Rec Center	2608 Gonzales St	436 ; 444
428	Mexican American Cultural Center	600 River St	
429	Dan Ruiz Branch Library	1600 Grove Blvd	423
433	Gardner Betts Annex	2501 S Congress Ave	442
435	Southwest Church of Christ	8900 Manchaca Rd	
437	Twin Oaks Library	1800 S 5th St	
438	Terrazas Branch Library	1105 E Cesar Chavez St	432 ; 434
439	Cantu/Pan Am Recreation Center	2100 E 3rd St	
441	Fiesta Mart Stassney	5510 I 35 S	425 ; 446
447	Odom Elementary	1010 Turtle Creek Blvd	419
448	Langford Elementary	2206 Blue Meadow Dr	404 ; 413
450	Southeast Branch Library	5803 Nuckols Crossing Rd.	443
451	Bedichek Middle School	6800 Bill Hughes Rd	4110
452	Houston Elementary	5409 Ponciana Dr	
454	Randalls Ben White & Manchaca	2025 W Ben White Blvd	412 ; 458
460	ACC South Austin	1820 W Stassney Ln	
461	Wheatsville Co-op South Lamar	4001 S Lamar Blvd	430
463	Dittmar Recreation Center	1009 W Dittmar Rd	419

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"Subject to approval of Travis County Commissioner's Court"

Exhibit C

November 6, 2018 General, Bond and Special Municipal Election Early Voting Information

Main Early Voting Polling Locations

Hays County: Government Center Conference Room, 712 S. Stagecoach Trail, San Marcos, TX

Travis County: ACC Highland, 6101 Airport Boulevard, Austin, TX

Williamson County: Williamson County Inner Loop Annex, 301 SE Inner Loop, Suite 104, Georgetown, TX

Early Voting: Monday, October 22, 2018 – Friday, November 3, 2018

Ballots by Mail – Travis County

By Mail voters: P.O. 149325, Austin, Texas 78714-9325

By Contract Carriers/ Fedex: 5501 Airport Blvd., Austin, Texas 78751

Ballots by Mail - Hays County

By Mail Voters: P.O. Box 907, San Marcos, TX 78666

Ballots by Mail – Williamson County

Ballots by Mail – Williamson County

By Mail voters: P.O Box 209, Georgetown, TX 78627

**ELECTION AGREEMENT BETWEEN
TRAVIS COUNTY AND CITY OF AUSTIN**

Pursuant to Chapter 31, Subchapter D, Chapter 123, and Chapter 271 of the Texas Election Code ("Code") and Chapter 791 of the Texas Government Code, Travis County and City of Austin ("Participating Entity") enter into this agreement for the Travis County Clerk, as the County's Election Officer, to conduct the Participating Entity's elections, including runoffs, and for the Participating Entity's use of the County's current or future-acquired election equipment for any voting system that the County adopts, as authorized under Title 8 of the Election Code, for all Participating Entity elections. The purpose of this agreement is to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the Participating Entity.

I. GENERAL PROVISIONS

- (A) Except as otherwise provided in this agreement, the term "election" refers to any Participating Entity election, occurring on any uniform election date prescribed by the Texas Election Code or a primary election date and a resulting runoff, if necessary, within all Participating Entity territory located in Travis, Williamson and Hays Counties. If a runoff is necessary, the Participating Entity shall work with the Election Officer to determine a mutually acceptable run-off date; in the event that the Participating Entity and any other entity for which the County is providing election services or for which the County is conducting a joint election do not agree on a run-off date, the Participating Entity agrees to whichever run-off date is selected by the Election Officer.
- (B) If the Participating Entity determines it is necessary to conduct an election during a time other than that specified in I.(A), the Election Officer and a representative designated by the Participating Entity will meet as soon as possible to determine the feasibility of the Election Officer conducting such an election. If both parties agree that the Election Officer will administer this election, the new election will be based on all other applicable provisions of this agreement, except provisions that are inconsistent and cannot be feasibly applied.
- (C) Except as otherwise provided in this agreement, the term "Election Officer" refers to the Travis County Clerk.
- (D) Except as otherwise provided in this agreement, the term "precinct" means all precincts in the territory of the Participating Entity located within Travis County, as they currently exist or are as later modified to incorporate single-member districts.
- (E) Except as otherwise provided in this agreement, the term "election services" refers to services used to perform or supervise any or all of the duties and functions that an election officer determines necessary for the conduct of an election. Except as otherwise provided in this agreement, the term "cost for election services" includes the costs for personnel, supplies, materials, or services needed for providing these services as

permitted by the Texas Election Code. The term does not refer to costs relating to the use of the voting equipment.

- (F) Except as otherwise provided in this agreement, the cost for "use of voting equipment" is the amount the Participating Entity agrees to pay the County for use of the County's direct electronic recording equipment or any other voting equipment in use at the time of the election (hereinafter referred to as DRE).
- (G) The Participating Entity agrees to commit the funds necessary to pay for election-related expenses for Participating Entity elections.
- (H) The Election Officer has the right to enter into agreements with other entities at any time, including during the dates listed in I.(A).
- (I) As a condition for providing election services and equipment usage, the Election Officer may require authorities of political subdivisions holding elections on the same day in all or part of the same territory to enter into a joint election agreement as authorized in Chapter 271 of the Texas Election Code. The Participating Entity agrees to enter into any joint election agreement required by the County.

II. PARTICIPATING ENTITY'S USE OF VOTING EQUIPMENT

The County shall make available to the Participating Entity their current and future-acquired voting system as authorized under Title 8 of the Election Code, subject to reasonable restrictions and conditions imposed by the Election Officer to ensure availability of the equipment for County-ordered elections, primary elections, and subsequent runoff elections, if applicable. The Election Officer may impose reasonable restrictions and conditions to protect the equipment from misuse or damage.

III. APPOINTMENT OF ELECTION OFFICER

- (A) The Travis County Election Officer ("Election Officer") is appointed to serve as the Participating Entity's Election Officer and Early Voting Clerk to conduct the Participating Entity's elections described in Section I.
- (B) As the Participating Entity's Election Officer and Early Voting Clerk, the Election Officer shall coordinate, supervise, and conduct all aspects of administering voting in Participating Entity elections in compliance with all applicable laws, subject to Section III., (C) below. The Election Officer will provide the Participating Entity's election results for their precincts located in Williamson and Hays Counties.
- (C) The Participating Entity shall continue to perform those election duties listed in (1) through (8) below and any other election duties that may not be delegated to another governmental entity such as receipt of candidate applications:
 - (1) preparing, adopting, and publishing all required election orders, resolutions,

notices and other documents, including bilingual materials, evidencing action by the governing authority of the Participating Entity necessary to the conduct of an election, except Election Officer shall (1) publish a single newspaper notice that includes Participating Entity; however, such publishing expense will not be included in the pro rata assessment for remaining joint Participating Entities, and (2) in any debt obligation elections, post the notice required by and in accordance with Section 4.003(f), Texas Election Code in each election day and early voting polling place;

- (2) preparing any necessary federal Voting Rights Act election preclearance submissions to the U.S. Department of Justice, other than changes in a joint election conducted under this agreement that directly affect the County;
 - (3) preparing the text for the Participating Entity's official ballot in English and Spanish, and any other languages as required by law;
 - (4) providing the Election Officer with a list of candidates or propositions showing the order and the exact manner in which the candidates' names and the propositions are to appear on the official ballot;
 - (5) conducting the official canvass of a Participating Entity election;
 - (6) administering the Participating Entity's duties under state and local campaign finance laws;
 - (7) having a Participating Entity representative serve as the custodian of its election records; and
 - (8) filing the Participating Entity's annual voting system report to the Secretary of State as required under Chapter 123 et seq. of the Texas Election Code.
- (D) The Participating Entity shall also be responsible for proofing and attesting to the accuracy of all ballot language and format information programmed by the County. This includes any information programmed for use with the audio or tactile button features of the equipment. The Participating Entity will also monitor and review all logic and accuracy testing and mandatory tabulations. The Participating Entity will complete its duties within timeframes as prescribed by the County. If the Participating Entity finds any discrepancies or concerns, it will immediately report them to the Election Officer and work with the Election Officer's staff to resolve any issues so that final approval can be reached. The Participating Entity shall be responsible for any and all actual costs associated with correcting the ballot and ballot programming if the error is discovered after the Participating Entity has signed off on its final proof containing the error.
- (E) The City Clerk of the City of Austin ("City Clerk") will assist the County whenever possible when the conduct of the election requires assistance from Participating Entity departments and staff. The City Clerk will serve as the Regular Early Voting Clerk for

the Participating Entity to receive requests for applications for early voting ballots and forward these applications to the Joint Early Voting Clerk. The City Clerk will serve as the Custodian of Records for the Participating Entity to complete those tasks in the Election Code that the Election Officer will not perform.

IV. ELECTION WORKERS AND POLLING PLACES

- (A) For presentation to the governing body of the Participating Entity, the County shall provide a list containing the locations, times, and dates of early voting polling places suitable for consideration and adoption by the governing body in accordance with Texas Election Code Chapter 85, and also a list of judges and alternates pursuant to Election Code Chapter 32, no later than the 45th day before the election. The Election Officer will designate and confirm all election day polling place locations.
- (B) The Election Officer will assume the responsibility for recruiting election personnel; however, if by the 5th day before the election, the Election Officer reports vacancies in positions for election judges, alternate judges, election day clerks, early voting ballot board, receiving substation clerks, or any other key election personnel, the Participating Entity shall provide emergency personnel in these positions.
- (C) The Election Officer shall notify each of the election judges and alternates of their appointment and the eligibility requirements that pertain to them and to the selection of election day clerks. Included in this notification will be the number of clerks that each precinct should have in addition to the election judge and alternate judge. The election judges and/or the alternates are responsible for recruiting and supervising their clerks.
- (D) All election workers must agree to attend training sessions as determined by the Election Officer. Costs for these training sessions and compensation for attendees, if authorized, will be included as part of the election services costs.
- (E) During any election and any subsequent runoff election that involve entities in addition to the Participating Entity, the Election Officer will work with all parties to find a plan that can be agreed upon regarding the designation of polling places. If agreement cannot be reached, the Election Officer will resolve the differences. In all cases, emergency polling place changes will be made by the Election Officer.

V. PAYMENTS FOR ELECTION SERVICES

- (A) Payments for the use of voting equipment are addressed separately in Section VI of this agreement.
- (B) At the time a Participating Entity executes this Agreement, its representative must tender \$100 towards the costs associated with administering the election including, but not limited to, polling place searches and preparation for poll worker training. If the election is ultimately held by the Election Officer, the \$100 fee will be applied towards the Participating Entity's total costs due to the Election Officer. Not later than October 1

before a November election, or not later than the 35th day before any election not held in November, the Participating Entity will make a payment equal to 75% of the total of the Participating Entity's projected share of election costs according to the most recent calculation presented by the Election Officer. Additionally, a cost estimate will be submitted to the Participating Entity no later than the 50th day before the election.

- (C) In case of a cancellation of an election by the Participating Entity, the Participating Entity shall notify the Election Officer on or before 11:59 p.m. on the 60th day before the election whether it expects to be able to cancel its election, and on or before 11:59 p.m. on the 53rd day before the election if that election will or will not be cancelled. If the Participating Entity cancels its election, the \$100 fee will not be refunded.
- (D) Notwithstanding the provisions in IX. (B), the County and the Participating Entity agree that notice under V. (C) can be provided via e-mail to the County at elections@co.travis.tx.us and cc to michael.winn@co.travis.tx.us. Email notification shall be sent by the City Clerk. No further costs (except for the \$100 fee) will be due if the Election Officer receives final written notice on or before 11:59 p.m. of the 53rd day before the election that an election will be cancelled. Within thirty days after receipt of an election cost schedule or bill setting forth the Election Officer's actual contract expenses and charges incurred in the conduct of the election, the Participating Entity shall pay the Election Officer the remaining balance due. If there is a runoff election, the Participating Entity will make a payment equal to 75% of the projected costs for the runoff election immediately after receiving that projected cost from the Election Officer. The projected share of election costs will include the 10% fee for election services as discussed in V. (E).
- (E) The Election Officer will charge a fee for election services, as described in Section V, equal to 10% of the total costs of each election, excluding the costs of voting equipment. Costs for use of voting equipment are described in Section VI. In the event of a joint election, the election costs will be divided on a pro rata basis among all entities involved in the election in the following manner referred to hereafter as the "pro rata methodology": the number of precincts each participating entity has involved in an election will be added together. The proportional cost of each participating entity for election services will be calculated by multiplying the proportional percentage of each participating entity by the total cost of the election. The product of these numbers is the pro rata cost of each participating entity. Additionally, the Participating Entity acknowledges and understands that if any other Participating Entity should cancel its election, each remaining Participating Entity's pro rata cost will result in a proportionate cost increase.
- (F) For elections that do not have a runoff election, the County will send the Participating Entity a final invoice of election expenses not later than the 90th day after an election. For elections that do have a runoff, the County may send the Participating Entity a final invoice of election expenses not later than the 90th day after the runoff election. The total amount due according to these invoices shall be offset by payments made for costs made in accordance with Subsection (B) of this section and offset by any payments made

otherwise, such as proceeds received by the County in a sale, exchange, or return of voting equipment subject to the Addendum to the Election Services Agreement executed on October 25, 2011, which is hereby attached as Exhibit A and incorporated herein for all applicable purposes. The County shall prepare the invoice to include (1) an itemized list of each election expense incurred; (2) an itemization of any adjustments or credits to the first post-election invoice; and (3) the total payment due from the Participating Entity for any portion of the Participating Entity's costs not included in the City's payment or not included as payment for an "upfront" cost.

- (G) The Participating Entity shall promptly review an election invoice and any supporting documentation when received from the County. The Participating Entity may audit, during normal business hours, relevant County election or accounting records upon reasonable notice to the County. The Participating Entity shall pay the entire final invoice or the undisputed portion of the final invoice not later than the 30th day after receiving the invoice. Failure to timely pay invoice in full may impact Election Officer's participation in future elections with Participating Entity.

VI. PAYMENTS FOR USE OF VOTING EQUIPMENT

- (A) The Election Officer shall conduct elections using a voting system certified by the Secretary of State in accordance with the Texas Election Code and that has been approved for use by the Travis County Commissioners Court unless otherwise agreed upon by both parties.
- (B) The Participating Entity shall make payments to Travis County as consideration for the use of the County's DRE equipment. The Participating Entity shall pay \$5 for each unit of electronic voting system equipment installed at a polling place; and \$5 for each unit of other electronic equipment used to conduct the election or provide election services.
- (C) If the Participating Entity holds an election on a date when the County is holding its own election, the Participating Entity is not charged any cost for equipment usage. However, if a runoff election is necessary after such an election, the Participating Entity will be responsible for payment of equipment usage.
- (D) If the Participating Entity holds an election on a date other than as listed in Section I.(A), the Participating Entity will pay \$5 for each unit of electronic voting system equipment installed at a polling place; and \$5 for each unit of other electronic equipment used to conduct the election or provide election services.
- (E) Payment by the Participating Entity to the County for DRE equipment is due 30 days after receipt of billing as part of the final payment for election costs as discussed in Section V. (D).
- (F) If the County acquires additional equipment, different voting equipment, or upgrades to existing equipment during the term of this contract, the charge for the use of the equipment may be renegotiated.

