

No. _____

In Texas Supreme Court

IN RE MARIA TERESA RAMIREZ MORRIS, AND TEXAS ALLIANCE FOR LIFE, INC.,
Relators

EMERGENCY PETITION FOR WRIT OF MANDAMUS

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Identity of Parties and Counsel

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and City of San Antonio City Council**
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STATEMENT OF THE CASE

Relator Maria Teresa Ramirez Morris is a qualified voter of the City of San Antonio, and a supporter of Relator Texas Alliance for Life, Inc. (TAL). TAL, a nonpartisan, a statewide non-profit organization of people committed to protecting the fundamental right to life of all innocent human beings and to promoting respect for their value and dignity from the moment of conception until natural death using peaceful, legal means, has supporters that are City of San Antonio residents, including Maria Teresa Ramirez Morris. In this original proceeding, Relators seek a writ of mandamus compelling Respondents, Ms. Debbie Racca-Sittre, Clerk of the City of San Antonio, and Respondent San Antonio City Council, to not certify to the May 2023 Municipal Election Ballot the “Justice Policy Charter Amendment.”

This proposed charter amendment is a single comprehensive proposition on subjects as varied as preventing city police officers from investigating or making arrests for abortions, halting citations and arrests for Class A or Class B misdemeanor possession of marijuana, banning police chokeholds and no-knock warrants, and expanding cite-and-release policies to direct officers to cite, not arrest, people for certain nonviolent misdemeanor offenses, including theft. Such a proposition, as presented, is a clear violation of Tex. Loc. Gov't Code § 9.004(d)-(e), which prohibits multiple-subject charter amendments, and requires that any ballot proposition must be prepared so that a voter may approve or disapprove any

one or more amendments without having to approve or disapprove all of the amendments. Relators demanded Respondent reject the proposed language and Respondents refused, resulting in this mandamus action to force Respondents' compliance with the law.

STATEMENT OF JURISDICTION

This Court has jurisdiction of this case pursuant to § 273.061, Election Code, which permits the Supreme Court to issue writs of mandamus in order to ensure compliance with the State's election laws. TEX. ELEC. CODE § 273.061. The Court also has jurisdiction under its general powers to issue writs and other orders as granted by Article 5 of the Texas Constitution. TEX. CONST., ART. V. The Court further has jurisdiction over Respondents because the protection provided by the doctrine of governmental immunity is unavailable to governmental officials sued in their official capacities for *ultra vires* actions—such as the claims Relators bring herein. *Hous. Belt & Terminal Ry. Co. v. City of Hous.*, 487 S.W.3d 154, 157-58 (Tex. 2016). There are no issues of contested fact relevant to the question of law presented here. Relator's sent Respondent Racca-Sittre, whose office is responsible for certifying ballot propositions for presentation to City Council to be placed on the municipal ballot, and is responsible for preparing the municipal ballot a demand for performance. TEX. ELEC. CODE § 52.002(3). Respondent nevertheless certified that the ballot proposition should appear on the ballot despite the demand from

Respondents, fulfilling the necessary prerequisites for entitlement to mandamus relief. *In re Cullar*, 320 S.W.3d 560, 566-567 (Tex. Ct. App.-Dallas 2010). Relief is sought in the Supreme Court rather than the Courts of Appeal because of the extreme exigencies of time related to the relief sought. *See Bird v. Rothstein*, 930 S.W.2d 586, 587 (Tex. 1996) (orig.proceeding); TEX. R. APP. P.52.3(e). Respondent San Antonio City Council, who is required to prescribe the wording for propositions to appear on the municipal ballot, is scheduled to order next week that this ballot proposition appear on the May 6, 2023, Municipal Election, the deadline for which is Friday, February 17, 2023. TEX. ELEC. CODE §§ 3.005, 52.072(a). Once Friday’s deadline passes, it is impossible for Respondent, San Antonio City Council to add additional measures to the May 6, 2023, ballot, preventing the separation of the proposed charter amendments into their separate subjects as required by law. Given that Respondent San Antonio City Council has waited until absolutely the last minute—the day before the number of measures on the May 6, 2023, ballot is fixed—mandamus relief is appropriate at this time, as it would be impossible for this Court to adequately brief, decide, and have Respondents be able to comply with this Court’s order in time for this election.

ISSUE PRESENTED

1. Should the Supreme Court issue a writ of mandamus compelling Respondents to only propose to voters ballot language for a city charter amendment which

does not contain multiple subjects and conforms with the requirements of law so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments?

STATEMENT OF THE FACTS

In January 2023, activists submitted a petition to Respondent Racca-Sittre for a “Justice Policy Charter Amendment” to be placed on the May 6, 2023, Municipal Election ballot, as required by TEX. LOC. GOV’T CODE § 9.004(a). This multi-faceted proposed charter amendment addresses a variety of subjects, from abortion to marijuana possession, as detailed by its caption,

A petition to amend the City Charter of San Antonio to adopt a justice policy that will reduce unnecessary arrests and save scarce public resources through a comprehensive set of reforms, including: ending enforcement of low-level marijuana possession; ending enforcement of abortion crimes; banning no-knock warrants; banning chokeholds; and using citations instead of arrests for low-level nonviolent crimes.

EXHIBIT A, Justice Policy Charter, at 1.

The proposed charter amendment, if adopted in its present form, would require the San Antonio City Council to appoint a Justice Director, who would be tasked with fulfilling a multitude of policies contained in the single ballot proposition. EXHIBIT A, Justice Policy Charter, at 2. The charter amendment would prohibit enforcement of Texas law related to marijuana offenses; change the standards in Texas law for probable cause in the City of San Antonio for searches and seizures; prohibit City of San Antonio police officers from investigating, making

arrests, or otherwise enforcing any alleged criminal abortion offenses under Texas law; prohibit the expenditure of City funds, staff or resources to assist any other government agency or law enforcement agency actions related to abortion; ban no-knock warrants and impose a multitude of new requirements on law enforcement related to warrants; ban the use of chokeholds by law enforcement; and prohibit law enforcement from arresting individuals charged with possession of a controlled substance less than 4 oz, driving while license invalid, theft of property or theft of services less than \$750, contraband in a correctional facility, graffiti damage less than \$2500, criminal mischief less than \$750, or all Class C Misdemeanors except public intoxication. *Id.* at 2-11.

Since the singular ballot proposition addressed a multitude of subjects and did not comply with the requirements of TEX. LOC. GOV'T CODE § 9.004(d)-(e) to allow voters to be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments, on Monday February 6, 2023, Relators wrote Respondent Racca-Sittre, demanding she reject the proposed ballot language and require its separation into distinct amendments as required by law. EXHIBIT B, Demand Letter. On Wednesday, February 8, 2023, Respondent Racca-Sittre announced that the proposition met the requirements to be placed on the municipal ballot, even while San Antonio City Attorney Andy Segovia admitted the proposition was inconsistent with state law.

