



**AMENDMENT NO. 1**

**FOR: (13,080 VOTES)** Shall Article II of the City Charter be amended to provide that only those persons who can serve a term of four years without exceeding the term limitation are eligible to run for such office, and commencing in June 2005, the Mayor shall serve for a term of four years, and that, commencing in June 2005, four district representatives identified by the drawing of lots shall serve for a term of four years, and the remaining four district representatives, including those who may have held such office for six consecutive years, shall serve for a term of two years, with successors, thereafter, serving for a term of four years?

**AGAINST: (8,766 VOTES)**

Amending Article II of the City Charter, Nominations and Elections, to read in pertinent part as follows:

**Section 2.1 City Elections.**

. . . B. **Officers Elected.** The qualified voters of El Paso shall, as necessary to fill expired terms, elect the following officers at each regular election: A Mayor, District Representatives, Judges of the Municipal Courts and, until the election of 1989, a City Tax Collector. Each Representative shall be elected from a district and the Mayor and other officers shall be elected from the City at large. Commencing in June 2005, the Judges of the Municipal Courts shall be elected for four year terms and the Mayor shall serve for a term of four (4) years. Commencing in June 2005, any persons elected as Representatives who have held such office for six consecutive years shall serve a two-year term. Persons elected as Representatives from four (4) other Representative Districts, to be identified by the drawing of lots, shall serve for a term of four (4) years. The persons elected as Representatives from the remaining Representatives Districts shall serve an initial two-year term. Thereafter, each Representative will serve a four-year term. Prior to the commencement of terms of office in 1993 there shall be six Representatives. Beginning with the terms of office commencing in 1993, and continuing thereafter, there shall be eight Representatives. Each officer shall hold office during the term for which elected and established herein and until the election and qualification of a successor, unless sooner removed in any manner provided in this Charter.

**Section 2.2 Nominations.**

A. **Qualifications for Office.** In addition to the requirements prescribed by law, the following shall be the qualifications for City elective offices:

. . . 5. Candidates for Mayor and Representative shall be eligible for that elective office only when holding that office for a term of four years shall not result in the candidate exceeding the term limitation established in Section 2.2 C. . . .

**AMENDMENT NO. 2**

**FOR (15,136 VOTES)** Shall Section 2.2 of the City Charter be amended to provide that no Mayor or Representative may hold such office for more than a total of ten years throughout their lifetime?

**AGAINST (6,679 VOTES)**

Amending the Charter of the City of El Paso, Section 2.2. Nominations, to read in pertinent part as follows:

**Section 2.2 Nominations.**

. . . C. Limitation. No Mayor or Representative may hold such office for more than a total of ten years throughout their lifetime.

**AMENDMENT NO. 3**

**FOR (10,741 VOTES)** Shall Section 3.2 of the City Charter be amended to provide that, commencing on September 1, 2004, the monthly base salary for the City Representatives shall be two thousand, five hundred dollars, and the monthly base salary of the Mayor shall be four thousand dollars?

**AGAINST (11,026 VOTES)**

Amending the Charter of the City of El Paso, Section 3.2. Salaries, to read as follows:

Commencing on September 1, 2004, the monthly base salary for the City Representatives shall be two thousand, five hundred dollars, and the monthly base salary for the Mayor shall be four thousand dollars. The Council shall have the power to increase these salaries by not more than five percent, but such act must be taken at least three months prior to the next general city election and may not take effect until after the inauguration of the next Council. Any proposed salary increase in excess of five percent shall be subject to voter approval, by referendum, conducted at a general City election.

**AMENDMENT NO. 4**

**FOR (11,812 VOTES)** Shall Articles III, IV, V, VI, VII and VIII of the City Charter be amended to adopt a "Council-Manager" form of government instead of a "Strong Mayor" form of government and to enumerate the authority and duties of the Mayor, Council and City Manager?

**AGAINST (9,973 VOTES)**

Amending Articles III, IV, V, VI, VII and VIII of the City Charter to read in pertinent part as follows:

### **ARTICLE III THE CITY COUNCIL**

#### **Section 3.1. Creation; Composition; Powers and Duties.**

There shall be a City Council consisting of District Representatives and the Mayor. The Council shall have legislative powers, and the power and duty to select, direct, and regularly evaluate the City Manager, as well as such other and specific powers and duties as may be provided by law or this Charter.

#### **Section 3.3. Prohibitions.**

...B. Nepotism. No person shall be appointed as City Manager or to any City board or commission who, at the time of appointment, is related in the first or second degree of consanguinity or in the first or second degree of affinity to a member of the Council. The words "consanguinity" and "affinity" are, in popular usage, often referred to, respectively, as "blood" and "marriage."

#### **C. "Lame Duck" Elected Officers Not to Make Contracts.**

...2. From the date of any City general election until inauguration of those elected, neither the Mayor nor the City Council shall make any appointment of a City Manager, or any appointments to any standing or special public boards, commissions or committees of the City, except when in conflict with State law or when due process rights of employees or citizens would be compromised.