VII. ADDITIONAL EARLY VOTING LOCATIONS

- (A) All of the Participating Entity's voters within Travis County will have access to all of the Travis County Early Voting sites in each election at no additional cost. If Travis County does not run a permanent or mobile site in a Participating Entity's area, the Participating Entity may request a mobile unit for one to five days. This would include Travis County staff setting up and breaking down the equipment daily, training staff for each location, and providing Travis County law enforcement to secure the equipment in the Travis County Elections Division's safe at 5501 Airport on a daily basis.
- (B) Any Participating Entity requesting additional early voting sites shall be responsible for the additional daily cost of \$1,560 per location, with said costs to be included in the overall election costs for that Participating Entity.

VIII. COMMUNICATIONS

- (A) The Participating Entity and the Election Officer shall each designate a member of their staff to serve as the primary contact for the respective offices under this agreement and provide the name and contact information for that individual to each entity.
- (B) Throughout the term of this Agreement, the Participating Entity and the County will engage in ongoing communications regarding issues related to Participating Entity elections, the use of County's voting equipment, and the delivery of services under this agreement and, when necessary, the County Clerk, elections division staff members, and other election workers shall meet with the Participating Entity to discuss and resolve any problems which might arise under this Agreement.
- (C) The Election Officer shall be the main point of media contact for election information related to election administration. The Participating Entity shall designate a contact to be the main point of contact for matters related to the content of the Participating Entity's ballot or candidates.

IX. MISCELLANEOUS PROVISIONS

(A) Amendment/Modification

Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent, or employee of the County has any authority to modify this Agreement except pursuant to such express authorization as may be granted by the Commissioners Court of Travis County, Texas. No official, representative, agent, or employee of the Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the Participating Entity. Dana DeBeauvoir, Travis County Clerk, may propose necessary amendments or modifications to this Agreement in writing in order to conduct a Joint Election smoothly and efficiently,

except that any such proposals must be approved by the Commissioners Court of the County and the governing body of the Participating Entity.

(B) Notice

Any notice to be given hereunder by any party to the other shall be in writing and may be affected by personal delivery, by certified mail, or by common carrier. Notice to a party shall be addressed as follows:

City of Austin
Jannette Goodall
City Clerk
P.O. Box 1088
Austin, Texas 78767-1088

Cc: Anne Morgan
City Attorney
P.O. Box 1088
Austin, Texas 78767-1088

TRAVIS COUNTY
Honorable Dana DeBeauvoir, Travis County Clerk
1000 Guadalupe Street, Room 222
Austin, Texas 78701

Cc: Honorable David Escamilla, Travis County Attorney
314 West 11th Street, Suite 300
Austin, Texas 78701

Notice by hand-delivery is deemed effective immediately, notice by certified mail is deemed effective three days after deposit with a U.S. Postal Office or in a U.S. Mail Box, and notice by a common carrier is deemed effective upon receipt. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this Section.

(C) Force Majeure

In the event that the performance by the County of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party or in privity thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

(D) Venue and Choice of Law

The Participating Entity agrees that venue for any dispute arising under this Agreement will lie in the appropriate courts of Austin, Travis County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America.

(E) Entire Agreement

With the exception of the aforementioned Exhibit A, this Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and also supersedes all prior agreements, including prior election services contracts and prior agreements to conduct joint elections. With the exception of the aforementioned Exhibit A, any other prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force and effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

(F) Severability

If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement; and, parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.

(G) Breach

In the event that Participating Entity or County breaches any of its obligations under this Agreement, the non-breaching party shall be entitled to pursue any and all rights and remedies allowed by law.

(H) Payments from Current Revenues

Payments made by the Participating Entity in meeting its obligations under this Agreement shall be made from current revenue funds available to the governing body of the Participating Entity. Payments made by the County in meeting its obligations under this Agreement shall be made from current revenue funds available to the County.

(I) Other Instruments

The County and the Participating Entity agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.

(J) Third Party Beneficiaries

Except as otherwise provided herein, nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights or remedies under or by reason of this Agreement.

(K) Other Joint Election Agreements

The County and the Participating Entity expressly understand and acknowledge that each may enter into other Joint Election Agreements with other jurisdictions, to be held on Election Day and at common polling places covered by this Agreement.

(L) Mediation

When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed-upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code unless both parties agree, in writing, to waive the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term "confidential" as used in this Agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.

(M) Addresses for Payments

Payments made to the County or the Participating Entity under this agreement shall be addressed to following respective addresses:

Elections Division
Travis County Clerk
P.O. Box 149325
Austin, Texas 78751

City of Austin
Jannette Goodall
City Clerk
P.O. Box 1088
Austin, Texas 78767-1088

(N) Effective Date

This agreement is effective upon execution by both parties and expires on September 1, 2019.

(O) Renewal Terms

This Agreement may be extended by written agreement of both parties for up to two (2) additional one (1) year periods (each a "Renewal Term") and all provisions of this Agreement shall remain unchanged and in full force and effect unless otherwise amended by the parties pursuant to the terms of the Agreement.

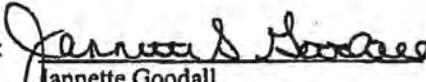
(P) Termination

Either party may terminate this agreement for any reason upon providing 60 days written notice to the other party.

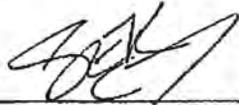
(Q) The individuals below have been authorized to sign this Agreement.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, on this 11 day of October, 2016, with the effective date being the date of execution by last signatory.

CITY OF AUSTIN

BY: 
Jannette Goodall
City Clerk

TRAVIS COUNTY

BY: 
Sarah Eckhardt
County Judge

BY: 
Dana DeBeauvoir
County Clerk

TAB 3



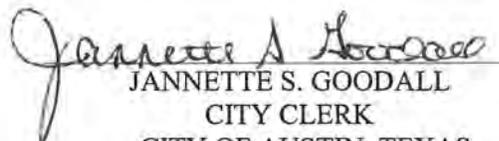
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that this is the URL to the video of the meeting of the Austin City Council held on the 9th day of August, 2018: <http://austintx.swagit.com/play/08092018-584/0/>.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 15th day of August, 2018.




JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS



THE STATE OF TEXAS §
COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of an excerpt from the transcript of the City Council regular meeting of August 9, 2018, regarding items #112 and 113, as on file in the Office of the City Clerk. This office makes no claims regarding the accuracy of the transcription.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 16th day of August 2018.



Jannette S. Goodall
JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS

what side of the issue you're on, because I'm seeing new people on all the sides, but I want to encourage you to register to vote.

[11:19:15 PM]

And I want this to not be the last time you engage with city hall. I am going to need your help --

>> Mayor Adler: Suddenly the snapping stops.

[Laughter]

>> Flannigan: Well, yeah! But just for myself, I'm gonna need your help to build affordable housing in this town. Because when we try to build affordable housing, I hear the same complaints that, oops, we like affordable housing, but traffic. We like affordable housing, but parking. We like affordable housing but, we like affordable housing but. And I need your help not just on this deal but on all the deals. Because all the deals matter to the city. I know all of us care about the city.

[Applause]

>> Mayor Adler: Let's take a vote. Those in favor -- mayor pro tem, did you want to say something? Postponing until Wednesday special called 9:00. It's been moved and seconded. We ready to take the vote? Mayor pro tem did you want to say something.

>> Tovo: I was going to say I know we've been getting emails and there's been discussion about what message this sends to mls and I would -- I guess the message I would sent to mls is that it's late and we're -- we could certainly stay and work through all these amendments and make a decision, but that we're committed to make one next week.

>> Mayor Adler: Okay. I'm too committed. I'm looking at the dais. People are shaking their heads. Everybody has agreed 11:30 on Wednesday we're going to call for a vote. Wherever we are we're going to call for a vote and we'll be done so let's work rapidly on Wednesday because 11:30 I'm going to move the question. Anything else?

>> Kitchen: I'd like to move this question now.

>> Mayor Adler: Everyone in favor of the postponement please raise your hand. Those opposed. Unanimous on the dais. Thank you all. If y'all would leave quietly so we can keep going in the last 45 minutes I'd appreciate it. Thank you very much for coming. Let's call up 113, the election ballot issue. Does someone want to move the base motion?

[11:21:18 PM]

>> Troxclair: Shouldn't we take up 1,121st?

>> Mayor Adler: We don't have to take up 112. If we elect to put it into the ballot we don't take up 112.

>> Troxclair: But if we elect to adopt the language then we don't have to take up the ballot language in 113. I mean, it will just take 30 seconds and it's important to me to have a vote on whether or not we go ahead and adopt the petition language without putting it on the ballot.

>> Mayor Adler: We would just withdraw it. I'm just going to call item 113. Item 113, does someone want to make the base motion for item 113?

>> Troxclair: So are you not going to allow a vote on item 112?

>> Mayor Adler: We don't have to take a vote on 112 if we put it in the ballot language. We have a choice to make, either put it in the ballot or put it where we can adopt it. If we put it in the ballot that makes that choice.

>> Troxclair: We have speakers signed up on 112 and I'm asking as a councilmember we take a vote on that item.

>> Mayor Adler: I'll call those speakers to speak on 113 if they want to speak. Mr. Renteria makes the base motion on 113. Is there a second to the ballot language on 113? It's the base language that was in backup on 113. Councilmember Garza seconds it. Does anybody want to discuss it? Do we want to make any independently we ready to hear the public speak insist do we want to lay out what the amendments are? Councilmember kitchen?

>> Kitchen: Okay. I have an amendment for the mayor's amendment and my amendment and it's been passed out. And it relates to the land development code, which is part and will that's proposition J. So -- part eight and that's proposition J.

[11:23:20 PM]

>> Houston: Does this look like this and doesn't have your name on it.

>> Mayor Adler: Upper right-hand corner August 9, 2018, part eight, proposed language for the ballot on the comprehensive revisions to the land development code. We're going to lay them out and then ask for the public, so the public can see what they are.

>> Kitchen: Does everybody have I

>> Mayor Adler: Proposition J, shall the city ordinance be adopted to require both a waiting and a subsequent voter approval period, total of up to three years, before future comprehensive revision of the city's land development code become effective? Did you put -- would you put that on the overhead so people can see it? Yes, pass it down here, replace mayor pro tem's. Okay. I have also handed out another amendment that will

[indiscernible] After the testimony, public hearing. This one concerns the ballot language for the audit if we put in ballot language for the audit, and it would read "Without using the existing internal city auditor, existing [indiscernible] Shall the city code be amended to require a fiscal study performed by a

third party audit consultant at an estimated cost of 1-5 million dollars. That's also been handed out. It says audit ballot language 113, mayor Adler in the upper right-hand corner.

[11:25:21 PM]

Yes, I have more of these. Okay. Should we call people who want to testify?

>> Alter: I have a couple.

>> Mayor Adler: Yes.

>> Alter: One thing is not an amendment, it was something we discussed earlier in executive session and I forgot to bring it up on item 61 that I think it's relevant here. I wanted to provide direction to the city manager to explore other funding options for funding the rbj services that were originally supposed to be in the bond but were not able to find a way to do that within the legal constraints, whether those are cos or partnerships or whatnot, I wanted to ask if you could explore other ways to find that funding.

>> So noted.

>> Mayor Adler: Okay. Thank you. Councilmember kitchen.

>> Kitchen: I wanted to add to that. I'm not yet ready to say that we can't get that funding out of the bond. But I recognize the constraints. So I support the request because I think we should continue on both.

>> Mayor Adler: Okay.

>> Renteria: Mayor.

>> Mayor Adler: Yes, Mr. Renteria.

>> Renteria: Are you talking about the city -- health building there? The 5-story building?

>> Alter: I'm talking the program that my senior commissioner had put forward. I may have the wrong -- I have the --

>> Renteria: It's not part of -- it's the city's building.

>> Mayor Adler: Correct.

>> Renteria: Yeah, it's not that Rebecca Banes building.

>> Mayor Adler: It's proximate. It's the satellite building nearby.

>> Alter: I also wanted to put forward option one for the ballot language with respect to the land development code, shall a city ordinance be adopted to require a waiting period and voter approval before codenext or subsequent land revisions become effective.

[11:27:22 PM]

>> Mayor Adler: Okay. Thank you. Let's go to the speakers. David King, do you want to speak on this? I'm going to call speakers both on 112 and 113.

>> Thank you, mayor, mayor pro tem, councilmembers. I'm very concerned. Mayor, I have to tell you I really appreciate you're laying out these amendments that we haven't had a chance to see in -- in the previous council, before 10-1, that didn't happen regularly, so I have to thank you for doing that, to give -- at least to give us an opportunity to comment on these amendments that come up here on the dais. So thank you, mayor. I appreciate that. And that gives me an opportunity to respond to the amendment we just heard about, the two amendments. One of them is to add into the language for up to three years. We talked about poison pills earlier. To me that's a poison pill. People will see that and say no way why do we want to delay it? Unless we have hard evidence that prove and say it's going to be up to three years we should not put that up there. That is going to discourage people from voting for that. That's my main message. To me that's a poison pill and we should not support that amendment. Thank you.

>> Mayor Adler: Thank you. I'm sorry, councilmember Troxclair.

>> Troxclair: Mr. King, I wanted to make sure that you knew I'm also -- I've also passed out an amendment for the audit language that just presents something that's unbiased by saying shall a city ordinance be adopted requiring a comprehensive independent third party efficiency audit of all city operations and budget. This is what most closely aligns to what was in the citizens' petition. It didn't bias a voter one way or the other unlike some of the other proposals that we have so I hope that I'll have your support on that as well.

>> Thank you, and do you have my support on that. I think that's very important. I'm very appreciative of you bringing this forward.

[11:29:22 PM]

And we do need to look at the efficiency of our government. We need to have a third party look at this and give us unbiased information so we can improve our efficiency, and be, you know, right by our taxpayers here. Thank you.

>> Mayor Adler: Thank you. Fred Lewis. Is he here? What about Adam Kahn? Come on up.

>> Hi. I'll keep this pretty brief. I thought we were actually going to be doing public testimony on the substance of the audit and the bond tonight as opposed to ballot language, which is really more what I was prepared for. So I'll skip all of that and I will say as far as ballot language goes for the various propositions, what we need as a general matter is clear, concise, easy to understand ballot language that the voters will know what -- what's being voted on and we'll be able to just easily vote accordingly. We got to keep in mind there will be people voting in November who will be just voting and seeing these things for the first time at the end of a very long ballot and we want them to be able to read and make

an informed decision based on the ballot language we choose. On two specific items that are gonna be getting ballot language tonight I want to make a couple more comments on the audit, you just got sued over the codenext petition and you just lost in district court here in Travis county. If you choose to play games with the audit petition, you will get sued again and you will lose again. So proceed accordingly. As far as the bond goes, as someone who will probably be entity impractical in any opposition campaign I simply want to encourage you that you don't want to use ballot language that gives us the ability to say you're asking for a blank check. I didn't like the terrorism -- 2016 transportation bond but I will say the language was a binding commitment and that's why you haven't seen lawsuits over it since then.