EXHIBIT C, *San Antonio Report*, “Deemed unenforceable by the city, proposed policing reforms will appear on the May ballot,” Feb. 8, 2023, accessible at: <https://sanantonioreport.org/policing-charter-amendment-signatures-approved-may-2023-municipal-election/>. Respondent, City of San Antonio City Council will meet next week to order that the Justice Policy Charter Amendment be placed on the May 6, 2023, municipal election ballot. *Id.* Absent this Court’s *mandamus*, San Antonio voters will be denied the ability to separately vote on each of the proposition subjects contained within the Justice Policy Charter Amendment. Respondent, City of San Antonio City Council, is scheduled to meet Thursday, February 16, 2023, to order the election for the Justice Policy Charter Amendment. EXHIBIT D, Agenda City Council A Session. Since the deadline for the charter amendment election to be called is Friday, February 17, 2023, this is an emergency petition pursuant to Texas Rule of Appellate Procedure 10.3. TEX. R. APP. P. 10.3.

SUMMARY OF THE ARGUMENT

The law in this case is clear. Home rule municipal charter amendments may not contain multiple subjects and must afford voters the ability to vote separately on each subject placed before them. TEX. LOC. GOV’T CODE § 9.004(d)-(e). Respondents cannot approve a ballot proposition that requires city voters who, for example, might be supportive of relaxed enforcement of marijuana possession laws but opposed to abortion crimes to have to make a choice which requires them to vote

for both or against both. As the duties imposed on Respondents to separate the propositions contained in the Justice Policy Charter Amendment or reject it for refiling in a form compliant with Texas law are mandatory and nondiscretionary, mandamus relief is proper to compel Respondents to perform their statutory duties.

ARGUMENT

I. CHARTER AMENDMENTS MAY NOT CONTAIN MORE THAN ONE SUBJECT.

Section 9.004(d), Texas Local Government Code, is simple, clear and concise in its mandate, “An amendment may not contain more than one subject.” TEX. LOC. GOV’T CODE § 9.004(d). Texas courts have broadly construed this statute, allowing amendments making multiple changes to a city charter, but dealing with a single subject, go before the voters. *See Gibson v. City of Orange*, 272 S.W.2d 789, 790 (Tex. App.-Beaumont 1954, writ ref’d) (construing predecessor statute broadly and approving ballot proposition that proposed numerous interconnected changes to city charter); *Edwards v. Murphy*, 256 S.W.2d 470, (Tex. App.-Fort Worth 1953, writ disp’d) (holding proposed charter amendment concerned only one subject where all suggested changes were already contained within single state statute); *Garitty v. Halbert*, 235 S.W. 231, 236 (Tex. Civ. App.-Dallas 1921, writ disp’d w.o.j.) (concluding proposed amendment of two sections of city charter dealt with the single subject of taxation, even though the funds were to be spent on both schools and

libraries. This reading acknowledges that proposed changes to a city charter may seek broader schematic changes to city government that may make sense only as an all-or-nothing proposition. *See Gibson*, 272 S.W.2d at 790. But the Justice Policy Charter Amendment is not seeking a schematic change to city government. The Justice Policy Charter Amendment is a thirteen page amalgam of subjects ostensibly all related to “justice,” but as diverse as marijuana possession, city policy development and personnel policies, and abortion. Therefore, mandamus relief is appropriate to compel Respondents to separate the proposition into separate amendments containing only one subject. *State Democratic Executive Committee*, 758 S.W.2d at 229, *citing Seay v. Latham*, 182 S.W.2d 251 (Tex. 1944) (authorities responsible for preparing a ballot must comply with state law and place only those items or names consistent with the law on the ballot).

II. CHARTER AMENDMENT PROPOSITIONS MUST AFFORD VOTERS THE OPPORTUNITY TO APPROVE EACH AMENDMENT SEPARATELY.

Like its neighbor, Section 9.004(e), Texas Local Government Code, is similarly clear, stating, “The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.” TEX. LOC. GOV’T CODE § 9.004(e). Respondents have no discretion to force voters to approve or reject, all or nothing, charter provisions

dealing with issues as varied as theft, graffiti, or prohibiting cooperation with state agencies regulating abortion providers. The Justice Policy Charter proposition only allows voters to accept or reject thirteen pages of diverse policies. Mandamus is appropriate to compel Respondents to reject the proposed ballot language and require each item contained within the proposed amendments to be presented to voters separately. *State Democratic Executive Committee*, 758 S.W.2d at 229, *supra*.

III. RELATORS ARE ENTITLED TO MANDAMUS RELIEF

The Courts of Appeal and the Supreme Court have jurisdiction to “compel the performance of any duty imposed by law in connection with the holding of an election.” *In re Cullar*, 320 S. W. 3d at 563-4, *citing* TEX. ELEC. CODE § 273.061; *see also* TEX. CONST. ART. V (addressing judicial power of Texas courts and providing Supreme Court shall have jurisdiction, original and appellate, as prescribed by law). To be entitled to mandamus relief, a relator must (1) establish that the respondent has a legal duty to perform a non-discretionary act, (2) demand performance from a respondent, and (3) respondent has to refuse to act. *Cullar*, 320 S. W. 3d at 564, *citing O'Connor v. First Court of Appeals*, 837 S.W.2d 94, 97 (Tex.1992) (*citing Doctors Hosp. Facilities v. Fifth Court of Appeals*, 750 S.W.2d 177, 178 (Tex.1988)); *see also Axelson, Inc. v. McIlhany*, 798 S.W.2d 550, 556 (Tex. 1990) (in order for mandamus to lie, respondent must have refused to act); *cf. In re*

Link, 45 S.W.3d 149, 151-52 (Tex. App. -Tyler 2000, orig. proceeding) (in proceeding pursuant to § 273.061, Election Code, relators must establish clear legal right to action they seek to compel, and duty of person sought to be compelled must be clearly fixed and required by law).

