



# City Council Memorandum

*City of Arts & Innovation*

**TO: CITY COUNCIL**

**DATE: OCTOBER 17, 2023**

**FROM: CITY CLERK**

**WARDS: ALL**

**SUBJECT: AMENDMENT TO CITY CHARTER REGARDING APPOINTED INSPECTOR GENERAL; ADOPTION OF RESOLUTIONS TO CALL FOR MUNICIPAL ELECTION FOR SUCH CHARTER AMENDMENT ON NOVEMBER 5, 2024, AND REPEAL RESOLUTION 23892 SETTING ELECTION FOR SUCH CHARTER AMENDMENT ON MARCH 5, 2024**

## **ISSUE:**

To consider repealing the resolution calling for a March 5, 2024, municipal election to place before voters the question of adopting an amendment to the City Charter adding an appointed Inspector General and instead call for the election for such amendment for November 5, 2024, election to comply with the requirements of Election Code sections 1200 and 1415.

## **RECOMMENDATION:**

That the City Council:

1. Adopt the attached resolution calling a municipal election and placing such proposed City Charter amendments on the November 5, 2024, ballot and repealing Resolution No 23892; and
2. Direct the City Attorney to prepare an impartial analysis for such proposed City Charter amendments; and
3. Determine if the Mayor or Members of the City Council wish to author ballot arguments.

## **BACKGROUND:**

The Charter Review Committee met on February 16, 2022, and approved a report to the City Council regarding a proposed charter amendment and ballot question for an elected Inspector General, with Chair Benavidez and Members Avery, Clymer, Goldman, Norsell, Ramirez, and Rodriguez voting aye, Member Burns voting no, and Members Mabon, McKeith, and Newberry absent. The Charter Review Committee also designated Member Avery to present the report, with Chair Benavidez and Members Avery, Burns, Clymer, Goldman, Norsell, Ramirez, and Rodriguez voting aye and Members Mabon, McKeith, and Newberry absent.

On April 12, 2022, the City Council was presented with and deliberated on whether to place the proposed amendment to the City Charter establishing an elected office of Inspector General with defined powers and duties, on the November 8, 2022, ballot. Ultimately, the City Council decided against the proposal and instead, initiated the formation of a working group, led by

Councilmember Hemenway in collaboration with the Chair of the Charter Review Committee, to investigate alternative approaches for creating the position of Inspector General, potentially as an appointed role.

Councilmember Hemenway, Chair Benavidez, Member Avery and City staff subsequently met several times and drafted a proposed Charter amendment for an appointed Inspector General, which is attached hereto.

The Charter Review Committee met on July 12, 2022, and approved the proposed Charter amendment for an appointed Inspector General.

On August 2, 2022, the City Council approved the proposed Charter amendment for an appointed Inspector General and considered whether to place a ballot amendment before voters at the November 2022 election. The City Council instead decided to place this before voters for the March 5, 2024, election and adopted the appropriate resolutions.

### **DISCUSSION:**

The proposed Charter Amendment is attached to this report. The City Council approved the proposed Charter amendment and is then required to adopt resolutions calling for an election and placing the proposed City Charter amendments on a ballot.

Here is the proposed ballot question that has been approved by the City Council:

Shall the measure to amend the Charter of the City of Riverside to include a new Charter officer, the Inspector General, appointed by the City Council, with the powers and duties to investigate fraud, waste, abuse and illegal acts within city government and to provide annual reports on findings and recommendations, with an appropriate budget and with further powers and duties of the Inspector General set by ordinance of the City Council be adopted?

The California Elections Code (EC) requires that such a Charter amendment, which will affect the salary of a government employee, be placed only on a statewide election, which occurs in November, not March. Specifically, the State E C provides that a City proposal to amend a Charter shall be submitted to voters at a statewide general election, which takes place on the first Tuesday after the first Monday in November of each even-numbered year.

There is an exception. If the Charter amendment does not alter the benefits (salary) of any government employee, then that charter amendment can be placed on a general municipal election or a primary election. That exception does not apply here, because the Inspector General will be a government employee, with benefits (salary).