[11:31:29 PM]

I think if you were to take the approach of the 2016 transportation bond, while I would oppose what's being considered now as substantive policy I think you would at least not be asking for a blank check so that would be what I would encourage you to do and believe me this fall you don't want to face a campaign where you're asking for a blank check. So thank you.

>> Mayor Adler: Thank you. Ed English. Sharon Blythe here? No? Is Brad Parsons here? Okay. You have four minutes.

>> Mayor, councilmembers, I'm Ed English and I seriously doubt at this point that I'm going to need the full four minutes. Let me just begin by saying that I had quite -- what I felt was a quite nice presentation to make until about 9:00 last night and I was advised by email and phone call of the ballot language that was gonna be associated with the audit petition. That changed everything, and then this morning I rewrote, started over and throughout the day I think I've probably tossed out what I was going to say several times so I'm gonna kind of keep this very brief. I'll be happy to take questions if you want to offer them on the nature of an efficiency audit, what it's designed to accomplish, and why I think it's a valuable tool. But I'm going to skip that for now and get right to the less pleasant part of what I have to say, and I appreciate that an alternative to the last printed ballot language that I saw is now available because, quite frankly, the ballot language that I saw last night, which AAS I say was the last printed one I saw, is outrageous. It is clearly and obviously designed to mislead a voter, to encourage a voter to vote no. It is full of generalities, misleading commentary, and clearly designed to mislead the voter.

[11:33:35 PM]

Hypothetical outcomes and costs that are not based on any type of RFP are inappropriate for ballot language. I've seen councilmember Troxclair's alternative, and that's what ballot language should look like. And I'm gonna guess -- and I think fairly safely -- that all of you have been advised that -- I sought legal counsel and representation this morning because I believe that the last printed language that I saw is clearly illegal. And if any substitute for what I saw or what I saw was passed, I'll have no problem whatsoever -- I hate to take this kind of a position. I'll have no problem whatsoever pursuing action against the city to stop misleading commentary in ballot language designed to steer a voter toward a

particular vote. Quite simply, change the ballot language, adopt what councilmember troxclair has put on the table as simple, straightforward language, and you won't have a problem with me. Thank you.

>> Mayor Adler: Michael sull.

>> Hey, y'all. I know it's been a long day so I'll be really short. So I, too, was going to talk about what the efficiency audit did, what the benefits were, but we're beyond that. I know how the process goes. Most of what's going to happen is already decided. I just want to say you're using the ballot language as a political advertisement. What was proposed and what was just handed out now, it's obviously intended to get people to vote against it. Let's just put up clear, concise language. I mean, if you look at your posting language for today's agenda, it doesn't say related to an item not by the -- not by the internal auditor or our external auditor that costs money.

[11:35:46 PM]

It says pretty clearly in the posting language we're considering an item relating to a city efficiency study of the city's operation and the fiscal performance. I think the ballot language should mirror that real simple and clear language that you thought was sufficient to notify the public tonight. I think that's what we should go, with something simple like councilmember troxclair is recommending, and let's let the public decide if they want an efficiency audit or if they don't. It's that simple.

>> Mayor Adler: Mr. Sull, I have a couple questions.

>> Sure.

>> Mayor Adler: I think you were treasurer of the group that helped put this on the ballot.

>> I'm sorry.

>> Mayor Adler: Were you the treasurer of the group that helped put this on the ballot?

>> I was.

>> Mayor Adler: There was an organization that put up \$130,000 to get this on the ballot. Can you tell us whose money

>> It was a group of Austin -- people who live in Austin, who care about this city, care about the city being run more efficiently and run better and more responsive to the public. And what's happening is you're using the ballot language to undermine the will of 33,000 people who signed the ballot.

>> Mayor Adler: Is there a place we can go to to see the names of the people that contributed to that?

>> No.

>> Mayor Adler: Okay. In the materials that you had was one of the provisions for this that we couldn't hire -- couldn't be done by the city auditor and we couldn't hire anyone who had done audit work for the city? Was that one of the provisions of the ordinance?

>> There's four key provisions of the --

>> Mayor Adler: Is that one of the provisions?

>> There's four key provisions. One that it's an independent third party entity that has experience in this kind of auditing. As -- second that it's the entire city, all departments, Austin energy, water, general fund utility, or general fund as well. Three, that they're allowed level of access to information they need to do a good job.

>> Mayor Adler: So is --

>> Four that it ends with an implementation plan.

[11:37:47 PM]

>> Mayor Adler: So was that a yes, that the provisions of the ordinance provided that it couldn't be the city auditor or the folks that had done or were doing --

[buzzer sounding]

>> Mayor Adler: -- Existing independent external audits? Do I read it correctly, that those people are excluded from that?

>> It says that if you've had a direct contract with the city in the last five years that you would be excluded from responding to the rfp.

>> Mayor Adler: So we couldn't use our city auditor to do this and also couldn't use our external auditor to do this. Is that correct?

>> The external auditor, deloitte, that's an accounting mechanism.

>> Mayor Adler: If we had an external auditor, could we use -- is it true we couldn't use that person?

>> If they've had a direct contract with the city in the last five years, no.

>> Mayor Adler: Okay.

>> According to the ordinance they couldn't.

>> Mayor Adler: So that part is true.

>> Correct.

>> Mayor Adler: With when you were doing this did you ever estimate what the cost was of doing these kinds of audits? Did you look at what other cities or other people paid?

>> I did.

>> Mayor Adler: What was the range?

>> What was the range that -- I spoke to two -- I spoke to two firms that have done this type of work. I told them the number of city employees, the size of our budget, and the number of departments that we have. And they estimated that it would cost one to two million dollars.

>> Mayor Adler: All right.

>> I would have the same question for your \$5 million figure that you have. Because my -- my understanding is that most expensive one you looked at was the state of Louisiana, which has far more employees, far more departments, and is a much bigger organization and it was \$4 million.

>> Mayor Adler: I think we were looking at some that went up to \$9 million and the city of Dallas did one just on the fleet services and it was over half a million dollars. Just looking at the fleet operations.

>> The Dallas one?

>> Mayor Adler: Mm-hmm.

>> I haven't seen that information.

>> Mayor Adler: Okay.

>> That would be interesting to see.

>> Mayor Adler: All right. Those are all the questions I have. Councilmember troxclair.

>> Sure.

>> Troxclair: Michael, how did we know how much an audit like this will cost without an rfp?

[11:39:53 PM]

>> We don't. We would --

>> Troxclair: Based on the examples that you gave and the things that the mayor said, there's a really wide -- is there a really wide range of costs associated with this kind of work, depending on a lot of different factors that you can only find out by doing an rfp?

>> Yeah. The only way you could do it is put the parameters -- we send it out to vendors, they respond and they say we can do this work in this amount of time for this cost. That's the only way we would know what the cost was.

>> Troxclair: Do you think it would be misleading to the voters to put an exact cost range neuron the ballot language without -- in the ballot language without having the information about how much it might cost?

>> Not -- not only is it misleading, it's inaccurate and only represents one side of the story. It does not talk about the benefit of doing the audit, which would be the possible savings associated. If you're going to estimate the cost it would only be fair to also estimate the savings we've seen in other cities and you could have had those conversations too to find out what those numbers might be. That would be a fair

representation. That's what I'm saying with the ballot language. If you're only presenting one side of the argument you're trying to push people in a certain way and it's clear which way we're trying to push people with this language.

>> Troxclair: What would the potential -- if we're using examples from other cities to determine the cost and we also use examples from other cities and states to determine the benefits, what is the potential savings range?

>> From the studies I looked at you're looking at 4-10 percent annual savings. City budget of \$4.1 billion, that's a very significant number and your return on investment if you invests the one to two dollars would be well in excess of 150 to one.

>> Troxclair: Do the companies that offer these kinds of services also allow you to pay for the audits out of the savings at the end of the study, therefore, you don't have to have any upfront costs?

[11:41:56 PM]

>> Yes, they do. Detroit public schools and New York public schools use the model where they paid for the cost of the audit out of the savings.

>> Troxclair: And why was it that you put in the petition that you couldn't use the -- somebody who is associated with the city in the last five years? Was it -- I mean -- let me

ask it this way: Does our internal city auditor or the external financial accountants, do they perform this kind of work?

>> No. It's -- in my view, it's a little bit different. Our internal auditor is awesome. The work that she does is excellent. This is just a different scope. She does programmatic level, inventory level audits, which she -- again, I can't stress how great I think she is. She used to be my neighbor. We used to run into each other with our dogs. I think Corey is amazing and does amazing work. So it's a different scope of work. Our external auditor, that is an accounting mechanism. You're saying we put this dollar for this purpose, did it make it from X to Y. What we're proposing in the efficiency study is very different.

>> Troxclair: So putting in the ballot language that we want -- that in addition to the internal city auditor or the existing independent external auditor, should we do an audit, do you feel like that is intended to mislead voters by making it sound like it's redundant work and in fact it's very clear that neither the internal auditor or the external financial auditor are capable of doing this kind of work?

>> Yeah. Again, I'm just saying what my opinion is. Yes. And it's just another example of you're saying one part of the story, which is we already have an internal auditor and an external auditor. So we don't need to do this. But you're not saying we have an internal and external auditor but they don't do the work you're proposing. You're only providing one side of the story which I believe is intended to influence the voter to move it one way.

[11:44:00 PM]

>> Troxclair: Thank you.

>> Mayor Adler: Okay. Thank you.

>> Thank you.

>> One more question.

>> Mayor Adler: I'm sorry, yes, go ahead.

>> Alter: So part of WHA I'm hearing in terms of hesitancy about this item is a belief, whether justified or not, that the savings that would come from this would be coming from employee benefits or from privatization. How would you address those concerns?

>> Yeah. That's a great question. That was when my original testimony and quite frankly I just get nervous when I'm up higher. Anyways, let me address the question. So the audit -- I just want to be clear, the audit ends in a list of recommendations. The council is not bound to those recommendations, one. You get to make those decisions. We can create a citizen panel to review them and make recommendations to the council. There are a lot of things we can do. Ultimately it's just a slate of options. If you look at the recommendations in the reports from other states and other cities what I'll find is most of the recommendations being made aren't related to personnel. They're things like -- this is a great example I thought was really great for Austin, which is create a vehicle sharing program amongst city employees so you don't have to buy new vehicles as often and, therefore, you have annual savings associated with that. You have two contracts with similar services in different departments. Consolidate those contracts, increase your buying power and -- or get lower prices on the contracts. Things like that. You can look at the range of things. So, one, if there was any -- if there were any recommendations that we were possibly overstaffed in a certain area of Austin, I know and am confident this dais would not reduce our staff. But there are other creative ways to deal with overstaffing in certain areas. You can do it through attrition. You can do it by transferring certain employees someplace that's been identified as potentially overstaffed to somewhere that is understaffed and we need more help.

[11:46:04 PM]

So there are ways you can deal with that issue. But that is very uncommon. Amongst the recommendations in the studies I looked at, that they're actually saying you have -- this portion of the -- or this department is overstaffed. And then I certainly know that this council would not reduce the number of employees. You guys have -- hold your -- hold the city employees in the highest esteem, as does the public, and I don't think that's what -- that would be not be the ultimate result of the audit.

>> Alter: Thank you.

>> Yeah.

>> Casar: Mayor, my suggestion is that we try to get these votes done before midnight or take an extra five minutes to make it if we're going to plug through. The faster we can go the better.

>> Mayor Adler: Let's go on to the next witness.

>> Thank you.

>> Mayor Adler: Fred Lewis. Megan meisenbach. Matt macawiak, Steven shepherd. Come on up. Is David butts here? You'll be up next.

>> Alter: Excuse me, mayor. We had a question about 109, whether it was also postponed until Wednesday.

>> Mayor Adler: About what?

>> Flannigan: The other soccer --

>> Alter: The other soccer item, if it was postponed.

>> Mayor Adler: Yes, both postponed.

>> Alter: I just want to let people go who don't have to stay for the rest of this.

>> Mayor Adler: Yes. We were holding them together. Left thereby any -- left there be any -- go ahead, sir.

>> Thank you, mayor, council, it's an honor to have a chance to speak to you. I think that --

>> Mayor Adler: Introduce yourself, please.

>> Matt macawiak, district 10. I am the county chairman for the Republican party so I'll mention that for biographical purposes. Here tonight I'm referencing this ballot language which I believe absolutely unquestionably is intentionally misleading and is intended to confuse the voter.

[11:48:04 PM]

I think there's no question about that. It's hard to even fully understand what the sentence means, the ballot language is so absurd. The question that I would ask everyone up here and I know not all of you were involved in drafting the ballot language is, why would the city not want an efficiency audit? Because the ballot language is intended to defeat the audit. Ordinance. There's no question if you look at it that is what it is intended to do, intended to make it look redundant, intended to make it look like it's a cost we shouldn't need, intended to make it look like city services will be cut or taxes raised. When the overwhelming likelihood is none of those things will happen. We've already had Michael testify that the \$4 million will never be paid because it will save more money than that. If you save 4% on a \$4.1 billion budget that's \$16 million. That's more than \$4 million. So the question I have to ask is, why would we disrespect, why would you choose to disrespect the 33,000 austinities that signed the petition, 22,500 of whom were verified? By putting intentionally misleading ballot language together, which we already know is going to be sued over and cost the city time and. Why even do that? Just put clear ballot language forward, let the voters vote nor it, have the outside efficiency audit. It will be good for the city, the taxpayer, it may not be good for the leaders of the city's employees union but I would hope for with

the exception of councilmember troxclair, who fights for taxpayers every week, I would hope for once city council puts taxpayers first, don't be intentionally misleading, try to bias the voters. Allow voters to make a clear decision whether they want a efficiency audit or not, and I suspect it will pass and the taxpayer will benefit. Thank you.

>> Mayor Adler: Thank you. Is Steven shepherd here? Mayor pro tem, did you --

>> Tovo: Mayor, I see people waiting still for the economic development item which I assume since we're 15 minutes out from when we agreed we would leave we're not going to get to.

[11:50:09 PM]

So we probably should have indicated that a while ago.

>> Mayor Adler: Okay. I think we should do that. We're not going to get to the economic development items. The question is do we put those off until 8/23? Is there any chance at all you think we could get through the soccer quickly enough on Wednesday to handle this on Wednesday as well? No? Just asking.

[Laughter]

>> Tovo: Valiant effort.

>> Mayor Adler: Let's put that off until 8/23. Okay. We'll put the economic development items 13, 14, 15, postponed to 8/23 by unanimous consent at the dais. Please plead, sir.

>> Thank you, mayor, council. I'm Steven shepherd. I'm a resident of district 8. Came down originally just because of the original ballot language so I'm not going to repeat everything that the folks have said before me. The thing that amazes me though is I can't believe more of you are not for this audit and you think about all the things you're constantly talking about from the standpoint of the homeless challenges we have affordable housing, wouldn't you want to free up a lot more revenue by being -- having a much more efficiently run city government? And that's going to take care of, as we've heard, even 4% will give you an extremely decent chunk of change, and so I just can't understand why you guys are doing this, wouldn't even vote for it and are putting on the ballot, why you wouldn't see it was a benefit to the city. So I just hope that you will listen to councilmember troxclair and accept her ballot language to make it fair and understandable by all. Thank you.