As set forth *infra*, the language of §§ 9.004(d)-(e), Local Government Code, is clear and unambiguous, and, together with § 273.061 clearly entitles Relators to mandamus relief. This Court has previously stated that mandamus relief is appropriate, despite the potential availability of a post-election contest, when proposed ballot propositions are not compliant with the law, and an opportunity exists to correct such error prior to the ballots being printed, as is the case here. *Blum v. Lanier*, 997 S.W.2d 259, 262-264 (Tex. 1999). Mandating that Respondents place only those ballot propositions before the voters in a manner that complies with state law facilitates, not frustrates the electoral process. As this Court stated in *Blum v. Lanier*, “In short, if the matter is one that can be judicially resolved in time to correct deficiencies in the ballot without delaying the election, then [judicial] relief may provide a remedy that cannot be adequately obtained through an election contest.” *Blum v. Lanier*, 997 S.W.2d at 263-64. Mandamus relief is appropriate here, where the ballot has not yet been prepared, and will be impossible after the deadline for placing the measures on the May 6, 2023, municipal election passes on February 17, 2023.

Relators recognize that “The Texas Election Code grants discretion to ‘the authority ordering the election [to] prescribe the wording of a proposition’ unless otherwise provided by law.” *Dacus v. Parker*, 466 S.W.3d 820, 823 (Tex. 2015) (quoting TEX. ELEC. CODE § 52.072(a)). Municipalities have “broad discretion” in wording propositions; however, this discretion is not unlimited. *Id.* at 826. It does not allow a municipality to ignore the requirements in Texas law that charter amendments be limited to a single subject and be presented to voters in a manner that does not force them to face a Hobson’s choice at the ballot box.

To be clear, Relators are not asking this Court in this proceeding to pass on the Constitutionality of the individual provisions contained in the proposed charter amendments, or the amendments as a whole, even though, as Respondents’ counsel admits, “they are all inconsistent with state law.” EXHIBIT C. This Court has previously stated that inquiry is not ripe until *after* the voters have had their say at the ballot box. *Coalson v. City Council of Victoria*, 610 S.W.2d 744, 747 (Tex. 1980). The mandamus relief sought here merely requires that Respondents present the charter amendments to voters in a form which allows them to have a say on each of the subjects contained therein, in accordance with state law.

The mootness doctrine limits courts to deciding cases in which an actual controversy exists. *FDIC v. Nueces Cty.*, 886 S.W.2d 766, 767 (Tex. 1994). Given the exigencies of time, and the ballot preparation deadlines for the May 6, 2023,

election. this Court's prompt review of Relators' petition will ensure their rights are not limited by the submission of a measure which doesn't allow voters a choice on each subject in the proposed amendments to the city charter. Time is therefore of the essence, making this an emergency petition.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Relators, pray that the Court grant their Emergency Petition for Writ of Mandamus and issue a Writ of Mandamus compelling Respondents separate the San Antonio Justice Policy Charter into separate amendments limited to single subjects, and propose such amendments to voters in a manner that so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments. Finally, Relators pray for all other relief, at law or in equity, to which they may be justly entitled.

Respectfully submitted,

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Attorney for Relators

CERTIFICATION

I hereby certify that I have reviewed the above Petition for Writ of Mandamus and have concluded that every factual statement in the said petition is supported by competent evidence included in the appendix or record.


Eric C. Opiela

CERTIFICATION OF WORD COUNT COMPLIANCE

I certify that this document complies with Rule of Appellate Procedure 9.4. Excluding the portions listed in Rule 9.4(i)(1), and according to the word count of the computer program used, this document contains 2,007 words.


Eric C. Opiela

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of this document was served as required Texas Rule of Appellate Procedure 9.5 to Respondents on this the 9th day of February, 2023.

**Ms. Debbie Racca-Sittre, in her official capacity as San Antonio
City Clerk, and City of San Antonio City Council**

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APPENDIX

- Exhibit A. San Antonio Justice Policy Charter
- Exhibit B. Demand Letter
- Exhibit C. *San Antonio Report*, “Deemed unenforceable by the city, proposed policing reforms will appear on the May ballot,” Feb. 8, 2023, accessible at: <https://sanantonioreport.org/policing-charter-amendment-signatures-approved-may-2023-municipal-election/>
- Exhibit D. Agenda, San Antonio City Council A Session
- Exhibit E. Tex. Loc. Gov’t Code Section 9.004

Exhibit A

Caption

“A petition to amend the City Charter of San Antonio to adopt a justice policy that will reduce unnecessary arrests and save scarce public resources through a comprehensive set of reforms, including: ending enforcement of low-level marijuana possession; ending enforcement of abortion crimes; banning no-knock warrants; banning chokeholds; and using citations instead of arrests for low-level nonviolent crimes.”

Charter Amendment

BE IT ORDAINED BY THE VOTERS OF THE CITY OF SAN ANTONIO:

Article XV of the Charter of the City of San Antonio is hereby created, to be titled “Justice Policy” and to read as follows:

ARTICLE XV. — JUSTICE POLICY

Sec. 170. - Justice policy.

It is the policy of the City of San Antonio to use its available resources and authority to accomplish three goals of paramount importance: first, to reduce the City’s contribution to mass incarceration; second, to mitigate racially discriminatory law enforcement practices; and third, to save scarce public resources for greater public needs.

Sec. 171. - Definitions.

- (a) Justice impact statement. A statement of how major City decisions impact the City’s justice policy. The statement is to be prepared by the Justice Director. The elements of the justice impact statement shall include, at a minimum, the following elements: (1) how the proposed action fulfills the three aims of the City’s justice policy; (2) whether the proposed action will negatively impact any historically over-policed communities; (3) whether the proposed action would increase law enforcement spending as compared to other City programs; and (4) a consideration of alternatives, if any, that would better advance the City’s justice policy;
- (b) Justice policy. All of the policies contained within this Article of the City Charter;

- (c) Law enforcement industry: includes any past or present sworn officer, civilian employee, or contractor of any law enforcement agency, including any local, state, tribal, or federal agency; also includes private security and contractors for law enforcement agencies;
- (d) Mass incarceration: the criminal justice system by which the United States criminalizes and incarcerates more of its own people than any other country in the history of the world. Mass incarceration inflicts harm on the most vulnerable among us and disproportionately impacts people of color;
- (e) Marginalized communities: people who are historically less protected and more subject to persecution within American society, including, Black, indigenous, and people of color, the LGBTQIA community, immigrant communities, people with disabilities, and people living in poverty; and
- (f) Over-policing: the historic and current practice of law enforcement to disproportionately target poor people and people of color, including for offenses that are committed at equal rates among races and income levels.

Sec. 172. - Justice Director.

