

RESOLUTION NO. 2024-27

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**A RESOLUTION OF THE ALBANY CITY COUNCIL SUBMITTING
TO THE QUALIFIED VOTERS OF THE CITY
A PROPOSED AMENDMENT TO THE CITY CHARTER TO ELIMINATE
THE REQUIREMENT FOR OFFICERS AS DETERMINED BY THE COUNCIL
TO POST A BOND PRIOR TO BEGINNING THEIR SERVICE; AT A GENERAL
MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE STATEWIDE
GENERAL ELECTION TO BE HELD NOVEMBER 5, 2024; DIRECTING
THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE
PROPOSED CHARTER AMENDMENT AND PROVIDING FOR THE FILING OF
PRIMARY AND REBUTTAL ARGUMENTS AND SETTING RULES FOR THE
FILING OF WRITTEN ARGUMENTS REGARDING
THE PROPOSED CHARTER AMENDMENT**

WHEREAS, Albany City Charter section 3.03 currently requires officers as determined by the City Council, before entering upon their official duties, to execute a bond to the City in the sum required by the Council and to file it with the Council or, in the case of the City Clerk, with the Mayor; and

WHEREAS, pursuant to authority provided by California Constitution, Article XI, Section 3, California Government Code Sections 34450 *et. seq.* and California Elections Code sections 1415 and 9255, the City Council of the City of Albany desires to submit to the voters a proposed amendment to the City Charter which would eliminate the requirement for officers as determined by the City Council to execute a bond before entering upon their official duties, as more specifically set forth therein (the “Charter Amendment” or “Measure”); and

WHEREAS, California Constitution, Article XI, Section 3, requires that any charter amendment be approved by a majority of City voters voting at an election called for that purpose; and

WHEREAS, pursuant to California Elections Code sections 1415 and 9255, the City Council is authorized by statute to submit the proposed Charter Amendment to the voters at the General Municipal Election to be held on November 5, 2024; and

1 **WHEREAS**, the City Council desires to consolidate the General Municipal Election
2 for the Charter Amendment described herein with the Statewide General Election to be held
3 on November 5, 2024; and
4

5 **WHEREAS**, the City Council further desires to set deadlines and rules for primary
6 and rebuttal arguments for and against the Charter Amendment.
7

8 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF**
9 **THE CITY OF ALBANY AS FOLLOWS:**
10

11 **SECTION 1. Recitals.** The City Council of the City hereby find and determine that
12 the foregoing recitals are true and correct, are incorporated herein and by this reference made
13 an operative part hereof.
14

15 **SECTION 2. Submission of Charter Amendment.** The City Council of the City,
16 pursuant to its right and authority as contained in California Constitution Article XI, Section
17 3, California Government Code, Sections 34450 *et. seq.*, and California Elections Code,
18 Sections 1415 and 9255, and any other applicable requirements of the laws of the State of
19 California relating to charter cities, hereby calls and orders to be held a General Municipal
20 Election in the City of Albany to be consolidated with the Statewide General Election on
21 Tuesday, November 5, 2024, for the purpose of submitting to a vote of the qualified electors
22 of the City of Albany the following proposed Charter Amendment:

"Shall the City Charter of Albany be amended to eliminate the requirement that officers as determined by the City Council execute a bond before entering upon their official duties?"	YES
	NO

1 **SECTION 3. Text of Charter Amendment.** The text of the Charter Amendment to
2 be submitted to the voters is attached hereto as Exhibit “A and incorporated herein by this
3 reference.

4 **SECTION 4. Election Procedures.**

- 5
- 6 A. Request for Consolidation. Pursuant to the requirements of §10403 of the Elections
7 Code, the Board of Supervisors of the County of Alameda is hereby requested to
8 consent and agree to the consolidation of a General Municipal Election with the
9 Statewide General Election on Tuesday, November 5, 2024, for the purpose of
10 submitting to the voters the Charter Amendment.
- 11
- 12 B. Necessary Steps. The Board of Supervisors is requested to issue instructions to the
13 Alameda County Registrar of Voters/Elections Official to take any and all steps
14 necessary for the holding of the consolidated election.
- 15
- 16 C. Canvass of Returns. The Alameda County Registrar of Voters/Elections Official
17 is authorized to canvass the returns and perform all other proceedings incidental to
18 and connected with the General Municipal Election for the Charter Amendment.
19 The Election shall be held in all respects as if there were only one election, and
20 only one form of ballot shall be used. Pursuant to California Elections Code
21 Sections 10403 and 10418, the election will be held and conducted in accordance
22 with the provisions of law regulating the Statewide General Election.
- 23
- 24 D. Costs. The City Council determines and declares that the City will pay to the
25 County the reasonable and actual expenses incurred by the County by the
26 consolidation of the General Municipal Election with the Statewide General
27 Election. The City shall reimburse the County for services performed when the
28 work is completed and upon presentation to the City of a properly approved bill.