>> Mayor Adler: Thank you. Mr. Butts. Is [indiscernible] Watson here? Chevis Watson?

>> Davis butts, anytime district 1. And, you know, talking about misleading, I think probably this petition is totally misleading.

[11:52:10 PM]

I see it as a creator of a group basically from this conservative think tank called Texas public policy foundation. I think it's basically designed to sort of set the city up so that it can be attacked, probably, as Ms. Troxclair did, run down to the state legislature at the end of the street here, and basically launch an attack on the city to try to undermine it because they didn't adopt some sort of cost savings. This is funded by dark money totally. You know, it's hidden. And we'll never know who gave this money or where it came from. Unless they choose to reveal it, of course. And I welcome the opportunity to have a campaign on this issue. I really do. I'm reminded of the Uber campaign, and I think that this will be very entertaining, to say the least. I'd strongly urge you to put it on the ballot however you choose to do it is up to you. We'll defeat it either way. Quite honestly. Of course they'll try to pour a lot of dark money in, but we'll point that out very clearly. So once again, you understand -- I think every one of you understand exactly what this is. This is spear aimed at the city of Austin by a group of extreme conservatives who are out to undermine this city. They do not like this city. They resent this city. And the rot starts at the top at the governor's office and goes down. So basically if we're gonna have an election, we'll have an election. Okay? Thank you so much. Thank you.

>> I have a question.

>> Mayor Adler: Councilmember Garza. Mr. Butts?

>> Garza: I have a question.

>> Mm-hmm.

>> Garza: I guess following the line of questioning the mayor was asking, not knowing campaigns and pacts and stuff, I thought any kind of -- explain the dark money part.

[11:54:18 PM]

I thought any kind of pact usually files -- do they choose to file a certain kind of pact where they don't have to disclose their donors?

>> I'm sorry. I'm sorry. There was a pact -- actually a 5014c called Austin civic future or Austin civic future, I think, that's been on file. It's gone through transition of leaders or members of their -- of this pack, this foundation, I shouldn't call it. It's not a pack. It's able to basically take money from all kinds of sources about reporting where the money came from. And that money, that \$137,000 that the mayor referenced, was passed onto Mr. Sull's pack and spent to basically generate this petition. Who or what -- who it came from, I can guess, almost, but basically that's how it operates. The people that are the board of directors, one was once the president of the young Americans for prosperity. Now that sounds vaguely familiar to the coke brothers. You'd probably be right about that. The others are basically involved with tp -- Texas public policy foundation front groups who, you know, basically don't like the city of Austin. And I doubt they have our best intentions, if I had to guess.

>> Garza: Okay. Thank you.

>> Kitchen: Mayor, can I ask a question?

>> Mayor Adler: Yes.

>> Kitchen: So, Mr. Butts, so in response to councilmember Garza's question, I think what we're hearing is that the reporting, such that our laws are right now, they can report that the money came from this foundation, but the foundation -- or group does not have to report who gave to them?

[11:56:20 PM]

So that's -- that's what we're seeing in terms of dark money. Is that correct?

>> Yes.

>> Kitchen: Okay. And we also have a situation where there's been a request or multiple people have requested that the groups involved tell us who gave the money and they've refused to date. Is that correct?

>> That's correct.

>> Kitchen: Okay so the calls for transparency from that group seems kind of ironic to me, that the calls for transparency to the voters, so the voters understand what's going on, but at the same time not being transparent with the voters in terms of who is paying for it?

>> Well, I think that just is indicative of their intentions. Honestly.

>> Mayor Adler: And a more complete answer, additional complete answer, when we passed our ethics ordinance requiring this we had a section that concerned coverage transaction and covered transactions were a contribution that was made to a 501c4 for the purpose of being given to any pack that would then be spent. And under city ordinances, a contribution that was made to a 501c4 for that purpose by a person, that person needs to be disclosed by the person, by the 501c4. So it's still an outstanding question as to whether or not the 501c4 in this case took any money from anybody who knew the money they were giving was going to be used in this pack campaign, in which case under our ordinances they would be required to report. But in fairness to these folks, they're not the only ones that are doing it. There are other organizations in our city right now also participated on the other ballot measure that are taking secret money and not disclosing who gave that money as well. So it's a growing issue in our city.

>> Garza: I guess, councilmember Houston, along these lines, if you want to be transparent, there is an avenue to do that.

[11:58:25 PM]

There's a way to file a pack where you're required to show the individual donors. There's a way to do that.

>> Mayor Adler: Certainly they could do that if they wanted to. Ms. Houston.

>> Houston: Thank you. And I guess this is a

>> Houston: Thank you. I guess this is a question for Mr. Butts or the mayor or councilmember kitchen. 30-some thousand people signed a petition. Are we saying that because we don't know where the money came from, that the petitions are invalid or the people are invalid? I don't hear any concerns about people being illegal. We're just focusing on where the money came from, and the petition is still valid. Right?

>> Yes. It's valid.

>> Houston: 30-some thousand registered voters said, you know, we need an audit. That's what I need to focus on. The other part of what I need to focus on, is there something wrong with having an efficiency audit? I mean, is that paying attention to the fact that there's things in any organization that could be different, more creative, done more efficiently, save some money? I'm for that because the property tax owners -- and I keep saying that, in district 1, are saying you can't keep coming to us, city of Austin, to pay all these things. So if we could find some efficiencies in this organizations, wouldn't that be beneficial to the public?

>> Well, of course it would. But of course the question is, what would the council choose to did you want? If they come back and say, well, you need to sell off the Austin energy or basically go from a pension fund to a 401(k) For your employees, and let them go on the market, they'll come up with all kinds of reasons and rationales why you need to make trimmings financially, some of which might have validity, some will not.

[12:00:26 AM]

If you choose not to do it, people will go to the capitol or they'll use it as a campaign issue, which is exactly what I think this is partly directed at. Not for this campaign per se, but in the future, to basically say that the council or this councilmember has failed to make these savings, and, so, therefore, you know, you need to vote them out. So it's a political tool, as much as it is anything else. And, you know, the fact is, you can get signatures on just about any petition in this city you want to. That's true. Now, they were paying an extraordinary amount of money to get those signatures that they got, but, you know --

>> Houston: So I guess those are a lot of assertions. I don't know. I'm not a political being.

>> Right.

>> Houston: But those are some assertions. My thing is, how do we make sure that we are operating as efficiently as we can. And we've had conversation today and at the work session about audits that have come through our wonderful program audit that nothing happens.

>> Well, that's the decision the council has to make.

>> Houston: Well, but prior councils haven't made it and we're hopeful that this council, this city manager, will look at that and say, okay, this is something we've got to do and we've got to do something about this. And I don't know that any of that other stuff that you're talking about is true. I happen to want to have an efficiency study.

>> I assure you, the dark money is true.

>> Houston: Well, but I'm talking about not the money, I'm talking about the outcome. I'm talking about the product.

>> Well --

>> Houston: So when you do that you skip what the real issue is for me. I can say that.

>> I can tell you, the real issue is how this is being used, a political tool.

>> Mayor Adler: Those are all the speakers that we have. Anybody else signed up to speak? Mr. Bunch? I didn't have you, but the clerk will note that go ahead.

>> Oh, are you one of the extreme conservatives that are behind this petition?

[12:02:31 AM]

>> Yes. I consider conserving our planet Earth being very conservative and I put myself in that camp. I'm bill bunch, executive director, save our springs alliance, district 5. I want to first say -- ask you to not put the charter amendments on the ballot and delete those from this ordinance. Neither of those two are really needed, and you're clearly just doing it to fend or the charter commission recommendations that were worked on a great deal and put those off for two to two and a half years. I think that's disrespecting the work of your commission and your citizens. My next point is on the ballot language. All this discussion about policy is irrelevant to the issue in front of you right now. And I feel kind of like a broken record from a few months ago when we told you you're violate ago

-- you're violating law by not putting the codenext position on the ballot and didn't you listen. You have an obligation to put this on the ballot. And article 4, section 5 of the

charter reads as follows: The ballot used in voting upon initiated or referred ordinance shall state the caption of the ordinance, and -- that's number one -- below the caption, on separate lines, the words "For the ordinance and against the ordinance." Your ordinance, page 47, violates both of those provisions. For proposition J, the codenext petition ordinance, and for the audit ordinance, proposition K. Neither of those are stating the captions of the ordinance. The amendment offered by councilmember kitchen and mayor Adler exacerbate the violation that's here by adding the three years, which is both false and is electioneering on the ballot.

[12:04:50 AM]

There's lots of ways you can violate people's voting rights, and one of those ways is rigging the ballot by writing ballot language that is not the caption of the ordinance, that violates your own charter, that doesn't ask are you for the ordinance or against the ordinance but says "Yes" or "No," and makes an extended argument about the policy. The policy is irrelevant. You're here to follow the charter. And y'all posted this amendment, mayor Adler, and councilmember kitchen, at pretty much exactly the same time --

[buzzer sounding]

-- You were talking about restoring public trust in the context of codenext and our land development code.

>> Mayor Adler: Thank you.

>> Is this public trust?

>> Mayor Adler: Thank you, Mr. Bunch.

>> That is not a rhetorical question. I want an answer.

>> Mayor Adler: Your time --

>> Are you restoring public trust with your amendment from 4 o'clock this afternoon?

>> Mayor Adler: Thank you for your participation.

[Applause]

>> Kitchen: Mr. Mayor, I'd like to speak to my amendment.

>> Mayor Adler: Okay.

>> [Off mic]

>> Mayor Adler: Go ahead, Ann.

>> Kitchen: I would like to speak to the amendment. The purpose behind the amendment with regard to the land development code is clarity and transparency to the public. I will read -- I will read from the ordinance. The ordinance says that, a, there's a waiting period. The waiting period is June 1st following the next regularly scheduled -- Mr. Bunch, I'm just making an argument. I'm not -- we can talk at another time. I'm just --

>> Mayor Adler: We're through. We're not doing any more --

>> I'm here to answer questions if somebody else asks one about whether what you're saying is accurate.

[12:06:54 AM]

>> Mayor Adler: Wait, wait, wait. You talk to us.

>> Kitchen: I'm sorry.

>> Mayor Adler: So with us.

>> Kitchen: Okay. So to my colleagues, what I'm attempting to do with this language is clarity for the public. I think that -- I think it's appropriate and necessary for us to be clear, and so the language about a total of up to three years is reflecting what is in the ordinance. The ordinance talks about a waiting period, and I'm going to read the language from the ordinance. This is the time period you were the waiting period. June 1st following the next regularly scheduled council elections after council adopts codenext or the comprehensive revisions, and then the second period is the voter approval period, which is after the next available municipal election. So there's -- this is confusing language, but I think it's -- that's why I think it's important for the public to understand that the ballot has time periods in it. And there are four steps. First, the council would adopt a comprehensive revision. Second, it has to wait until after the next regularly scheduled council election, and then after that is June 1st, and then after that is the next available municipal election before the public gets to vote. So I think that this is not an attempt, and I would never attempt to suggest, one way or another, if people want to vote on it; they just need to know what they're voting on. And I think it's appropriate because there is -- there's a two-part-time period in here, and I think it's appropriate and we owe it to the voters to tell them and have that language in it.

[12:09:11 AM]

That's it. I don't think that this language is an attempt to say one way or the other how people should vote.

>> Mayor Adler: Okay. Further discussions from the dais? Yes, Mr. Flannigan.

>> Flannigan: So I really appreciate that, councilmember kitchen, and just to keep my comments focused on the land development code issue, I think the waiting period, just say wading period, to your point, is sufficient because it is a very significant and unusual definition of waiting period. I think the following a subsequent council election is a very operative phrase in that, and I don't know that I have the will of the dais to include that specific phrase, but it is far more than just a waiting period. It is more significant than that. So I support what you're saying because I think it is a critical element. It is almost a majority of the ordinance, be it -- it being both the waiting period and half of the voter approval being about the time length, so I think it's a really important component.

>> Mayor Adler: Okay. We have the base motion. Does someone want to amend in the amendments?

>> Houston: Mayor, it's after 12 o'clock.

>> Mayor Adler: It's after 12 o'clock. I think we're at a place where we can take votes on these and move forward. So, Ms. Kitchen, do you want to make the amendment?

>> Kitchen: I thought I had. I will make -- I move to amend the base motion with proposition J that I -- language that I put out.

>> Mayor Adler: Okay. Is there a second to that amendment? Mr. Renteria seconds that. Any discussion on the amendment? Yes, councilmember alter.

>> Alter: I would like to propose a substitute amendment of option 1 -- shall the city ordinance be adopted to require a waiting period and voter approval before codenext or [indiscernible]

[12:11:14 AM]

Become effective, that would be for proposition J.

>> Mayor Adler: Okay. So councilmember alter moves to amend that article 8 to take out for a total of three years and to add in codenext prior to the comprehensive revisions.

>> Kitchen: I'll second that.

>> Mayor Adler: Okay. Seconded by -- did you want to second that, mayor pro tem? Okay. Mayor pro tem seconds that. An amendment to take out a total of up to three years and to add codenext prior to the comprehensive revisions. Those are the two substantive changes.

>> Alter: Codenext door.

>> Mayor Adler: Codenext door. Those are the changes. It's been moved and seconded. Any discussion? What I would say is I'm not going to support this amendment because I think it is not presenting to the voters an accurate description of what's happening. I also agree that the language of up to three years is important because the waiting period associated with this actually is explained at length in the document that was given to the people to sign on their petition. It goes into a lot greater detail. It talks about not going into effect until there's a next city council election, so that there could be a change of city councils in the meantime. And then not even just that. After that city council election, you have to wait until the following June in order to be able to go. But it still can't be effective even then. It has to wait even past that to get to the next election period. So I think a three-year delay is an integral part of this. It is intended to allow for enough time for a change of council and for a public vote, and I think that if you just say a waiting period, people don't understand that, and it was a large part of the description.

[12:13:29 AM]

Second, when I take the court's direction with respect to to whether we include codenext or not. It was argued to the court that this wasn't ripe for her to rule on the substantive issues that we had presented, and her basis for saying that was that there was no codenext. It wasn't a product, and it would either be passed or wouldn't be passed so that she couldn't make that decision with respect to anything that was codenext. She had to look at just comprehensive land development changes, be it this one or be it one

sometime in the future. And I think we went to the court, we said that we would follow the court's direction, and I think the court was very specific with respect to that. So I'm not going to support the alter amendment. Further discussion? Councilmember pool.

>> Pool: I'm supporting the alter amendment that the mayor pro tem seconded for a lot of reasons that I'll just say, two, this is the clearest and most verbatim representation of what was in the petition language, in its caption, and all of the additional information that you're talking about, mayor, can accompany the educational materials that we would use in order to talk to the public about what this would mean. But I think the cleanest and the clearest approach on, frankly, both of these propositions is to go directly from the position caption as directly and succinctly as possible. So I support what councilmember alter is moving.

>> Mayor Adler: Any further discussion before we vote on the amendment? Mayor pro tem, did you want to speak?