- (a) The City Council, including the Mayor and District Representatives, shall directly appoint a Justice Director to serve as the lead City representative charged with fulfilling the Justice Policy. Such appointment shall occur at a publicly noticed meeting subject to the Texas Open Meetings Act. The City Council shall fix the Justice Director's compensation;
- (b) The Justice Director shall be appointed on the basis of qualifications to fulfill the City's social justice three-part mandate of reducing the City's contribution to mass incarceration, mitigating racist and discriminatory law enforcement practices, and saving scarce public resources for greater public needs;
- (c) No person shall be eligible for appointment as Justice Director if they have worked in the law enforcement industry, or if they disclose significant financial investments in the law enforcement industry;
- (d) Prior to taking action to appoint a Justice Director, the City shall request and publish a Personal Financial Statement Report from each candidate, to include, at a minimum, all fields included in Form PFS-TEC of the Texas Ethics Commission. The report shall cover, at a minimum, the candidate's current

investments and any investments held over the twelve months prior to appointment;

- (e) The Justice Director shall report directly to the City Council;
- (f) The Justice Director may be removed by resolution approved by the majority of the total membership of the City Council, with or without cause.

Sec. 173. - Resources and support.

- (a) The Mayor and City Council shall provide the Justice Director with sufficient personnel and resources necessary to carry out this justice policy;
- (b) The Justice Director and any support staff shall have access to offices in the Department of Diversity, Equity, Inclusion and Accessibility.

Sec. 174. - Justice impact of City decisions.

- (a) The Justice Director shall provide the City Council with a justice impact statement prior to any City Council vote affecting the City's justice policy. Decisions that require a justice impact statement shall include, but not be limited to: the annual city budget and any amendments thereof; any contract or contract amendment concerning sworn officers of the San Antonio Police Department; and any resolution or ordinance related to law enforcement, criminal justice, policing, crime, public safety, or incarceration;
- (b) In addition to justice impact reports regarding individual City actions, the City Manager shall collaborate with the Justice Director to prepare an annual justice impact statement for City activities, with specific analysis of the justice impact of each City department. The City Manager shall ensure that the Justice Director has access to City information on an ongoing basis to allow for ongoing monitoring and analysis of the City's justice impact.

Sec. 175. - Community stakeholder involvement.

- (a) The Justice Director shall arrange quarterly meetings subject to the Texas Open Meetings Act to discuss both the development of policies, procedures, and practices related to this justice policy as well as data gathered concerning the implementation of the justice policy. These meetings shall include the Police Department, a designated individual from the Bexar County District Attorney's

Office, representatives from community organizations, and individuals directly impacted by over-policing and mass incarceration;

- (b) All input raised during such quarterly meetings shall be meaningfully considered, and the Justice Director will report back to City Council on the work completed during such quarterly meetings.

Sec. 176. - Elimination of marijuana enforcement.

- (a) San Antonio police officers shall not issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana offenses, except in the limited circumstances described in Section 176(b);
- (b) The only circumstances in which San Antonio police officers are permitted to issue citations or make arrests for Class A or Class B misdemeanor possession of marijuana are when such citations or arrests are part of (1) the investigation of a felony level narcotics case that has been designated as a high priority investigation by an San Antonio police commander, assistant chief of police, or chief of police; and/or (2) the investigation of a violent felony.
- (c) San Antonio police shall not consider the odor of marijuana or hemp to constitute probable cause for any search or seizure, except in the limited circumstances of a police investigation pursuant to Section 176(b).
- (d) In every instance other than those described in Section 176(b), and without relying on the impermissible grounds identified in Section 176(c), if a San Antonio police officer has probable cause to believe that a substance is marijuana, an officer may seize the marijuana. If the officer seizes the marijuana, they must write a detailed report and release the individual if possession of marijuana is the sole charge.
- (e) San Antonio police officers shall not issue any charge for possession of marijuana unless it meets one or both of the factors described in Section 176(b);
- (f) A class C misdemeanor citation for possession of drug residue or drug paraphernalia shall not be issued in lieu of a possession of marijuana charge;
- (g) No City funds or personnel shall be used to request, conduct, or obtain tetrahydrocannabinol (THC) testing of any cannabis-related substance to determine whether the substance meets the legal definition of marijuana under

state law, except in the limited circumstances of a police investigation pursuant to Section 176(b). This prohibition shall not limit the ability of San Antonio police to conduct toxicology testing to ensure public safety, nor shall it limit THC testing for the purpose of any violent felony charge.

Sec. 177. - Elimination of abortion enforcement.

- (a) It is the policy of the City of San Antonio to promote the reproductive health, safety, and privacy of all City residents;
- (b) The City hereby finds and declares that a variety of factors negatively impact its ability to legally and appropriately enforce state laws that criminalize abortion, including:
 - (i) The City's goal of promoting reproductive health, safety, and privacy of all City residents;
 - (ii) The legal and practical complexity of evaluating claims that City residents may have violated state laws concerning the criminalization of abortion;
 - (iii) The lack of training and capacity of City police to discern valid and enforceable complaints of unlawful abortion;
 - (iv) The risk of liability arising from improper enforcement of criminal abortion laws;
- (c) In light of the policy and findings identified above, City of San Antonio police officers shall not investigate, make arrests, or otherwise enforce any alleged criminal abortion, except in the circumstances identified in Section 177(d);
- (d) The only circumstances in which City of San Antonio police officers are permitted to investigate, make arrests, or otherwise enforce any state law that criminalizes abortion are when (i) coercion or force is used against a pregnant person or (ii) in cases involving conduct criminally negligent to the health of the pregnant person seeking care;
- (e) Except to the extent required by state or federal law, the City of San Antonio will not gather information concerning abortion-related crimes. Specifically, no city staff, city funds, or city resources will be used to:

- (i) Store or catalog any report of an abortion, miscarriage, or other reproductive healthcare act or outcome;
- (ii) Provide information to any other governmental body or agency about any abortion, miscarriage, or other reproductive healthcare act, unless such information is provided to defend the patient's right to abortion care or the healthcare provider's right to provide that care;
- (iii) Conduct surveillance or collect information related to an individual or organization for the purpose of determining whether an abortion has occurred, except for aggregated data without personally identifying information or personal health information which is collected for purposes unrelated to criminal investigation, enforcement, or prosecution.

Sec. 178. - Ban on no-knock warrants; additional policies concerning warrants.