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- E. Form of Ballot. The ballots to be used at the election shall be in the form and content as required by law.

- F. City Clerk Authorized to Coordinate with County. The City Clerk is authorized, instructed and directed, in coordination with the Alameda County Registrar of Voters/Elections Official, to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

- G. Opening and Operation of Polls, Vote Centers, Etc. The polls, vote centers and/or vote-by-mail drop-off boxes shall be open and the procedures for submitting votes-by-mail or votes at polls and vote centers shall be in accordance with those times and procedures established by the County of Alameda, except as otherwise provided in the Elections Code of the State of California.

- H. Election to Follow Applicable Law. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections in the City.

- I. Notice of Election. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form, and manner as required by law.

- J. Tallying of Ballots. All ballots shall be tallied at a central counting place and not at the precincts. Said central counting place shall be at a County center as designated by the Registrar of Voters.

- K. Receipt of Election Results. The City Clerk of the City of Albany shall receive the

1 canvass as it pertains to the election on the Charter Amendment measure, and shall
2 certify the results to the City Council, as required by law.

3 **SECTION 5. Direct Arguments and City Attorney's Analysis.**
4

- 5 A. The City Council authorizes (i) less than a quorum of member(s) of the City
6 Council, (ii) any individual voter eligible to vote on the above Charter Amendment,
7 (iii) a bona fide association of such citizens or (iv) any combination of voters and
8 associations, to file a written argument in favor of or against the Charter
9 Amendment, in accordance with Article 4, Chapter 3, Division 9 of the Elections
10 Code of the State of California and may change the argument according to the
11 deadlines set by the Alameda County for submittal of primary arguments for or
12 against the measure after which no arguments for or against the Charter
13 Amendment may be submitted to the City Clerk. Arguments in favor of or against
14 the Charter Amendment shall each not exceed 300 words in length. Each argument
15 shall be filed with the City Clerk, signed, and include the printed name(s) and
16 signature(s) of the author(s) submitting it, or if submitted on behalf of an
17 organization, the name of the organization, and the printed name and signature of
18 at least one of its principal officers who is the author of the argument.
- 19 B. The City Clerk shall comply with all provisions of law establishing priority of
20 arguments for printing and distribution to the voters, and shall take all necessary
21 actions to cause the selected arguments to be printed and distributed to the voters.
- 22
23 C. Pursuant to Section 9280 of the Elections Code, the City Council directs the City
24 Clerk to transmit a copy of the Charter Amendment to the City Attorney. The City
25 Attorney shall prepare an impartial analysis of the Charter Amendment, not to
26 exceed 500 words in length, showing the effect of the Charter Amendment on the
27 existing law and the operation of the Charter Amendment. The City Attorney shall
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1 transmit such impartial analysis to the City Clerk, who shall cause the analysis to
2 be published in the voter information guide along with the Charter Amendment as
3 provided by law. The impartial analysis shall include a statement indicating
4 whether the Charter Amendment was placed on the ballot by a petition signed by
5 the requisite number of voters or by the City Council. In the event the entire text
6 of the Charter Amendment is not printed on the ballot, nor in the voter information
7 portion of the sample ballot, there shall be printed immediately below the Impartial
8 Analysis, in no less than 10-font bold type, the following: **“The above statement
9 is an Impartial Analysis of Charter Amendment/Measure _____. If you desire
10 a copy of the Charter Amendment/Measure, please call the City Clerk’s Office
11 at (510) 528-5710 and a copy will be mailed at no cost to you.”**

12 D. The provisions herein shall apply only to the election to be held on November 5,
13 2024.

14 **SECTION 6. Rebuttals.**

15
16 A. That pursuant to Section 9285 of the Elections Code of the State of California,
17 when the Clerk has selected the arguments for and against the Charter Amendment
18 which will be printed and distributed to the voters, the Clerk shall send copies of
19 the argument in favor of the Charter Amendment to the authors of the argument
20 against, and copies of the argument against to the authors of the argument in favor.
21 The authors or persons designated by them may prepare and submit rebuttal
22 arguments not exceeding 250 words. The rebuttal arguments shall be filed with the
23 City Clerk not later than the deadline as set by the Alameda County for submittal
24 of primary arguments for or against the measure. Rebuttal arguments shall be
25 printed in the same manner as the direct arguments. Each rebuttal argument shall
26 immediately follow the direct argument which it seeks to rebut.
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1 B. The provisions herein shall apply only to the election to be held on November 5,
2 2024.