>> Tovo: Yes. I do.

>> Mayor Adler: Okay.

>> Tovo: I seconded the motion and intend to support it. I think it's really, for many of the same reasons councilmember pool said, I think we need to -- I believe that we should stick as closely to the language in the petition as possible, and I know part of the argument in dropping cones is that earlier today we decided not to continue with that particular process, and I've also heard the argument that codenext is how we branded the discussion about the land development code revision.

[12:15:44 AM]

But it's absolutely true for me and the people I'm talking to, I mean, and the conversation -- and I don't know just the people I'm talking to here at city hall but the people who stop us in the grocery store or talk to us in the dry cleaners or parks, everywhere I go people are talking about codenext, and that is their understanding of the land development code revision. So I think it's really critical that we include that codenext. That's become, for good or for bad, that's become the common parlance, I think it's important to have that context to help guide their decision on that ballot measure. So I really believe strongly that it's important to have codenext in the ballot language.

>> Mayor Adler: Councilmember Flannigan?

>> Flannigan: So I appreciate, mayor pro tem, your analysis on our decision earlier today, but as the sponsor of that action, that motion, that, to me at least, is irrelevant to why I am not going to support the amendment. For me, it is about the judge's ruling that says that she couldn't determine anything about codenext, or if it was appropriate to vote on because it was not a product, it was a process. It was not finished. So even if we had not -- if we had not taken that action earlier, it would still be true to the judge, to the judge's ruling, that it wasn't a thing, it was a process. And so to me, that's the operative question. So I just don't want there to be confusion about what action we were taking earlier today.

>> Mayor Adler: Okay. Councilmember alter.

>> Alter: Thank you. I think where I'm at is I think that in both of these propositions, we should be putting forward the simpler language.

[12:17:48 AM]

In both cases, we have over 30,000 folks who signed a petition asking to have an ability to vote on these. With respect to codenext, I think including the word "Codenext" in there is really whether or not to rebuilding the trust that we've been trying to rebuild. And I am feeling a little bit like we're in a ground hog day situation, and I think by putting the word "Codenext" in there, we can avoid that. I really don't relish being part of a city that is constantly being sued for doing things that run counter to the citizens' efforts to put forward initiatives, which they have the right to do by the charter. And I think that we would be on much stronger footing both for rebuilding trust and for being true to the charter's requirements if we go with the simpler language.

>> Mayor Adler: Anything else before we vote on the amendment? Let's take a vote on the amendment. Those in favor of the alter amendment, please raise your hand. The mayor pro tem, pool, troxclair, and alter. Those opposed, please raise your hand. The balance of the dais with councilmember Houston off. It is defeated, 4 to 6-1. Any further -- further amendments? I handed out the language that related to the audit. It has "Mayor Adler" in the upper right-hand corner. I don't remember what the proposition number is on that. What is -- do you know what number that was?

[12:19:49 AM]

J?

>> K.

>> Mayor Adler: K? Proposition. So I would suggest -- move, by way of amendment, the language that's in K.

>> Renteria: I move that we accept that.

>> Mayor Adler: Mr. Renteria moves that? Councilmember Casar seconds that. Any discussion on the Renteria amendment for proposition K? Renteria made the motion, seconded by councilmember Casar. But the language -- it's the yellow page. In the upper right-hand corner, it says mayor Adler. And the language for K, it doesn't say K, it just says the language. Without using the existing internal city auditor or existing independent external auditor, shall the code, city code, be amended to require an efficiency study of the city's operational and fiscal performance performed by a third-party consultant at an estimated cost of one to five million dollars. It's been moved and seconded. Discussion in councilmember troxclair.

>> Troxclair: I know that my repeated requests earlier to take an up or down vote on number 112 were ignored, but I just want to do ask one more time if we were able to take a vote on that item, considering

that we had people come down here, sign up to speak on it, and that you have at least one councilmember and possibly more who would like the opportunity to just vote to say that the city of Austin should do a comprehensive, independent, third-party audit without making Mr. Butts spend the time and energy that he's -- that he says he's going to defeat a common-sense, really basic, good government measure.

>> Mayor Adler: Okay. Any further discussion on the Renteria amendment? Ms. Houston?

>> Houston: Mayor, if I had been here, I would have voted against codenext.

>> Mayor Adler: You would have vote against it okay.

>> Houston: Uh-huh.

>> Mayor Adler: I'm sorry. The vote would have been 6-5.

[12:21:51 AM]

She would have voted in favor of the item. It would have been defeated 5-6.

>> Alter: Were you asking to include your vote in the record, though?

>> Mayor Adler: She's not here, but it is noted that had she been here, that's how she would have voted. Further discussion on the Renteria amendment? Yes, councilmember pool.

>> Pool: So the Renteria amendment is the one that has mayor Adler at the top, and I wanted to check with councilmember troxclair. She had an amendment to that, or substitute.

>> Troxclair: Yes. I would like to make a substitute motion.

>> Mayor Adler: Okay.

>> Troxclair: And offer my language that is troxclair sheet number 1 that says shall a city ordinance be adopted requiring a comprehensive, independent third-party efficiency audit of all city operations and budget. This language is unbiased, it most clearly mirrors what was in the petition. That I think it respects the will of the people who signed the petition --

>> Mayor Adler: Let's do this real fast. Is there a second to the amendment? Councilmember pool makes that go ahead, Ms. Troxclair.

>> Troxclair: That's it.

>> Mayor Adler: Okay.

>> Troxclair: I mean -- yeah.

>> Mayor Adler: It's been moved and seconded, troxclair amendment to this proposition K. Further discussion? Yes, Mr. Flannigan.

>> Flannigan: So I really struggle with this one. I think had the ordinance been offered, I probably would have voted for it, not because I think it's a silver bullet but because I think, at worst, we're spending the city's money on an audit that a future council will likely ignore. We get a lot of audits from our city auditor. We get special projects and often when those audit reports don't comport with existing beliefs, then the auditor is called into question. And we've seen this happen to other staff, too, and I don't think that's a good practice, and I don't think it would be any different, the result of a third-party audit.

[12:23:57 AM]

That being said, I think, based on my analysis of ballot language requirements, the fact that there is a cost is an important element and I think the fact that we have a city auditor who's been excluded from this process is an important element. I'm going to avoid the wordsmithing process, I don't think there's the will to go into that, so I have the odd position of opposing councilmember troxclair's language but would have supported the original ordinance.

>> Mayor Adler: Okay. Any further discussion on the troxclair amendment to the amendment? Yes. Councilmember troxclair.

>> Troxclair: I just want to do make sure everybody saw and that it's entered into the record that I handed out an email correspondence with Cory Stokes, if I can read it, as discussed while we are independent of city operations, we don't typically discuss large projects like the proposed efficiency study. Specifically we select more narrowly focused topics and focus on risks within each selected topic to identify opportunities to improve effectiveness and efficiency. Focusing those high risks helps us cover more topics than we could have otherwise -- than we would otherwise be able to audit. So I think it's really clear from this correspondence that she does not do the kind of work that is being considered in this comprehensive audit, and I also want to point out as the chair of audit and finance that the other external auditor being mentioned here is purely a financial auditor, that's an accounting tool, it has nothing to do with performance auditing, so I am -- I really think that the -- legally, the best route the move forward to the city is to adopt the simple language.

>> Mayor Adler: Councilmember Casar.

>> Casar: In looking at Ms. Stokes' email, I think it says that this is not something that she typically does, but it's actually clear in the ordinance as presented by the petitioners that it's something that she is, under this ordinance, not going to be allowed to do.

[12:26:06 AM]

So regardless of whether it's something that we did want her to do or didn't want her to do, under the ordinance being presented, she would not be allowed to do it, nor would any of the firms that have had a contract with the city the last five years, be allowed to do it. So I still think it provides transparency and truth in what it is that's being presented. So I see Ms. Stokes' email as clarifying and actually still

supportive of the language that's being -- that's been offered by councilmember Renteria and the mayor that I seconded. And I also think that making sure that we don't confuse voters into thinking that they are voting to instate our current city auditor, but and I think separate and you had author provides a level of transparency as well.

>> Mayor Adler: Anything else before we vote? Mayor pro tem.

>> Tovo: Yeah, I agree. I have heard people talk about the need for an external audit at various points over the last few years, and it's at least some of those calling for an external audit have been unaware that we have an internal auditor here who does terrific work. And so I agree -- I agree both in -- I agree with your assessment, councilmember Casar that I don't read -- I also don't read the city auditor's email as suggesting that she would be unable to do that. I would also just say by way of background, we also have had a little bit of this discussion during previous budget sessions about whether we should do full scale sunset review of departments, and at the time the city manager started an initiative to look at departments rather thoroughly and to look at their performance and to look for efficiencies. So we are -- it's just true that we're doing a lot of that work already. But I do think it's important to clarify for voters that we have an internal auditor already.

>> Mayor Adler: Okay. Anything else before we vote? Yes, councilmember pool.

>> Pool: So this one is really hard for me because -- and I have been interviewed about my reasons not to support the efficiency audit as it was crafted in the petition, and I went into some pretty extensive detail with Ken martin and talked about how I thought this would fit under our strategic planning process that we -- the new planning process that we have at the city, that we could approach this internally through the city manager's office and our office of performance management and do it under the same kind of strategic planning outcomes that we have put together that we finished last year and that we are putting our budget through.

[12:28:45 AM]

But as far -- so my position on whether I want this to pass or not, though I am keeping separate from my support for the clear, simple language from the caption, and the same reasons that I argued to include codenext in the other proposition J, is because I think that that is a truer, verbatim expression of what the petition was, and when we leave it to the voters with the educational materials that we provide, in the campaign that's out in the community before the vote happens, to make those distinctions. So my reason for voting for providing the second to this is the same reason why I was supporting our previous work on proposition K. And I vote in support of this because I believe that we should go with the clearer caption language. And it doesn't have anything to do with whether I agree with the substance of the actual -- the vote that we would take in the community.

>> Mayor Adler: Thank you. And I have question for the manager. Did you look at what these kind of surveys cost by the companies that were doing them, or the company that was recommended by the folks that were offering this petition?

>> Our finance staff was able to look at some, yeah.

>> Mayor Adler: And does this range accurately reflect what your staff estimated with them?

>> It does.

>> Mayor Adler: Okay. Thank you. Any further discussion on the amendment? Yes. Councilmember troxclair.

>> Troxclair: Manager, were the entities that the staff looked at -- were they comparable in size and scope to the Austin city budget and staff, or were they entire states?

>> It was hard to find -- councilmember, it was hard to find one that was exactly the same size and scope, so there were some that were at the state level but maybe a smaller scope; some were at a city level but at a smaller scope, so we used some of those estimates to derive that this was an accurate estimate.

>> Mayor Adler: Okay. Let's take a vote on the troxclair amendment to the amendment.

[12:30:46 AM]

Those in favor, please raise your hands. Troxclair, alter, Houston, and pool. Those opposed, raise your hand. It's the balance of the dais, the amendment to the amendment is not passed. Let's vote on the amendment that raises K --

>> Pool: Mr. Mayor, just -- we didn't vote on the previous --

>> Mayor Adler: It's been pointed out to me so we're going to vote on this, then we're going to vote on yours. I apologize for that. The amendment to the amendment was defeated. We're now to the amendment. Mayor pro tem.

>> Tovo: Mayor, I have an amendment to propose to item J, if now is the appropriate time.

>> Mayor Adler: Let's vote on K real fast, then we'll go to J. Let's finish with K. Those in favor of the amendment with K, the Renteria amendment, please raise your hand. Those opposed? Troxclair, alter voting no, Houston voting no, the others voting aye. It passes. Now let's talk about --

>> Tovo: Talk about.

>> Alter: Mayor, I have one more amendment on K. It's been passed very slowly.

>> Mayor Adler: Let's go ahead and continue on J. I skipped over that when I shouldn't have. We voted on the amendment to the amendment on J but we have yet to vote on J. So we're back to J. Mayor pro tem, did you have an amendment you wanted to make to that?

>> Tovo: Yes, I do, mayor. I'd like the make an amendment to J and that is to insert the words codenext or, before the word "Future."

>> Mayor Adler: Okay. Mayor pro tem moves to insert the words "Codenext or" before we have future comprehensive land development code.

>> Pool: Mr. Mayor, didn't we already vote on that? It was part of the previous amendment.

>> Mayor Adler: It was, but there were two parts --

>> Pool: Oh, so you're separating them.

>> Mayor Adler: We could have done the same thing by dividing the question before and we just didn't do it. Is there a second to the mayor pro tem's amendment? Councilmember alter does that. Any discussion on this?

[12:32:48 AM]

Let's take a vote. Ms. Houston?

>> Houston: Which one are we voting on now? I've got two. Is it alter's or is it kitchen's?

>> Mayor Adler: Kitchen is J and the mayor pro tem is to want add the words "Codenext or" before the words future comprehensive land development.

>> Tovo: So if you could speak to that for just a minute.

>> Houston: On kitchen's motion.

>> Tovo: That's right. Yeah. We voted, as we discussed, we vote on councilmember alter's while you were off the dais, and it had two elements in it. One was two differences between K and J. One was the waiting period. The other was the absence of codenext. So given that that failed, I'm proposing that we add "Codenext or" into the language in this one. I'll just say to the reasons already --

>> Mayor Adler: Did you want to speak to it?

>> Tovo: Yeah. This really is the same reason I offered for my support of councilmember alter's. I believe that it's important, given the context of the discussion we've been having, to have the words "Codenext" in there since that is in common parlance how many people have come to think about the land development code revision.

>> Mayor Adler: I oppose this for the same reasons given earlier. That I think if we take the instruction from the court, there is no codenext, and, therefore, it's misleading to suggest that there is because there's not. What this really is, is a forever determination on how we deal with comprehensive changes to the land development code, or laws, and that's what we should be taking to the voters. And I think it would be confusing in this instance because some people think the vote in November is going to be an up or down vote on a codenext product, which it's not and there isn't.

[12:34:52 AM]

So I think it's confusing to -- and misleading to add that language. Any further discussion before we vote?

>> Renteria: So, mayor, are we voting on the audit?

>> Mayor Adler: No. This is the codenext one. This is the kitchen language, and we're talking about do we add the words "Codenext" into the kitchen language. Okay. Do we add the words "Codenext." Those in favor of the -- I'm sorry, yes, Mr. Flannigan?

>> Flannigan: I just wanted to note to the mayor pro tem, no, we agree to disagree on this. I don't believe codenext is common parlance, it isn't in my district, but I know we agree to disagree on that.

>> Mayor Adler: Let's take a vote. In favor of the mayor pro tem's amendment to the amendment, please raise your hand. Troxclair, alter, the mayor pro tem, Houston, and pool. Those opposed, please raise your hand. Five to six, it's defeated. Let's now vote on the amendment J. Those in favor of the amendment J, please raise your hand. Those opposed? Pool voting no -- I'm sorry, what?

>> Alter: Is this versus the base motion?

>> Mayor Adler: This is J. This is kitchen's amendment. We've discussed amendments to the amendment. They have not passed. We're now back to voting on the kitchen amendment J.

>> Alter: Okay. I'd like to abstain on that.