- (a) San Antonio Police officers shall not obtain a "no-knock" search warrant, nor shall they participate in serving a "no-knock" search warrant with other law enforcement agencies;
- (b) No police officers may gain forcible entry into a premises, absent circumstances in which there is verified, imminent threat to human life;
- (c) For all search warrant executions:
 - (i) A law enforcement officer shall be easily recognizable and identifiable as a uniformed law enforcement officer;
 - (ii) A law enforcement officer shall knock and audibly, or in a manner sufficient to provide notice to any person with a disability, announce their identity as a law enforcement officer, authority pursuant to the warrant, and purpose;
 - (iii) A knock and announcement shall be provided in a manner reasonably expected to be heard observed and understood by occupants of the premises to be searched based on the size and nature of the location;
 - (iv) Any subsequent entry and search of the premises shall be recorded by a body-worn camera or other government issued recording device;

- (v) Law enforcement officers shall delay entry for a sufficient amount of time after the announcement, based on the size and nature of the premises and occupants, to allow the occupant a reasonable opportunity to respond, and such delay shall be a minimum of 30 seconds;
 - (vi) An occupant of the premises to be searched shall be afforded an opportunity to comprehend the warrant authorizing entry to the premises prior to entry by a law enforcement officer;
- (d) To account for the potential presence of vulnerable persons:
- (i) **EVALUATION.** An application for a warrant shall assess, and a court issuing a warrant shall evaluate, whether there will be children, individuals with a disability, individuals who are elderly, or other vulnerable individuals present at the location where the warrant is to be executed;
 - (ii) **REQUIREMENTS FOR ISSUANCE.** The City shall seek to execute search warrants only when children, individuals who are elderly, or other vulnerable individuals are not home. A warrant may only authorize the search of a location where a child, individual with a disability, any individual who is elderly, or other vulnerable individual will be present if the court determines, based on particularized facts, that there is a clear necessity for such search and that a safety plan is in place to ensure the safety of the vulnerable individuals;
- (e) All officers shall be equipped with video and audio recording devices, tested for functionality at least 24 hours before execution, turned on at least five minutes before the warrant is executed and to remain on five minutes after the warrant service process is complete (i.e. the entire event in which officers are on the scene);
- (f) Any search warrant authorized by this section shall utilize the least intrusive tactics possible. Only such persons as may be reasonably necessary for the successful execution of the search warrant with all practicable safety may participate in execution of a search warrant;
- (g) **USE OF EXPLOSIVE DEVICES.** Law enforcement officers executing a warrant shall not use or possess flash-bang stun grenades, or other explosive devices, chemical weapons, or any military-grade firearm, unless expressly authorized under the covered warrant based on clear and convincing evidence that the use

of the devices is necessary under the particularized circumstances to protect the life or safety of law enforcement officers or other persons;

(h) For purposes of this section:

- (i) Verifiable exigent circumstances is defined as: an event occurring in real-time that is life-threatening to the officer(s) and/or an occupant(s) of the property;
- (ii) In such cases, the officer(s) must be able to verify the perceived threat through video footage, required documentation and witness statements. Examples of verifiable exigent circumstances could include: hearing a round being chambered in a gun, an occupant screaming something threatening, or seeing through a window an occupant or hostage held by a firearm.

(i) Applications and issuance for all warrants must include:

- (i) Search warrants are directed to law enforcement within the jurisdiction of the property being searched;
- (ii) All search warrants shall contain:
 - (1) the date and time the warrant was issued;
 - (2) The name of the affiant;
 - (3) The identity and description, of the person for whom a search warrant is being issued;
 - (4) The offense, or probable cause, cited within the affidavit;
 - (5) The objects or persons described in the warrant, if found there, to be seized;
 - (6) The location and description of the place to be searched;
 - (7) A list of estimated ages and gender of any additional occupants, as well as any known individuals with cognitive and/or physical disabilities and pets at the property to be searched;

(8) Intended course of action if no response from suspect within 30 seconds;

- (j) Search warrants not executed within 7 days of issuance are void;
- (k) An officer must provide evidence gathered 24 hours, or less, before executing to verify the person is present at the residence to be searched and verify that there are no significant changes to information contained within the application;
- (l) AVOIDING DESTRUCTION OF PROPERTY. In executing any warrant, law enforcement officers shall seek to avoid the destruction of property occasioned by forcible entry and the execution of the search;
- (m) Property and/or cash cannot be seized during the course of the search unless a lawful arrest is made and these assets will be returned immediately to the arrestee if s/he is not convicted of the crime listed in the arrest;
- (n) If evidence is obtained in violation of this section, the City shall not attempt to utilize such evidence, and shall notify the District Attorney that any such evidence was unlawfully obtained;
- (o) POST-SEARCH REPORT. For each search conducted pursuant to a warrant, the City shall collect the following data:
 - (i) The items to be seized under a warrant, as described in the application;
 - (ii) The items seized in the execution of that warrant;
 - (iii) Whether forcible entry was made in the execution of the warrant;
 - (iv) Any destruction of property that occurred in the execution of the warrant;
and
 - (v) Any injuries that occurred in the execution of the warrant, either by law enforcement, occupants, or others present;
- (p) Each post-search report completed pursuant to Section 178(o) shall be considered public information subject to the Texas Public Information Act.

Sec. 179. - Ban on chokeholds.

- (a) San Antonio police officers shall not use a chokehold or neck restraint on another person;
- (b) Any policies pertaining to the use of force adopted by law enforcement agencies must be consistent with this section;
- (c) For the purposes of this section:
 - (i) "Chokehold" means the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway;
 - (ii) "Neck restraint" refers to any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

Sec. 180. - Cite and release policy.

- (a) Except as provided under Section 180(b), a citation, ticket or verbal warning, rather than arrest, shall be issued for individuals charged with committing the following offenses, in accordance with Article 14.06 of the Texas Code of Criminal Procedure:
 - (i) All Class C misdemeanors, except Class C Public Intoxication, which shall be addressed in accordance with Texas Code of Criminal Procedure Section 14.031;
 - (ii) Possession of Controlled Substance less than 4 oz, Penalty Group 2-A (synthetic cannabinoids), Class A or B misdemeanor under Texas Health and Safety Code §§ 481.1161(b)(1) & (2);
 - (iii) Driving while License Invalid, Class A or B misdemeanor under Texas Transportation Code § 521.457;
 - (iv) Theft of Property less than \$750, Class B misdemeanor under Texas Penal Code § 31.03(e)(2)(A);

- (v) Theft of Service less than \$750, Class B misdemeanor under Texas Penal Code § 31.04(e)(2);
- (vi) Contraband in a Correctional Facility, Class B misdemeanor under Texas Penal Code § 38.114(c);
- (vii) Graffiti, with damage less than \$2500, Class A or B misdemeanor under Texas Penal Code § 28.08(b)(2) & (3); and
- (viii) Criminal Mischief with damage less than \$750, Class B misdemeanor under Texas Penal Code § 28.03(b)(2).