3 **SECTION 7. Placement on the Ballot.** The full text of the Charter Amendment
4 shall be printed in the voter information guide, and a statement shall be printed in the ballot
5 pursuant to Section 9223 of the Elections Code advising voters that they may obtain a copy of
6 this Charter Amendment/Measure, at no cost, upon request made to the City Clerk.
7

8 **SECTION 8. Delivery of Resolution to County.** The City Clerk shall certify to the
9 passage and adoption of this Resolution and enter it into the book of original resolutions. The
10 City Council directs the City Clerk to deliver copies of this Resolution, including the Charter
11 Amendment attached hereto as Exhibit “A”, to the Clerk of the Board of Supervisors of
12 Alameda County and to the Registrar of Voters/Elections Official of Alameda County.
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14 **SECTION 9. Public Examination.** Pursuant to Elections Code section 9295, this
15 Measure will be available for public examination for no fewer than ten (10) calendar days prior
16 to being submitted for printing in the voter information guide. The City Clerk shall post notice
17 in the Clerk’s office of the specific dates that the examination period will run.
18

19 **SECTION 10. CEQA.** The City Council hereby finds and determines that this
20 Resolution and the Charter Amendment relates to organizational or administrative activities
21 of governments that will not result in direct or indirect physical changes in the environment,
22 and therefore is not a “project” within the meaning of the California Environmental Quality
23 Act (“CEQA”) and the State CEQA Guidelines, section 15378(b)(5).
24

25 **SECTION 11. Severability.** If any provision of this Resolution or the application
26 thereof to any person or circumstance is held invalid, such invalidity shall not affect other
27 provisions or applications of the Resolution which can be given effect without the invalid
28 provision or application, and to this end the provisions of this Resolution are severable. The

1 City Council hereby declares that it would have adopted this Resolution irrespective of the
2 invalidity of any particular portion thereof.

3 **SECTION 12. Effective Date of Resolution.** This Resolution shall take effect
4 immediately upon its adoption.

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6 **APPROVED and ADOPTED** by the City Council of the City of Albany at a
7 regular meeting thereof on the 6th day of May, 2024.

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11 _____
12 JOHN MIKI, MAYOR
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City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2024-27

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 6th day of May, 2024, by the following votes:

AYES: Council Members Hansen-Romero, Jordan, López, Tiedemann and

Mayor Miki

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 7th
day of May, 2024.

Anne Hsu
CITY CLERK

*Albany is committed to providing a healthy, safe, and accessible city,
and strives to lift every voice in our community.*

EXHIBIT "A"

CHARTER AMENDMENT/MEASURE " _ "

"Shall the City Charter of Albany be amended to eliminate the requirement that officers as determined by the City Council execute a bond before entering upon their official duties?"	YES
	NO

THE PEOPLE OF THE CITY OF ALBANY DO HEREBY AMEND THE ALBANY CITY CHARTER AS FOLLOWS:

SECTION 1. Text of Charter Amendment. Subject to the approval of a majority of the voters of the City of Albany at the scheduled election so designated by City Council resolution placing the proposal on the ballot for such election, the Albany City Charter is hereby amended to read as follows:

[deletions are shown in ~~strikeout~~ and additions are shown in bold underline]

"CHAPTER III: ADMINISTRATIVE

Section 3.03. OFFICIAL BONDS NOT REQUIRED.

~~The Council shall determine which officers shall give bonds for the faithful performance of their official duties, and fix the amount of said bonds. Such officers, before entering upon their official duties, shall execute a bond to the City in the penal sum required, which bond shall include any other offices of which they may be ex officio or by appointment incumbent. Said bonds shall be approved by the Council and filed with the City Clerk, except that of the City Clerk, which shall be filed with the Mayor.~~ **No City Officer is required to post a bond prior to taking up their official duties. This provision overrides any such requirements in the California Government Code or any other applicable State law.**

1 SECTION 2. Approval, Filing and Recordation of Charter Amendment. Pursuant to
2 California Government Code Section 34460, if approved by a majority of voters, the Mayor
3 and City Clerk shall certify, authenticate and attest to the passage of this Charter Amendment.
4 The City Clerk shall also (i) record one copy of this Charter Amendment with the Alameda
5 County Recorder’s Office, (ii) file one copy in the City’s archives and (iii) file one copy with
6 the California Secretary of State. Each copy recorded with the County Recorder and filed in
7 the City’s archives shall also be filed with the following documents:

8 A. Certified copies of all publications and notices required of the City by
9 State law in connection with the calling of an election to propose the Charter
10 Amendment.

11 B. Certified copies of any arguments for or against the Charter
12 Amendment that were mailed to voters pursuant to California Elections Code Sections
13 9281 et. seq.

14 C. A certified abstract of the vote at the election at which the Charter
15 Amendment was approved by the voters.
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17
18 SECTION 3. Ratification and Effective Date. Pursuant to California Government
19 Code Section 34459, this Charter Amendment shall be deemed ratified if approved by a
20 majority of the eligible voters of the City of Albany voting at the General Municipal Election
21 of November 5, 2024. However, this Charter Amendment shall not take effect until it has been
22 accepted and filed by the Secretary of State pursuant to Government Code Section 34460.
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