>> Mayor Adler: It contains the language up to three years, does not contain codenext.

>> Tovo: Would someone please remind me what the staff's recommended language was? I don't have that in front of me at the moment.

>> Renteria: Are we voting on the audit ballot or we're still on the --

[12:36:53 AM]

>> Mayor Adler: Yes. J. It has a J in front of it. This is not the audit link. This is -- for the life of me, I don't know what I've done with it. It has part 8. In the upper right-hand corner, it has August 9th, 2018, motion sheet amended, ordinance part 8, and it says proposition J. That's what we're voting on.

>> I thought we just voted.

>> Mayor Adler: We voted amendments to this. There have been several amendments to this that have been offered. None of them have passed. Now we have to vote on this.

>> Renteria: So we voted on the base.

>> Mayor Adler: We're not voting -- we're voting on the kitchen amendment. Those in favor of the kitchen amendment, please raise your hand. Those opposed to the kitchen amendment, please raise your hand. It is troxclair, alter, mayor pro tem, Houston, and pool. The others voting against the

amendment -- no, the others voting for the amendment, it passes 6 to 5. We are now to the base motion. Part J and part K have been amended.

>> Troxclair: Are we voting on -- I have another amendment for K.

>> Mayor Adler; Ms. Troxclair,

>> Troxclair: This basically says we have already been told based on the ballot language we're about to adopt that we are going to be sued. If that suit is successful, we would have to come back and put in place new ballot language. This simply says that if the suit is successful, we'll insert the basic -- the option 1 ballot language, shall a city ordinance being adopted requiring third-party -- so we don't have to come back and have this discussion all over again. It's a backup in case the lawsuit is successful.

[12:38:56 AM]

>> Mayor Adler: Ms. Troxclair moves this amendment to add alternate ballot language to proposition K. Is there a second to that amendment? Ms. Houston seconds that amendment. Discussion? Mr. Flannigan.

>> Flannigan: So I appreciate the effort here, but my concern is that whatever alternative language might be crafted needs to be in response to the judge's ruling. So I would be be hesitant to predetermine what part of the language were ruled by the court. We're a pretty active body, more so than just about any other elected body in maybe the entire state of Texas, so I'm pretty sure we'll be around to fix it post haste whenever a judge completes their ruling.

>> Mayor Adler: I feel the same way. We just don't know what the court's going to do. The court could adopt the language and say the language we have is fine. The court could say it's not fine because you mentioned the in-house auditor, but everything else is okay. Or the court could say, you can't mention an external auditor, but everything else is okay. Or they could say those mentions are okay, but the -- the dollar amount was okay. And they could say you shouldn't have said one to five million dollars, you should have said a different number. We just don't know what the court would say, so picking the right answer at this point doesn't seem right to me. We should wait to see what the court says. Any further discussion on the troxclair amendment? All right. Take a vote. Those in favor of this amendment, troxclair amendment, please raise your hand. Houston voting yes, troxclair and alter voting yes. Those voting no, please raise your hand. It's the balance of the dais with councilmember pool abstaining. It has not passed. We're now back to the base motion. Councilmember troxclair.

>> Troxclair: Mayor, I'm very sorry, I have one more quick amendment. It would just add to the end of the base motion, add an estimated cost of one to five million that will potentially identify 160 million or more in annual savings opportunities for the city because I believe if we include the potential cost of the audit, which we do not know, that we should also include the potential savings that will come out of the audit.

[12:41:10 AM]

>> Mayor Adler: Okay. Councilmember troxclair proposes potential savings of what number did you say?

>> Troxclair: The lowest estimate I have heard is 160 million.

>> Mayor Adler: Your amendment says what?

>> Troxclair: It says it will potentially identify 160 million or more.

>> Mayor Adler: 160 is the number. Is there a second to that amendment? Is there a second? Ms. Houston seconds that. Discussion?

>> You could have not seconded and we could go home.

>> Mayor Adler: What's the basis for the 160 million or the 180 -- or 120 million?

>> Troxclair: Just like the city -- you and the city manager mentioned earlier that you used estimates based on the other cities and states that -- the cost estimates of how much they had spent on the audit, how much those same entities saved on the audit was for four to six -- generally 4 to 6%, 4 to 8% of their budget. 4% of our \$4 billion budget is \$160 million. So it's basically just extrapolating the same math that you used to come up with the 1 to \$5 million and using that to apply it to the results as well.

>> Mayor Adler: And the 4 to 6%, was that because they changed the budget or because of the recommendations of the audit?

>> Troxclair: That is the recommendations of the plan. So potentially identify \$160 million or more. Any further discussion on this? Mr. Flannigan.

>> Flannigan: I think there's a distinction on this, my understanding of the terms of ballot language, there's no guarantee of anything beyond the cost of doing this, so that would be improper to put in the ballot language. There are too many steps between the decision the voter is making and that thing occurring.

>> Mayor Adler: Let's go ahead and take a vote. Those in favor of the.

>> Troxclair: Amendment, please raise your hand. Ms. Troxclair. Anyone else? Ms. Houston.

[12:43:10 AM]

Those opposed, raise your hand. It's the balance of the dais with councilmember alter abstaining. All right. We're now back to the base motion. Yes, councilmember Garza.

>> Garza: This is everything, all -- okay. I just wanted to quickly say that I, too, have reservations about the charter amendments on here. We haven't had time to talk about them. That being said, it's my understanding the democracy dollars are one that do not have to be a charter amendment. Is that correct? City attorney and city manager?

>> That's correct. We had sent something that said that that could be done through city ordinance. There were some issues with exactly how it would operate, but you could do it through ordinance.

>> Garza: Okay. I guess I'd give the direction for our city manager to, you know, look further into that and then either -- staff could bring it or a councilmember could bring it too, because I think that's an interesting concept we should further explore.

>> Mayor Adler: A study or analysis of that, I concur with councilmember Garza. All right. We have a motion and second to the base motion. Yes, councilmember kitchen.

>> Kitchen: I'd just like to take a second and thank you, councilmember Garza, for bringing that up. I also think that the democracy dollars is an intriguing idea, and I think we should take some steps so I appreciate you making that request to investigate it further.

>> Mayor Adler: Councilmember Flannigan?

>> Flannigan: I will not request to devoid the question of these items because I would have preferred to have a longer conversation about my preference for or against some of the individual bond propositions for the sake of all of our sanity and that I said most of that back in June, but I wanted that on the record.

>> Mayor Adler: Base motion, favor, please raise your hands. Those opposed? It's unanimous on the dais. Ms. Troxclair is voting no, Ms. Houston is off the dais. The others voting aye. This item passes. Because we have put the audit on the ballot, item number 112 is withdrawn.

[12:45:16 AM]

>> Troxclair: Mayor?

>> Mayor Adler: Yes. Ms. Troxclair.

>> Troxclair: I would like to take a vote on item number 112 if I get a second. Can we take a vote as a council on item 112?

>> Mayor Adler: No, because it wouldn't be proper for us to vote on 112 at this point because we have a choice to make and we've made that choice.

>> Troxclair: So I think I asked four times before we voted on that item.

>> Mayor Adler: You did.

>> Troxclair: Can you explain to me why I wasn't give -- why this dais wasn't given the opportunity to vote on that?

>> Mayor Adler: Because the choice to the channel is either to do a or to do B. And we could either consider a or we could consider B. There's no requirement that we either consider a or we consider B, but we're only going to consider one. If that failed, we would consider the other one.

>> Troxclair: Is there a requirement prohibiting -- I don't expect it to pass, based on the votes that were just taken. I would like to vote on that item. Is there anything prohibiting me from making a motion to pass item number 112 if I get a second?

>> Mayor Adler: Yes, because I think that would be an improper action, it would require us to reconsider the vote --

>> Troxclair: It's only -- if it passes, we have a conflict but if it does not pass, there's no conflict.

>> Mayor Adler: I hear you. I don't think it's the proper thing for us to do. You can challenge that decision --

>> Casar: I move we adjourn the meeting.

>> Troxclair: I'm making a motion to pass item 112. Is there a second?

>> Mayor Adler: It's out of order. We have nothing -- someone could -- you could ask my ruling to be overturned, but that would be the vote that we would have. Okay? I think we're done with all the items.

>> Renteria: Move to adjourn.

>> Mayor Adler: All right. It is now 12:44 and this meeting is adjourned.

TAB 4



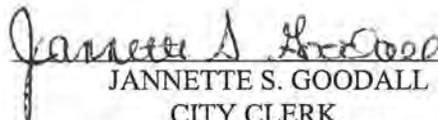
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the Certificate of Sufficiency of Initiative Petition, related to an initiative petition proposing an ordinance “requiring a City Efficiency Study conducted by an independent third party entity with extensive experience in government efficiency”, as on file in the Office of the City Clerk the 12th day of July, 2018.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 15th day of August, 2018.




JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS



CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION

I, Jannette Goodall, City Clerk of the City of Austin, Texas, hereby certify that:

The initiative petition proposing an ordinance “requiring a City Efficiency Study conducted by an independent third party entity with extensive experience in government efficiency” was filed with the City Clerk on July 12, 2018.

At the time of filing, the petition was comprised of 2,927 pages containing 30,895 signatures.

In accordance with the City of Austin Charter and state law, the number of signatures required for a sufficient initiative petition is 5% of the qualified voters of the city or 20,000, whichever number is the smaller.

Based on verification against the voter registration rolls obtained from Travis County, Hays County, and Williamson County, I have determined the following facts regarding this petition:

The raw-count number of signatures filed with the petition was 30,895. The required number of signatures is 20,000. The Texas Election Code authorizes the use of random sampling to verify petitions of large size, and the City has used the same random sampling method since 2002. Under that method, and in accordance with law, 25% of the total number of submitted signatures on this petition were verified, which equates to a sample size of 7,724.

Based on the analysis of the random sample results, it has been determined that the petition meets the requirement for the minimum number of signatures of valid voters, based on the required minimum of 20,000. Of the 7,724 submitted sample lines checked under the sampling method, 2,114 of the sample lines were disqualified on account of bearing signatures of persons not on the voter list (2,070), or of being duplicate signatures of registered voters who signed more than once (44). The remaining 5,610 sample lines were validated as bearing signatures of qualified voters.

Based on the above, the petition is determined to be sufficient; please see attached report on the statistical analysis.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Austin on this the 3rd August, 2018.




Jannette Goodall, City Clerk
City of Austin, Texas

TAB 5



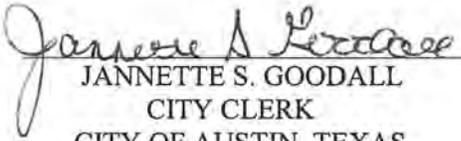
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of Article VII, §17 (*City Auditor*) of the Austin City Charter, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 15th day of August, 2018.




JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS

§ 17. - CITY AUDITOR.

There shall be a city auditor who shall be appointed by the city council. The city auditor may be removed at the conclusion of a five-year term of office by a majority of the city council, or during the five- year term by a vote of three-fourths of the city council. The auditor shall report to the city council through an audit committee of the council. The auditor shall have such duties, responsibilities and staff as determined by ordinance including the responsibility to conduct, or cause to be conducted, financial, performance, investigative, and other audits following government auditing standards as promulgated by the Comptroller General of the United States. The city auditor shall assist the city council in establishing accountability and in improving city system and service delivery.

Amendment note: Section 17 appears as amended at the elections of May 4, 1991, and of November 4, 2008 (see Ord. 20080821-004).



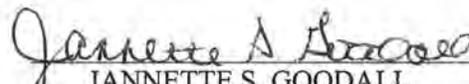
THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of the entirety of Chapter 2-3 (*City Auditor*) of the Austin City Code, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 15th day of August, 2018.




JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS

CHAPTER 2-3. - CITY AUDITOR.

§ 2-3-1 - APPOINTMENT.

- (A) The office of the city auditor is created under Section 17 (*City Auditor*) of Article VII (*Finance*) of the Charter. A majority of the council shall appoint a city auditor in accordance with the procedure established in Section 2-3-2 (*Selection Process; City Auditor Vacancy*).
- (B) The council may not appoint as city auditor a person who:
 - (1) has served as the City's mayor, a council member, or city manager within five years before the date of the appointment; or
 - (2) is related, by affinity or consanguinity within the second degree, to the mayor, a council member, or the city manager.
- (C) The council shall provide the city auditor with a discrete budget sufficient to perform the auditor's responsibilities and duties under this chapter.
- (D) A majority vote of the members of the council is required to remove the city auditor as provided by Section 17 (*City Auditor*) of Article VII (*Finance*) of the City Charter.

Source: 1992 Code Sections 2-8-1(A), and 2-8-2(A), (C), and (J); Ord. 031204-9; Ord. 031211-11.

§ 2-3-2 - SELECTION PROCESS; CITY AUDITOR VACANCY.

- (A) The council shall appoint a nominating committee to recommend candidates for city auditor. The committee shall consist of five members, including:
 - (1) three council members appointed by the council;
 - (2) the state auditor; and
 - (3) the city manager.
- (B) Not later than the 15th day after its members are appointed, the nominating committee shall hold its first meeting to consider applicants for city auditor. The committee shall select a chair and vice chair by majority vote.
- (C) Not later than the 90th day after its first meeting, the nominating committee shall recommend to the council three candidates selected by a majority of the committee members.
- (D) Not later than the 15th day after the council receives the nominating committee's recommendation, the council shall select a city auditor from the recommended candidates.
- (E) If the city auditor's position is vacated, the auditor's first assistant shall serve as acting city auditor during the vacancy.

Source: 1992 Code Section 2-8-8; Ord. 031204-9; Ord. 031211-11; Ord. No. 20150129-026, Pt. 8, 2-9-15.

§ 2-3-3 - QUALIFICATIONS FOR CITY AUDITOR.

The city auditor must:

- (1) be knowledgeable in performance and financial auditing, public administration, and public financial and fiscal practices;
- (2) be licensed as a certified public accountant or certified internal auditor; and
- (3) exercise due professional care in carrying out the auditor's duties, and ensure that due professional care is employed to conduct an audit.

Source: 1992 Code Section 2-8-1(B); Ord. 031204-9; Ord. 031211-11.

§ 2-3-4 - INDEPENDENCE, OBJECTIVITY, AND AUDIT STANDARDS.

- (A) The city auditor shall organize and administer the auditor's office to operate without interference or influence that might adversely affect an independent and objective judgment of the auditor.
- (B) The city auditor:
 - (1) shall organize the city auditor's office as necessary to perform the city auditor's responsibilities and duties under this chapter;
 - (2) may not be actively involved in a campaign for a City elective office;
 - (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an activity for which the person was responsible or in which the person was employed during the two years before the date of the audit;
 - (4) shall follow:
 - (a) government auditing standards established by the Comptroller General of the United States to conduct the city auditor's work and be independent as defined by the standards; and
 - (b) accepted industry standards to conduct investigative work such as the general and qualitative standards under the "Quality Standards for Investigations" established by the Council of the Inspectors General on Integrity and Efficiency; and
 - (5) is responsible for selection of an audit area and may consider requests from council and the city manager in selecting an audit area.