(b) An officer may conduct a custodial arrest for offenses listed under Section 1 only if any of the following circumstances are present:

- (i) The subject could not provide satisfactory evidence of personal identification to allow for citation. In determining whether the subject is able to provide satisfactory evidence of personal identification, it shall be acknowledged that not all persons are able to produce a government issued ID. Therefore, although a government-issued ID is preferred, the City shall accept other forms of identification, regardless of expiration date, including but not limited to: any state or federally-issued ID, library card, utility or rent bill, community organizational membership card, student ID, church ID, or other forms of identification that include an individual's name and address, as well as photos of the aforementioned forms of identification. Additionally, in the absence of a physical ID, a credible verbal verification of a subject's identity and address shall suffice and may be obtained by contacting a family member, friend, or any person who has personal knowledge of the subject;
- (ii) The subject demands to be taken before a magistrate;
- (iii) The subject has an outstanding arrest warrant for a non-citation eligible offense from a criminal law enforcement agency;
- (iv) Before making an arrest for a citation-eligible offense, the officer shall contact a supervisor to obtain approval. In any case where an arrest is made for a citation-eligible offense, the specific reason(s) for the arrest and supervisor approval shall be included in the incident report. If an incident report fails to contain a valid reason for an arrest in cases of the

above-listed offenses, or include reasons for arrests not listed herein, the San Antonio Police Department Internal Affairs Unit shall conduct an investigation into the incident and take appropriate follow-up or disciplinary action with the arresting officer;

- (c) In cases in which the subject is suspected of committing any offense(s) listed in Section 180(a) or Class C Public Intoxication, and the subject appears to suffer from mental illness and/or addiction, the subject should be referred to appropriate medical and/or psychiatric services in lieu of arrest;
- (d) On a quarterly basis, the City shall gather and publish as an open record under the Texas Public Information Act, the following data concerning the cite and release program:
 - (i) Aggregate data showing the number of arrests made for citation-eligible offenses in which arrest was *not* mandated by state law. Such data shall also be aggregated and categorized by race and ethnicity of the person arrested, geographic location of arrest, alleged criminal offense, and reason for arrest;
 - (ii) Aggregate data showing the number of citations, tickets or warnings issued for citation-eligible offenses. Such data shall also be aggregated and categorized by race and ethnicity of the person cited, ticketed or issued a warning, geographic location of incident, and alleged criminal offense;
 - (iii) Anonymized records of every instance that a San Antonio police officer made an arrest for a citation-eligible offense, including:
 - (1) Documented reason for the stop and the arrest;
 - (2) The particular offense alleged;
 - (3) The reason for arrest and whether supervisor approval for the arrest was obtained;
 - (4) The age, race, and ethnicity of the person arrested;
 - (5) The general location, such as the zip code or intersection of the incident;

- (iv) This report or memorandum should not include information that would jeopardize any ongoing criminal investigation or prosecution, and the report should include the number of unduplicated officers making such arrests.

Sec. 181. - Implementation of justice policies.

- (a) The City Manager and Chief of Police shall ensure that San Antonio police officers receive adequate training concerning each of the provisions of the justice policy;
- (b) The City Manager shall work with the San Antonio Police Chief to update City policies and internal operating procedures in accordance with this justice policy. Actions that may be necessary include, but are not limited to: updating the San Antonio Police Department General Manual; updating the training bulletin; training officers; and updating internal databases and systems.

Sec. 182. - Officer discipline.

Any violation of this justice policy may subject a San Antonio police officer to discipline as provided by the Texas Local Government Code or as provided in City policy.

Sec. 183. - Effective date.

This Charter amendment shall become effective upon adoption.

Sec. 184. - Severability.

If any portion of this Article shall be deemed unlawful by a court of law, that portion shall be severed from the Charter and the rest shall continue in force.

Exhibit B

Eric Opiela PLLC
ATTORNEY AND COUNSELOR AT LAW
9415 OLD LAMPASAS TR.
AUSTIN, TEXAS 78750

Telephone: 512.791.6336

E-mail: eopiela@ericopiela.com

6 FEB 2023

Ms. Debbie Racca-Sittre
Office of the City Clerk
P.O. Box 839966
San Antonio, TX 78283-3966
Via Electronic Mail: Debbie.racca-sittre@sanantonio.gov; oocc@sanantonio.gov

Dear Ms. Racca-Sitre:

I represent Texas Alliance for Life (TAL), a nonpartisan, a statewide non-profit organization of people committed to protecting the fundamental right to life of all innocent human beings and to promoting respect for their value and dignity from the moment of conception until natural death using peaceful, legal means, which has members that are City of San Antonio residents, including Maria Teresa Ramirez Morris. Your office is currently reviewing a petition for a so-called San Antonio Justice Charter to be placed on the May 2023 Municipal Election Ballot. This proposed charter amendment is a single comprehensive proposition on subjects as varied as preventing city police officers from investigating or making arrests for abortions, halting citations and arrests for Class A or Class B misdemeanor possession of marijuana, banning police chokeholds and no-knock warrants, and expanding cite-and-release policies to direct officers to cite, not arrest, people for certain nonviolent misdemeanor offenses, including theft. Such a proposition, as presented, is a clear violation of Tex. Loc. Gov't Code § 9.004(d)-(e), which prohibits multiple-subject charter amendments, and requires that any ballot proposition must be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.

Accordingly, you must reject this ballot proposition and not present it to the San Antonio City Council for action to be placed on any ballot as presented before you. The duty imposed upon you to reject the San Antonio Justice Charter petition is mandatory and not discretionary. Therefore, I ask that you immediately reject the charter petition for the reasons stated above, and notify me when you have done so. In the event you do not comply immediately with this request to fulfill the duty imposed on you, my client will be forced to seek judicial relief, to compel the performance of the duty described in this correspondence.

Very truly yours,

ERIC OPIELA PLLC

By: 

Eric Opiela
Texas Bar No. 24039095

Exhibit C

Deemed unenforceable by the city, proposed policing reforms will appear on the May ballot

by [Andrea Drusch](#)
February 8, 2023



The policing reform group Act 4 SA in January delivered to the city clerk boxes containing more than 38,000 petition signatures to put proposed reforms on the May ballot. Credit: Bria Woods / San Antonio Report

A proposed City Charter amendment that seeks to ban police from using no-knock warrants and chokeholds, as well as expand the city's cite-and-release policy for low-level, nonviolent crimes, has enough certified signatures supporting it to appear on the ballot in San Antonio's May municipal election.

However, City Attorney Andy Segovia told reporters Wednesday the most of the provisions are inconsistent with state law and could not be enforced if even if they're approved by voters.

Segovia said that if the amendment is approved, the city would not be able to make any other changes to its charter until the November 2025 election, thanks to a state law restricting the frequency of charter amendments. Mayor Ron Nirenberg had been assembling a charter review committee to explore other potential changes in the coming year.

As written, [the proposal](#), called the Justice Charter by its proponents, would ostensibly eliminate police enforcement of certain levels of marijuana possession, eliminate police enforcement of abortion-related crimes. It would also ostensibly ban the use of chokeholds by police, ban the use of no-knock warrants, create additional requirements to obtain a search warrant, and remove the officers' discretion in whether to issue a citation or arrest for some low-level crimes.