Here are the Election Code sections:

#### § 1415. Charter proposals

- (a) (1) Except as provided in paragraph (2), a city or city and county charter proposal proposed by the governing body of a city or city and county on its own motion that qualifies pursuant to Section 9255 shall be submitted to the voters **at the next established statewide general election pursuant to Section 1200 occurring not less than 88 days after the date of the order of election.**

(2) The governing body of a city or city and county may direct that either of the following be submitted to the voters at the next regularly scheduled general municipal election pursuant to Section 1301, or at any established statewide general or statewide primary election pursuant to Section 1200 or 1201, occurring not less than 88 days after the date of the order of election:

(A) A charter proposal that proposes to amend a charter in a manner **that does not alter** any procedural or substantive protection, right, **benefit, or employment status of any local government employee** or retiree or of any local government employee organization.

(B) A charter proposal that proposes to amend a charter solely to comply with a court injunction or consent decree or with federal or state voting rights laws.

#### § 1200. General election

The statewide general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year.

The proposed charter amendment would create a new City employee (the Inspector General) with benefits (salary). Election Code section 1415 does not limit its scope to existing government employees and can be interpreted to include proposed employees.

As a result, the election to consider the proposed Charter amendment for an Inspector General should be scheduled for the November 5, 2024, election ballot, rather than the March 5, 2024, election.

#### *Ballot Arguments*

The City Council also has the option to decide whether to author ballot arguments for or against any charter amendment measure.

Elections Code Section 9282 provides that for measures placed on the ballot by the legislative body, the legislative body, or a member or members of the legislative body authorized by that body, or an individual voter who is eligible to vote on the measure, or bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against any city measure. Arguments shall not exceed 300 words in length. Arguments are printed in the voter information guide mailed to voters.

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure \_\_\_\_" or "Argument Against Measure \_\_\_\_," accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure.

Measure letters are assigned by the Registrar of Voters upon receipt of the resolution calling the election.

A ballot argument must be accompanied by the printed name and signature or printed names and signatures of the author or authors submitting it, or, if submitted on behalf of an organization, the name of the organization and the printed name and signature of at least one of its principal officers

who is the author of the argument. No more than five signatures shall appear with any argument.

#### *Rebuttals*

When an argument in favor and an argument against a measure have been selected to be printed in the voter information guide, the City Clerk forwards a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure.

The author or a majority of the authors of an argument may prepare and submit a rebuttal argument or may authorize in writing another person or persons to prepare, submit, or sign the rebuttal argument. Rebuttal arguments are limited to 250 words and must be filed with the City Clerk no later than ten days after the final filing date for primary arguments. A rebuttal argument relating to a city measure shall not be signed by more than five persons, shall be printed in the same manner as a direct argument, and shall immediately follow the direct argument which it seeks to rebut.

### *More Than One Argument Submitted*

If more than one argument for or against any measure is submitted to the City Clerk, one will be selected for printing in the ballot materials. Elections Code Section 9287 provides that preference and priority be given in the order below to the arguments of the following:

1. The City Council, or one or more Councilmembers authorized by the City Council.
2. An individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
3. Bona fide association of citizens.
4. Individual voters who are eligible to vote on the measure

### **FISCAL IMPACT:**

The fiscal impact of creating an appointed Office of Inspector General is unknown currently. However, if approved by voters, the City Council shall be required, by Charter, to annually budget “funds sufficient for the efficient and proper functioning of the Office of Inspector General.”

Placing a measure on the November 5, 2024, ballot is expected to incur an estimated fiscal impact of \$162,000.

Prepared by: Donesia Gause, City Clerk  
 Certified as to availability of funds: Kristie Thomas, Finance Director / Assistant Chief Financial Officer  
 Approved by:  
 Approved as to form: Phaedra A. Norton, City Attorney

Attachments: Resolution calling for Election and repealing Resolution 23892  
 City Council report August 2, 2022, re Elected Inspector General  
 Resolution proposing Charter Amendment