Source: 1992 Code Section 2-8-2(B) and (D) through (G); Ord. 031204-9; Ord. 031211-11; Ord. No. 20170209-005, Pt. 1, 2-20-17.

§ 2-3-5 - POWERS AND DUTIES.

- (A) In this section:
- (1) ABUSE means the use of a City office, employment, contract, or other position with the City to obtain personal gain or favor from a citizen or other City employee or vendor.
 - (2) FRAUD includes, but is not limited to:
 - (a) the unauthorized use of a City resource for personal gain by deception, including by forgery or by altering a document;
 - (b) the misappropriation of funds, supplies, or other City resources, through methods including, but not limited to theft, embezzlement, or misrepresentation;
 - (c) the intentional improper handling of or reporting of money or a financial transaction;
 - (d) the intentional improper destruction or removal of records or other City resources; or
 - (e) the use of official City information for personal benefit.
 - (3) WASTE means:
 - (a) the grossly inefficient or uneconomical use of a City asset or resource; or
 - (b) the unnecessary incurring of costs to the City as a result of a grossly inefficient practice, system, or control.
 - (4) PERSONAL BENEFIT means anything reasonably regarded as economic gain or advantage, including benefit to another person in whose welfare the beneficiary is interested.
- (B) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase efficiency, quality, and effectiveness, or otherwise improve management of a City function, program, service, or policy.
- (C) The city auditor shall communicate directly with the council audit committee and the council, attend council audit and finance committee meetings, and regularly meet with council.
- (D) The city auditor shall establish audit policies and procedures consistent with government auditing standards established by the Comptroller General of the United States, and applicable law and regulation.
- (E) The city auditor may conduct a performance or financial-related audit, investigation, and other audit work to determine if:
- (1) a current City function, program, service, or policy:
 - (a) is authorized by the council or other legal authority; and
 - (b) is conducted to accomplish its intended objective;
 - (2) a function, program, service, or policy is effective in achieving its stated or intended result or benefit, including the level of effectiveness;

- (3) an audited function, program, service, or policy effectively, economically, and efficiently acquires, protects, and uses its resources, including personnel, property, and space;
- (4) a function, program, service, or policy complies with a mandate regarding efficiency, economy, effectiveness, or expenditure of public funds adopted by council or other legal authority;
- (5) management for a function, program, service, or policy has adopted an administrative and accounting control system to effectively, economically, and efficiently carry on the function or program; and
- (6) a function, program, service, or policy is providing financial and performance reports that accurately, fully, and fairly disclose all information required by law or other criteria necessary to:
 - (a) ascertain the nature and scope of the function, program, service, or policy; and
 - (b) establish a proper basis for evaluating the results of the function, program, service, or policy.
- (F) When required or implied by audit objectives, the city auditor shall determine the cause of an inefficient, uneconomical, or ineffective function, program, service, or policy.
- (G) The city auditor may conduct follow-up review determined to be necessary by the city auditor to verify a report or plan from the city manager in response to an audit recommendation. The city auditor shall review a follow-up report or plan from the city manager in response to an audit recommendation.
- (H) If the city auditor determines that a city employee or official may have violated the law, or may be reasonably anticipated to commit a violation, the city auditor shall:
 - (1) consult with and obtain advice from the city attorney;
 - (2) promptly report the suspected violation to the appropriate authority; and
 - (3) if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
- (I) The city auditor may hire a certified or registered public accountant, qualified management consultant, or other professional expert necessary to perform the city auditor's duties, in compliance with the City's procurement requirements.
- (J) The city auditor shall manage a reporting system through which a City employee or a member of the public may submit an allegation of wrongdoing. The person making an allegation is not required to provide the person's name. An allegation may include an allegation of:
 - (1) fraud, waste, or abuse;
 - (2) a violation of personnel policy; or
 - (3) a violation of law, including a violation of City Code Chapter 2-7 (*Ethics and Financial Disclosure*).

- (K) This subsection applies to an allegation of a violation of City Code Chapter 2-7, Article 4 (*Code of Ethics*) by a member of the city council, a member of a council member's direct staff, or the city manager.
- (1) The city auditor shall hire an external party to investigate the allegation if the city auditor finds that an allegation merits an investigation.
 - (2) The city auditor shall submit the results of a substantiated external investigation to the Ethics Review Commission by filing a sworn complaint with the commission under City Code Section 2-7-41 (*Complaints*).
 - (a) Not later than the fifth working day prior to filing the complaint with the Ethics Review Commission, the city auditor shall send a written notice to the person who is the subject of the investigation and to any person mentioned or referenced as being involved in the alleged inappropriate conduct informing the person that the city auditor intends to file a complaint with the commission.
 - (b) The Ethics Review Commission shall make the final determination on the allegation.
- (L) If the city auditor investigates an allegation of a violation of City Code Chapter 2-7, Article 4 (*Code of Ethics*) by a person listed in this subsection, the city auditor shall submit the results of a substantiated investigation to the Ethics Review Commission by filing a sworn complaint with the commission under City Code Section 2-7-41 (*Complaints*).
- (1) Not later than the fifth working day prior to filing the complaint with the Ethics Review Commission, the city auditor shall send a written notice to the person who is the subject of the investigation and to any person mentioned or referenced as being involved in the alleged inappropriate conduct informing the person that the city auditor intends to file a complaint with the commission.
 - (2) The Ethics Review Commission shall make the final determination on the allegation.
 - (3) This subsection applies to an investigation of:
 - (a) the city clerk;
 - (b) the clerk of the municipal court;
 - (c) a person appointed by the mayor or the city council to a City board, task force, or similar body; or
 - (d) a City employee who is neither a member of the classified municipal civil service system nor of a state civil service system.
- (M) The city auditor may conduct an investigation of an allegation of a violation of law or policy by a City employee who is a member of the classified municipal civil service system or of a state civil service system.

- (1) The city auditor must conduct an investigation of an employee covered by a civil service system in a manner that is consistent with the applicable law and with an applicable labor agreement.
- (2) The following provisions apply to an investigation under this subsection:
 - (a) If the city auditor obtains sufficient evidence to indicate that a violation has occurred, the city auditor shall provide a copy of the results of an investigation under this section to the city manager or other appropriate authority.
 - (b) The city manager or appropriate authority may conduct a separate investigation. The city manager or appropriate authority has the authority to determine that a violation has occurred and to take appropriate disciplinary actions.
 - (c) For each investigation in which the city auditor obtains sufficient evidence that a violation has occurred, the city auditor shall prepare a draft investigative report and deliver the draft report to the person who is the subject of the investigation and a person mentioned or referenced as being involved in the alleged inappropriate conduct.
 - (d) The person who is the subject of the investigation and a person mentioned or referenced as being involved in the alleged inappropriate conduct may submit a written response to the draft report by the 20th working day after the date the person receives the report.
 - (e) The city auditor shall deliver a copy of the final report, including a response submitted, to the appropriate authority, the person who is the subject of the investigation, a person mentioned or referenced as being involved in the alleged inappropriate conduct, the council, and the city manager.
 - (f) The city auditor shall retain a copy of the report in the city auditor's office for the applicable retention period under the City's records management program.
- (N) A person who is the subject of an investigation by the city auditor may bring a representative or advisor of the person's choice to an interview with the city auditor.
- (O) The city auditor shall refer an allegation enumerated in this subsection to the city manager. The city manager shall design a process to inform the city auditor of the disposition of the referred allegations for recordkeeping purposes. The allegations covered by this subsection are those related to:
 - (1) a personnel issue;
 - (2) an operational issue;
 - (3) a de minimis fraud, waste, or abuse violation;
 - (4) a public safety issue that is not related to fraud, waste, or abuse; and

- (5) an issue that the city auditor is not authorized to investigate and that is not within the jurisdiction of the Ethics Review Commission.
- (P) City employees and officials shall cooperate with city auditor investigations.
- (Q) The city manager shall produce a report on the status of investigations regarding fraud, waste, and abuse conducted by the city manager at least twice a year to the Council Audit and Finance Committee.

Source: 1992 Code Sections 2-8-1(B)(3), 2-8-3(B), and 2-8-6; Ord. 031204-9; Ord. 031211-11; Ord. No. 20170209-005, Pt. 2, 2-20-17.

§ 2-3-6 - EMPLOYEES.

- (A) Except the city auditor and an assistant otherwise designated by the city auditor, an appointee or employee of the city auditor's office is in the City's classified personnel service.
- (B) The city auditor has the authority to appoint, employ, and terminate an assistant or other personnel as necessary to operate the city auditor's office, independently of the direction of the city manager or the council, subject to the budget approval process and personnel policy established by the council for each City department.
- (C) The city manager or council may not direct the city auditor to appoint, employ, or terminate an assistant city auditor or other auditor's office personnel, subject to the City's grievance procedure.

Source: 1992 Code Sections 2-8-2(H) and (I); Ord. 031204-9; Ord. 031211-11.

§ 2-3-7 - ANNUAL AUDIT PLAN AND SPECIAL AUDITS.

- (A) Not later than the 30th day before the beginning of a calendar year, the city auditor shall submit an annual audit plan to the council for review and comment through the council audit and finance committee.
- (B) An annual audit plan under this section shall identify the scope of each audit the city auditor intends to conduct, including:
 - (1) the department, organization, service, program, function, and policy to be audited; and
 - (2) each potential audit objective to be addressed.
- (C) If the city auditor notifies the council audit and finance committee and obtains comments from the committee, an annual audit plan may be amended by the city auditor. The city auditor may request an amendment independently, or at the request of the council audit and finance committee or the city manager.
- (D) The city auditor may initiate, conduct, or expand the scope of an audit or investigation if the city auditor determines that:

- (1) fraud, waste, or abuse, as defined in Section 2-3-5 (*Powers and Duties*) may have occurred or is occurring; or
 - (2) illegality may have occurred or is occurring; or
 - (3) an audit finding requires expansion of the scope of an audit or investigation in progress.
- (E) The city auditor shall distribute the results of a special audit in accordance with Section 2-3-8 (*Report Preparation and Release*).

Source: 1992 Code Section 2-8-2(G)(1) through (3); Ord. 031204-9; Ord. 031211-11; Ord. No. 20170209-005, Pt. 3, 2-20-17.

§ 2-3-8 - REPORT PREPARATION AND RELEASE.

- (A) The city auditor shall prepare a draft audit report for each audit and deliver the report to the city manager.
- (B) The city manager shall send the city auditor written comment on the reported audit findings and a written response to each recommendation on or before a date agreed to by the city manager and the city auditor. The city manager's response shall:
 - (1) state whether the city manager agrees or disagrees with each recommendation;
 - (2) include the reason for a disagreement; and
 - (3) describe the action, if any, that will occur in response to a recommendation.
- (C) If the city manager's response is timely delivered to the city auditor, the city auditor shall include a copy of the response in the city auditor's final report.
- (D) The city auditor shall file a final audit report with the council and the city manager, and retain a copy in the city auditor's office as a permanent record.
- (E) An audit report prepared under this section shall adhere to the reporting standards for financial-related and performance audits prescribed by government audit standards.
- (F) If appropriate, the city auditor may issue other advisory reports to provide information to the city manager and council.
- (G) The city auditor shall prepare a summary of the reporting program's activities at least twice a year for presentation to the Council Audit and Finance Committee.

Source: 1992 Code Section 2-8-5; Ord. 031204-9; Ord. 031211-11; Ord. No. 20170209-005, Pt. 4, 2-20-17.

§ 2-3-9 - COUNCIL AUDIT AND FINANCE COMMITTEE.

- (A) The council audit and finance committee shall assist the council in oversight of and responsibility for the City's financial and performance reporting practices, internal controls, compliance with applicable law and regulation, and initiatives to improve service.
- (B) The committee shall:
 - (1) review and make a recommendation to the full council regarding the city auditor's annual audit plan;
 - (2) monitor the city auditor's audit results and follow-up activity;
 - (3) monitor the City's internal controls through external audits and the city auditor's audits and other activity;
 - (4) provide reasonable assurance to the council that the City is in compliance with applicable law and regulation, is conducting its affairs ethically, and is maintaining effective internal controls against a conflict of interest or fraud;
 - (5) meet with the director of the Finance and Administrative Services Department on financial questions and to review:
 - (a) the City's financial reports, including a comparison between actual financial performance and the approved budget;
 - (b) the City's fiscal policy, internal control policy, investment policy, debt management policy, and other financial management policies; and
 - (c) the status of the capital improvement program and related projects;
 - (6) recommend to the full council an external auditor to conduct the City's annual financial audit; and
 - (7) meet with the external auditor approved by the council as necessary, and review financial statements, auditors' opinion, and management letters resulting from the City's annual financial audit.

Source: 1992 Code Section 2-8-3; Ord. 031204-9; Ord. 031211-11; Ord. 20060824-060; Ord. 20090806-032; Ord. No. 20150129-026, Pt. 5, 2-9-15.

§ 2-3-10 - PEER REVIEW.

- (A) The city auditor is subject to peer review not less than once every three years by a professional, non-partisan, objective person or group, including an auditor or other professional with appropriate government auditing expertise and experience.
- (B) Peer review shall determine compliance by the city auditor with government auditing standards and the quality of the auditor's audit effort and reporting, including:
 - (1) general standards, including staff qualifications, due professional care, and quality assurance;
 - (2) fieldwork standards, including planning, supervision, and audit evidence; and

- (3) reporting standards, including report content, presentation, and timeliness.
- (C) After the council audit and finance committee has reviewed and approved the written peer review report, the committee shall provide a copy of the written peer review report to each member of the council.
- (D) The city auditor shall pay the cost of the peer review, including reasonable travel and living expenses, from the city auditor's budget.

Source: 1992 Code Section 2-8-7; Ord. 031204-9; Ord. 031211-11.

§ 2-3-11 - ACCESS TO RECORDS AND PROPERTY.

- (A) Each City officer and employee shall provide the city auditor with free and open access to and furnish copies of information in any medium, including a record, book, account, internal or external memorandum, tape, report, file, diskette, computer data, money, fund, or other information.
- (B) Each City officer and employee shall provide the city auditor with free and open access to property, equipment, facilities, and operations for inspection or observation by the auditor.

Source: 1992 Code Section 2-8-4; Ord. 031204-9; Ord. 031211-11.



THE STATE OF TEXAS §

COUNTY OF TRAVIS §

I, Jannette S. Goodall, City Clerk of the City of Austin, Texas, do hereby certify that the foregoing instrument is a true and correct copy of City Code Sections 2-3-4 (*Independence, Objectivity, and Audit Standards*) and 2-3-5 (*Powers and Duties*) of the Austin City Code, as on file in the Office of the City Clerk.

WITNESS my hand and official seal of the City of Austin at Austin, Texas, this 15th day of August, 2018.




JANNETTE S. GOODALL
CITY CLERK
CITY OF AUSTIN, TEXAS

§ 2-3-4 - INDEPENDENCE, OBJECTIVITY, AND AUDIT STANDARDS.