With the exception of one provision calling for the creation of a city justice director, Segovia said the proposal's elements "are all inconsistent with state law."

"Therefore, even if the public does adopt the charter amendments, the charter amendments as written will not be enforceable," he said.

The progressive group ACT 4 SA [submitted 38,000 petition signatures supporting the Justice Charter](#) to the city clerk last month.

Segovia said Wednesday that enough signatures had been verified for it to be included on the May 6 ballot, and City Council would authorize the move next week, as it is required to do.

“The simple truth is that these policies will save lives by limiting unnecessary interactions with police that can lead to serious injury or even death – as we have seen recently with the shooting of Erik Cantu and death of Tyre Nichols,” ACT 4 SA Executive Director Ananda Tomas said in a statement Wednesday evening.

“By passing this we will create a safer, more just San Antonio for all that can be a beacon of light for other cities across Texas and even across the nation,” she said.

Local Republicans are already [organizing to oppose](#) the Justice Charter in the May election. Meanwhile, the legality of the proposal itself is under scrutiny from attorneys on the right.

Rob Henneke, executive director and general counsel at the conservative Texas Public Policy Foundation (TPPF), said the Justice Charter likely violates the state’s single subject statutory rule, which restricts ballot amendments to a single policy topic. In recent years TPPF successfully sued Texas cities to stop them from implementing paid sick leave requirements and plastic bag bans through city ordinances.

Ballot proposals are trickier to navigate, though, and less common because of the cost of gathering signatures, Henneke said.

“It’s not just something that somebody with a clipboard goes out and gets 38,000 signatures,” he said.

Segovia said Wednesday he believed the city wouldn’t be subject to a lawsuit if it doesn’t seek to enforce the charter amendment if it passes.

“If our position is we’re not going to enforce those things that are inconsistent with state law, I don’t see the state thing coming after us,” he said.

Exhibit D

City of San Antonio



AGENDA

City Council A Session

Municipal Plaza Building
114 W. Commerce Street
San Antonio, Texas 78205

Thursday, February 16, 2023

9:00 AM

Municipal Plaza Building

The City Council will hold its regular meeting in the Norma S. Rodriguez Council Chamber in the Municipal Plaza Building located at 114 W. Commerce Street beginning at the above referenced date and time for the following items. Once convened, the City Council will take up the following items in any order during the meeting but no sooner than the designated times.

9:00AM: Call to Order

Members of the public can comment on items on the agenda. To sign up to speak visit www.saspeakup.com. Click on meetings and events and select the meeting you'd like to participate in. Sign up to speak or submit a written comment. Questions relating to these rules may be directed to the Office of the City Clerk at (210) 207-7253.

Individuals signing up for public comment may register for VIA bus fare or parking validation at www.saspeakup.com. VIA bus fare or parking at City Tower Garage (located at 100 Blk N. Main) will be provided to individuals who request the assistance. Staff will provide VIA bus fare passes and parking validation tickets in the lobby of City Council Chambers.

To view the Live meeting please view our [Live Stream](#)

During the meeting, the City Council may meet in executive session for consultation with the City Attorney's Office concerning attorney-client matters under Chapter 551 of the Texas Government Code.

ACCESS STATEMENT

The City of San Antonio ensures meaningful access to City meetings, programs and services by reasonably providing: translation and interpretation, materials in alternate formats, and other accommodations upon request. To request these services call (210) 207-2098 or Relay Texas 711 or by requesting these services online at <https://www.sanantonio.gov/gpa/LanguageServices>. Providing at least 72 hours' notice will help to ensure availability.

Intérpretes en español estarán disponibles durante la junta del consejo de la ciudad para los asistentes que lo requieran. También se proveerán intérpretes para los ciudadanos que deseen exponer su punto de vista al consejo de la ciudad. Para más información, llame al (210) 207-7253.

For additional information on any item on this agenda, please visit www.sanantonio.gov or call (210) 207-7080.

PROCEDURAL

1. Invocation
2. Pledge of Allegiance
3. Approval of minutes for the City Council meetings of February 1, 2023 and February 2, 2023.

POINT OF PERSONAL PRIVILEGE

ACTION ITEMS FOR STAFF BRIEFING

4. Ordinance ordering the General City Election to be held on Saturday, May 6, 2023 and Run-off Election to be held on Saturday, June 10, 2023, if necessary. [Debbie Racca-Sittre, City Clerk]

CONSENT AGENDA

Purchase of Services, Supplies and Equipment

5. Ordinance approving a contract with Waukesha-Pearce Industries, LLC, in the amount of \$488,846 to replace two generators at the Public Safety Answering Point (PSAP) 911 Emergency Dispatch Center, an FY 2023 Deferred Maintenance Project. Funding is from Tax Notes and included in the FY 2023 - FY 2028 Capital Improvement Program. [Ben Gorzell Jr., Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]
6. Ordinance approving a contract with Doggett Freightliner of South Texas, LLC, to provide tractor

trucks and rear ejection horizontal discharge trailers for the Solid Waste Management Department for a total cost of \$1,784,748. Funding is from the FY 2023 Equipment Renewal and Replacement Fund budget in the amount of \$1,314,142 and from the FY 2023 Solid Waste Operating and Management Fund budget in the amount of \$470,606. [Ben Gorzell Jr., Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]

7. Ordinance approving a contract with Jimenez Motorsports, LLC, dba BMW Motorcycles of San Antonio, to provide the San Antonio Police Department with ten replacement motorcycles for a total cost of \$307,000. Funding is from the FY 2023 Equipment Renewal and Replacement Fund budget. [Ben Gorzell Jr., Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]
8. Ordinance ratifying the purchase of 32 light duty trucks from Grapevine DCJ, LLC, for a total cost of \$1,239,231. Funding in the amount of \$906,665 is from the FY 2023 Equipment Renewal and Replacement Fund budget, \$294,072 is from the FY 2023 Development Services Fund budget, and \$38,494 is from the FY 2023 General Fund budget. [Ben Gorzell Jr., Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]
9. Ordinance approving a contract with Pearson Education, Inc., for criminal investigation textbooks and e-books for the San Antonio Police Department for a total cost of \$69,011. Funding is from the FY 2023 General Fund budget. [Ben Gorzell Jr., Chief Financial Officer; Troy Elliott, Deputy Chief Financial Officer, Finance]