- (A) The city auditor shall organize and administer the auditor's office to operate without interference or influence that might adversely affect an independent and objective judgment of the auditor.
- (B) The city auditor:
 - (1) shall organize the city auditor's office as necessary to perform the city auditor's responsibilities and duties under this chapter;
 - (2) may not be actively involved in a campaign for a City elective office;
 - (3) may not conduct or supervise or allow an employee to conduct or supervise an audit of an activity for which the person was responsible or in which the person was employed during the two years before the date of the audit;
 - (4) shall follow:
 - (a) government auditing standards established by the Comptroller General of the United States to conduct the city auditor's work and be independent as defined by the standards; and
 - (b) accepted industry standards to conduct investigative work such as the general and qualitative standards under the "Quality Standards for Investigations" established by the Council of the Inspectors General on Integrity and Efficiency; and
 - (5) is responsible for selection of an audit area and may consider requests from council and the city manager in selecting an audit area.

Source: 1992 Code Section 2-8-2(B) and (D) through (G); Ord. 031204-9; Ord. 031211-11; Ord. No. 20170209-005, Pt. 1, 2-20-17.

§ 2-3-5 - POWERS AND DUTIES.

- (A) In this section:
 - (1) ABUSE means the use of a City office, employment, contract, or other position with the City to obtain personal gain or favor from a citizen or other City employee or vendor.
 - (2) FRAUD includes, but is not limited to:
 - (a) the unauthorized use of a City resource for personal gain by deception, including by forgery or by altering a document;
 - (b) the misappropriation of funds, supplies, or other City resources, through methods including, but not limited to theft, embezzlement, or misrepresentation;
 - (c) the intentional improper handling of or reporting of money or a financial transaction;

- (d) the intentional improper destruction or removal of records or other City resources; or
 - (e) the use of official City information for personal benefit.
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- (B) The city auditor shall examine City operations to identify an opportunity to reduce costs, increase efficiency, quality, and effectiveness, or otherwise improve management of a City function, program, service, or policy.
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- (D) The city auditor shall establish audit policies and procedures consistent with government auditing standards established by the Comptroller General of the United States, and applicable law and regulation.
- (E) The city auditor may conduct a performance or financial-related audit, investigation, and other audit work to determine if:
- (1) a current City function, program, service, or policy:
 - (a) is authorized by the council or other legal authority; and
 - (b) is conducted to accomplish its intended objective;
 - (2) a function, program, service, or policy is effective in achieving its stated or intended result or benefit, including the level of effectiveness;
 - (3) an audited function, program, service, or policy effectively, economically, and efficiently acquires, protects, and uses its resources, including personnel, property, and space;
 - (4) a function, program, service, or policy complies with a mandate regarding efficiency, economy, effectiveness, or expenditure of public funds adopted by council or other legal authority;
 - (5) management for a function, program, service, or policy has adopted an administrative and accounting control system to effectively, economically, and efficiently carry on the function or program; and
 - (6) a function, program, service, or policy is providing financial and performance reports that accurately, fully, and fairly disclose all information required by law or other criteria necessary to:

- (a) ascertain the nature and scope of the function, program, service, or policy; and
 - (b) establish a proper basis for evaluating the results of the function, program, service, or policy.
- (F) When required or implied by audit objectives, the city auditor shall determine the cause of an inefficient, uneconomical, or ineffective function, program, service, or policy.
- (G) The city auditor may conduct follow-up review determined to be necessary by the city auditor to verify a report or plan from the city manager in response to an audit recommendation. The city auditor shall review a follow-up report or plan from the city manager in response to an audit recommendation.
- (H) If the city auditor determines that a city employee or official may have violated the law, or may be reasonably anticipated to commit a violation, the city auditor shall:
 - (1) consult with and obtain advice from the city attorney;
 - (2) promptly report the suspected violation to the appropriate authority; and
 - (3) if the suspected violation is criminal, notify the appropriate chief prosecuting authority.
- (I) The city auditor may hire a certified or registered public accountant, qualified management consultant, or other professional expert necessary to perform the city auditor's duties, in compliance with the City's procurement requirements.
- (J) The city auditor shall manage a reporting system through which a City employee or a member of the public may submit an allegation of wrongdoing. The person making an allegation is not required to provide the person's name. An allegation may include an allegation of:
 - (1) fraud, waste, or abuse;
 - (2) a violation of personnel policy; or
 - (3) a violation of law, including a violation of City Code Chapter 2-7 (*Ethics and Financial Disclosure*).
- (K) This subsection applies to an allegation of a violation of City Code Chapter 2-7, Article 4 (*Code of Ethics*) by a member of the city council, a member of a council member's direct staff, or the city manager.
 - (1) The city auditor shall hire an external party to investigate the allegation if the city auditor finds that an allegation merits an investigation.
 - (2) The city auditor shall submit the results of a substantiated external investigation to the Ethics Review Commission by filing a sworn complaint with the commission under City Code Section 2-7-41 (*Complaints*).
 - (a) Not later than the fifth working day prior to filing the complaint with the Ethics Review Commission, the city auditor shall send a written notice to the person who is the subject of the investigation and to any person mentioned or referenced as being involved in the alleged inappropriate

conduct informing the person that the city auditor intends to file a complaint with the commission.

- (b) The Ethics Review Commission shall make the final determination on the allegation.
- (L) If the city auditor investigates an allegation of a violation of City Code Chapter 2-7, Article 4 (*Code of Ethics*) by a person listed in this subsection, the city auditor shall submit the results of a substantiated investigation to the Ethics Review Commission by filing a sworn complaint with the commission under City Code Section 2-7-41 (*Complaints*).
- (1) Not later than the fifth working day prior to filing the complaint with the Ethics Review Commission, the city auditor shall send a written notice to the person who is the subject of the investigation and to any person mentioned or referenced as being involved in the alleged inappropriate conduct informing the person that the city auditor intends to file a complaint with the commission.
 - (2) The Ethics Review Commission shall make the final determination on the allegation.
 - (3) This subsection applies to an investigation of:
 - (a) the city clerk;
 - (b) the clerk of the municipal court;
 - (c) a person appointed by the mayor or the city council to a City board, task force, or similar body; or
 - (d) a City employee who is neither a member of the classified municipal civil service system nor of a state civil service system.
- (M) The city auditor may conduct an investigation of an allegation of a violation of law or policy by a City employee who is a member of the classified municipal civil service system or of a state civil service system.
- (1) The city auditor must conduct an investigation of an employee covered by a civil service system in a manner that is consistent with the applicable law and with an applicable labor agreement.
 - (2) The following provisions apply to an investigation under this subsection:
 - (a) If the city auditor obtains sufficient evidence to indicate that a violation has occurred, the city auditor shall provide a copy of the results of an investigation under this section to the city manager or other appropriate authority.
 - (b) The city manager or appropriate authority may conduct a separate investigation. The city manager or appropriate authority has the authority to determine that a violation has occurred and to take appropriate disciplinary actions.
 - (c) For each investigation in which the city auditor obtains sufficient evidence that a violation has occurred, the city auditor shall prepare a draft

investigative report and deliver the draft report to the person who is the subject of the investigation and a person mentioned or referenced as being involved in the alleged inappropriate conduct.

- (d) The person who is the subject of the investigation and a person mentioned or referenced as being involved in the alleged inappropriate conduct may submit a written response to the draft report by the 20th working day after the date the person receives the report.
- (e) The city auditor shall deliver a copy of the final report, including a response submitted, to the appropriate authority, the person who is the subject of the investigation, a person mentioned or referenced as being involved in the alleged inappropriate conduct, the council, and the city manager.
- (f) The city auditor shall retain a copy of the report in the city auditor's office for the applicable retention period under the City's records management program.
- (N) A person who is the subject of an investigation by the city auditor may bring a representative or advisor of the person's choice to an interview with the city auditor.
- (O) The city auditor shall refer an allegation enumerated in this subsection to the city manager. The city manager shall design a process to inform the city auditor of the disposition of the referred allegations for recordkeeping purposes. The allegations covered by this subsection are those related to:
 - (1) a personnel issue;
 - (2) an operational issue;
 - (3) a de minimis fraud, waste, or abuse violation;
 - (4) a public safety issue that is not related to fraud, waste, or abuse; and
 - (5) an issue that the city auditor is not authorized to investigate and that is not within the jurisdiction of the Ethics Review Commission.
- (P) City employees and officials shall cooperate with city auditor investigations.
- (Q) The city manager shall produce a report on the status of investigations regarding fraud, waste, and abuse conducted by the city manager at least twice a year to the Council Audit and Finance Committee.

Source: 1992 Code Sections 2-8-1(B)(3), 2-8-3(B), and 2-8-6; Ord. 031204-9; Ord. 031211-11; Ord. No. 20170209-005, Pt. 2, 2-20-17.

TAB 6

In the Supreme Court of Texas

**IN RE ED ENGLISH §
RELATOR §**

AFFIDAVIT OF CORRIE STOKES

STATE OF TEXAS ⊃
 ⊃
COUNTY OF TRAVIS ⊃

BEFORE ME, the undersigned Notary Public, on this day appeared CORRIE STOKES who, being by me first duly sworn, states as follows:

1. "My name is Corrie Stokes. I am over the age of eighteen years and I am competent to make this affidavit. I have never been convicted of a felony or any crime involving moral turpitude.

2. The City Council for the City of Austin appointed me as the City Auditor effective June 1, 2015. I have remained in the appointed position of City Auditor continuously since that date.

3. Article VII §17 of the Austin Charter creates authority for the city auditor and outlines the position's broad responsibilities, which include the

responsibility to conduct ‘financial performance, investigative, and other audits’ that must conform with federal auditing standards.

4. City Code—specifically Chapter 2-3 creates the audit standards for the City Auditor and specifies through ordinance the duties and responsibilities that the City Auditor is authorized to carry out.

5. Chapter 2-3-5 of the City Code outlines specific powers and duties for the City Auditor. Those powers include the ability to examine City operations for possible cost savings or identify places to increase efficiencies (2-3-5(B)).

6. The Code also authorizes the Auditor to conduct performance or financial-related audits of various City functions, services or programs. (2-3-5 (E)).

7. The City Auditor is authorized to hire outside consultants or auditors to conduct audits or assessments to carry out the Auditor’s duties under the Charter and the Code.

8. For example, most recently in 2016, I worked with an outside audit consultant to review the City of Austin’s anti-discrimination processes. The total cost of that audit was just under \$90,000.

9. In 2007, the City Auditor hired an outside consultant to conduct an operational audit of the City of Austin Police Department. While I was not the Auditor at the time, I was employed as an Assistant City Auditor and am familiar

with the scope and cost of the project. The cost of that operational audit was \$315,000.00.

10. I have read the foregoing affidavit, and I declare under penalty of perjury that I have personal knowledge of the facts stated therein, and they are true and correct.”

SIGNED this 16th day of August, 2018.



CORRIE STOKES

BEFORE ME, personally appeared Corrie Stokes, proved to me through a government issued identification to be the person whose name is subscribed in the foregoing instrument and acknowledged to me that he executed the same for purposes and consideration thereby expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on this 16th day of August, 2018, to certify which witness my hand and official seal.



NOTARY PUBLIC - STATE OF TEXAS

TAB 7

3. Article V §2 of the Austin Charter establishes the authority and responsibilities of the City Manager as the chief administrative and executive officer for the City of Austin.

4. One of the key Charter responsibilities of the City Manager is to plan, present and, after City Council adoption, implement the City's annual budget. The City of Austin's total proposed budget for fiscal year 2018-2019 is \$4.1 billion.

5. The Charter dictates that the City Manager is responsible for the proper administration of all affairs of the City, which is carried out through the work of over 30 distinct City Departments—including City-owned water and electric utilities and airport.

6. During the summer of 2018, I learned of a citizen-initiated petition drive that seeks to have the question of whether 'Austin shall perform a municipal efficient audit' on the November 6, 2018 ballot. During this same time, I met with Michael Searles, Treasurer of a local political action committee entitled 'Citizens for Accountable Austin', the entity that oversaw the Petition. Mr. Searles gave me background information related to the Petition, including a report on 'Government Efficiency Reviews' by a company that has worked with state and local governments to perform such reviews.

7. After I received the background materials, I asked the City's financial staff to look into the reviews performed by the company to get an idea of the scope

and potential cost for such reviews or audits. As City Manager, I have direct oversight of the work performed by the City's financial department, which included the staff's research and follow up related to the 'Government Efficiency Reviews' report.

8. In our research, we found that the company had done recent state-wide reviews of Kansas and Louisiana at a total cost of \$2.6 million and \$5 million respectively. We also located other more focused state-level reviews in the millions of dollars but the scope of such reviews was not comparable.

9. We also reviewed costs associated with the company's work done on behalf of municipalities. We found that it had performed a Fleet Management Review for the City of Dallas. The total cost for this one Department review was just over \$475,000.

10. We attempted to review additional work cited by the same company however, the scope of work did not seem comparable to the proposed petition language.

11. We also reviewed costs associated with recent performance reviews the City of Austin to gauge costs required for a city-wide performance review. For example, in 2014 and 2015, the City hired an outside consultant to evaluate the City's permitting function in one of its development Departments. The consultant

was not the same company identified in the Petition background materials. The total cost for that consultant's work was \$350,000.

12. During the August 9, 2018 City Council meeting, the City Council passed an Ordinance that called the November 6, 2018 election. The Ordinance included a number of items to be placed upon the ballot, including the Petition seeking an Austin Efficiency Audit. During Council's discussion of that item, I was asked about the potential cost associated with an efficiency audit. I shared my observation that it was difficult to find an exactly comparable review in terms of size and scope but I confirmed that the estimate of \$1-5 million for a potential cost is accurate based upon our financial staff research and review.

13. As part of that same discussion, Michael Searles communicated to the City Council that his estimate of the potential cost for the audit was between \$1-2 million.

14. This discussion is part of the City of Austin's records for the August 9, 2018 agenda that the City Clerk maintains.

15. The back-up material for the ordinance calling the election includes a statement that there is no fiscal impact associated with that agenda item (Item No. 113).

16. The August 9, 2018 agenda included another item related to the efficiency audit. Item No. 112 was an ordinance adopting the Proposed Efficiency

Ordinance in lieu of placing the item on the November ballot. While Council did not take action on Item No. 112, the back-up materials associated with that item similarly state that there is no fiscal impact for that item.

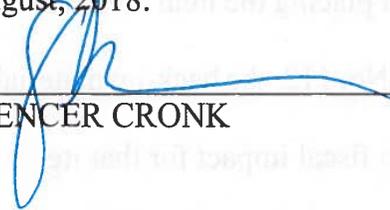
17. The fiscal impact statements indicate that there is no fiscal impact for passing the ordinance. If Council approves a contract with an entity to perform an audit, that Agenda item would contain the fiscal note indicating the cost for the contract.

18. I have read the foregoing affidavit, and I declare under penalty of perjury that I have personal knowledge of the facts stated therein, and they are true and correct.”

[Faint signature and text, possibly a mirrored image]



SIGNED this 16th day of August, 2018.



SPENCER CRONK

BEFORE ME, personally appeared Spencer Cronk, proved to me through a government issued identification to be the person whose name is subscribed in the foregoing instrument and acknowledged to me that he executed the same for purposes and consideration thereby expressed.

SUBSCRIBED AND SWORN TO BEFORE ME on this 16th day of August, 2018, to certify which witness my hand and official seal.



NOTARY PUBLIC - STATE OF TEXAS