Capital Improvements

10. Ordinance approving a task order to a Job Order Contract with Amstar, Inc. in the amount of \$435,439.45 for the Pan American Branch Library HVAC Improvements project. Funding is from Certificates of Obligation and Tax Notes included in the FY 2023 – FY 2028 Capital Improvement Program. [Roderick Sanchez, Assistant City Manager; Razi Hosseini, Director, Public Works]
11. Ordinance approving the 2023 Street Rehabilitation Task Order Contract Package 8 (Reconstruction) with Alamo City Constructors, Inc. in an amount not to exceed \$9,898,311, of which \$203,000 will be reimbursed by San Antonio Water System and \$63,000 will be reimbursed by CPS Energy for necessary adjustments to their existing infrastructure. Funding is from the General Fund, Advanced Transportation District Fund, Right of Way, 2022 General Obligation Bond Program and debt proceeds included in the FY 2023 – FY 2028 Capital Improvement Program. [Roderick Sanchez, Assistant City Manager; Razi Hosseini, Public Works]
12. Ordinance approving the 2023 Street Rehabilitation Task Order Contract Package 9 with H. L. Zumwalt Construction, Inc. in an amount not to exceed \$9,846,050.69, of which \$296,577.50 will be reimbursed by San Antonio Water System and \$4,500 will be reimbursed by CPS Energy for necessary adjustments to their existing infrastructure. Funding is from the General Fund, Advanced Transportation District Fund, Right of Way, 2022 General Obligation Bond Program

and debt proceeds included in the FY 2023 – FY 2028 Capital Improvement Program. [Roderick Sanchez, Assistant City Manager; Razi Hosseini, Public Works]

Grant Applications and Awards

13. Ordinance accepting funds in an amount up to \$126,360 from the Office of the Governor, Public Safety Office, Criminal Justice Division, for the Bullet-Resistant Shield Grant Program to support law enforcement agencies responding to active shooter incidents. [Maria Villagómez, Deputy City Manager; William P. McManus, Chief of Police]

Boards, Commissions and Committee Appointments

14. Approving the following Board, Commission and Committee appointments for the remainder of an unexpired term of office to expire May 31, 2023 [Debbie Racca-Sittre, City Clerk]
 - A. Approving the appointment of Tameka Pierce (District 1) to the Affirmative Action Advisory Committee
 - B. Approving the appointment of Alexandra Perez (Mayoral) to Small Business Advisory Commission

Miscellaneous

15. Ordinance approving the greater:SATX (gSATX) 2023 Operations Plan. [Alejandra Lopez, Assistant City Manager; Brenda Hicks-Sorensen, Director, Economic Development Department]
16. Ordinance extending line-of-duty injury leave for San Antonio Fire Department Fire Engineer Richard Ortiz. [Maria Villagomez, Deputy City Manager; Charles N. Hood, Fire Chief]
17. Ordinance amending the Professional Services Agreement with Alpha Sleep Labs for an increased amount of \$22,995, totaling a contract amount of \$71,995 for a term ending June 30, 2023. Funding is from the FY 2023 Employee Benefits Insurance Fund. [Ben Gorzell, Chief Financial Officer, Renee Frieda, Director Human Resources]
18. Ordinance amending the Funding Agreement among the Midtown #31 Board of Directors, the City of San Antonio, and The Witte Museum for an amount not to exceed \$570,000 for ADA improvements to The Witte Museum; appropriating funds and amending the 2023-2028 Capital Budget. [Lori Houston, Assistant City Manager; Veronica Garcia, Director, Neighborhood and Housing Services]
19. Ordinance approving a License Agreement with The Expedition School for non-motorized watercraft rentals at Elmendorf Lake Park and Woodlawn Lake Park. License fees generated by this agreement will be deposited into the General Fund. [David McCary, Assistant City Manager; Homer Garcia III, Director, Parks & Recreation]
20. Ordinance ratifying insurance procurements for the City of San Antonio's Commercial Property

Insurance policy and Terrorism and Sabotage coverage allowing the City Manager or his designee to procure premiums for two vacant buildings to include the former Wood Federal Courthouse at 655 Cesar Chavez and Spears Judicial Training Center at 643 Cesar Chavez Boulevard for a total amount of \$111,291.86. Funding is from the Facility Services Fund. [Ben Gorzell Jr., CPA, Chief Financial Officer; Debra M. Ojo, MPA, Director, Office of Risk Management]

21. Ordinance approving a contract with CRI Electric Inc., for the Apache Creek Linear Park Lighting Upgrades Phase 2 – Re-Bid Project for a total cost of \$594,657. Funding is from the FY 2023 Energy Efficiency Fund Adopted Budget. [David Mc Cary, Assistant City Manager; Douglas Melnick, Chief Sustainability Officer, Office of Sustainability]

City Manager's Report

22. City Manager's Report

Executive Session

At any time during the meeting, the City Council may recess into executive session in the B Room to consult with the City Attorney's Office (Texas Government Code Section 551.071) and deliberate or discuss any of the following:

- A. Economic development negotiations pursuant to Texas Government Code Section 551.087 (economic development).
- B. The purchase, exchange, lease or value of real property pursuant to Texas Government Code Section 551.072 (real property).
- C. Legal issues related to litigation involving the City pursuant to Texas Government Code Section 551.071 (consultation with attorney).
- D. Legal issues relating to COVID-19 preparedness pursuant to Texas Government Code Section 551.071 (consultation with attorney).

ADJOURNMENT

THE CITY COUNCIL MAY RECESS FOR LUNCH AND RECONVENE TO CONSIDER ANY UNFINISHED COUNCIL BUSINESS

6:00 P.M. – If the Council has not yet adjourned, the presiding officer shall entertain a motion to continue the council meeting, postpone the remaining items to the next council meeting date, or recess and reconvene the meeting at a specified time on the following day.

Posted on: 02/08/2023 05:49 PM

Exhibit E

Tex. Loc. Gov't Code

Sec. 9.004. CHARTER AMENDMENTS. (a) The governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to at least five percent of the number of qualified voters of the municipality or 20,000, whichever number is the smaller.

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow sufficient time to comply with other requirements of law and must occur on or after the 30th day after the date the ordinance is adopted.

(c) Notice of the election shall be published in a newspaper of general circulation published in the municipality. The notice must:

- (1) include a substantial copy of the proposed amendment;
- (2) include an estimate of the anticipated fiscal impact to the municipality if the proposed amendment is approved at the election; and
- (3) be published 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.

(d) An amendment may not contain more than one subject.

(e) The ballot shall be prepared so that a voter may approve or disapprove any one or more amendments without having to approve or disapprove all of the amendments.

(f) The requirement imposed by Subsection (c)(2) does not waive governmental immunity for any purpose and a person may not seek injunctive relief or any other judicial remedy to enforce the estimate of the anticipated fiscal impact on the municipality.