### **Section 3.5. CITY COUNCIL PROCEDURES AND RULES**

#### **...E. Veto.**

Ordinances and resolutions finally adopted by the Council shall be filed in the office of the City Clerk and signed by the Mayor before they take effect. If the Mayor vetoes the ordinance or resolution, reasons shall be set forth by the Mayor in writing, and the ordinance or resolution with those reasons shall be returned to the Council. However, the Mayor shall not have any veto power over any City Council action which removes the City Manager. To override the Mayor's veto, three fourths of all of the Representatives must vote in favor of the returned ordinance or resolution, in which event the adopted ordinance or resolution shall become law. If the Mayor shall either fail to approve or object in writing to any adopted ordinance or resolution within five days after it has been filed with the City Clerk, exclusive of the day of filing, it shall become law.

### **Section 3.9. ORDINANCES IN GENERAL.**

... B. Legislative Procedure. Except as provided in Section 3.13, an ordinance may be introduced by any Council member at any meeting of the Council. A proposed ordinance must be filed with the City Clerk in sufficient time for inclusion on the agenda for the Council meeting at which it is to be introduced. Upon such filing the City Clerk shall distribute copies to each member of the Council and to the City Manager. . . .

## **ARTICLE IV THE MAYOR**

### **Section 4.1. POWERS OF THE MAYOR.**

A. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties except as may be specifically provided in this Charter.

B. The Mayor shall be a member of and preside over the City Council, having the power to propose legislation; represent the City in intra-governmental and intergovernmental relationships; appoint with the consent of the Council the members of citizen advisory boards and commissions; make appointments and perform duties pursuant to federal and state law; present an annual state of the City message, break tie votes, veto legislation except for any City Council action which removes the City Manager, convene the Council in special session and perform other duties specified by the Council.

### **Section 4.2. DUTIES OF THE MAYOR.**

A. Under the authority of the Council, the Mayor shall sign all lawful acts of the Council, such as ordinances, resolutions, conveyances, grant agreements, plats, contracts and bonds. The Council may by ordinance provide that additional designated officials may sign such acts of Council on behalf of the Mayor, as provided by law.

B. The Mayor shall have the sole authority to appoint and remove the Mayor's Executive Secretary and Executive Assistant(s).

## **ARTICLE V CITY MANAGER**

### **Section 5.1. APPOINTMENT; QUALIFICATIONS; COMPENSATION.**

The City Council by a majority vote of its total membership shall appoint a City Manager and fix the Manager's compensation. The City Manager shall be appointed solely on the basis of executive and administrative qualifications. The Manager need not be a resident of the City at the time of appointment but shall establish residence in the City within sixty days after the date of appointment.

### **Section 5.2. POWERS AND DUTIES.**

The City Manager shall be the chief administrative officer of the City, responsible to the Council for the administration of all City affairs placed in the Manager's charge by or under this Charter. The City Manager shall:

- (1) Take personnel actions regarding employees as authorized under this Charter, except as provided by law or by any agreement with the County of El Paso with respect to City-County Health and Environmental District employees. The City Manager may authorize department heads to exercise these powers with respect to their subordinates;
- (2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law;
- (3) Attend all City Council meetings. The City Manager shall have the right to take part in discussion but shall not vote;

- (4) See that all laws, provisions of this Charter and acts of the City Council, subject to enforcement by the City Manager or by employees subject to the Manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual budget and capital program to the City Council;
- (6) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (7) Make such other reports as the City Council may require concerning the operations of City departments, offices and agencies subject to the City Manager's direction and supervision;
- (8) Keep the City Council fully advised as to the financial condition and future needs of the City;
- (9) Make recommendations to the City Council concerning the affairs of the City;
- (10) Provide support to the offices of the Mayor and the Representatives; and
- (11) Perform such other duties as are specified in this Charter or may be required by the City Council.

**Section 5.3. REMOVAL.**

The City Manager may be removed by a resolution approved by the majority of the total membership of the City Council, with or without cause.

**Section 5.4. ACTING CITY MANAGER.**

By letter filed with the City Clerk, the City Manager shall designate a City employee to exercise the powers and perform the duties of City Manager during the Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another employee of the City to serve until the City Manager returns.

**Section 5.5. INTERFERENCE WITH PERSONNEL OR ADMINISTRATION.**

Except for the purposes of investigations under Section 3.8 and inquiries, the members of the Council shall deal with City employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor any of its members shall give orders to any such employee, either publicly or privately. Neither the Council nor any of its members shall in any manner control or demand the appointment or removal of any City employee whom the City Manager is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such employees.

**ARTICLE VI CIVIL SERVICE**

**Section 6.2-2 UNCLASSIFIED SERVICES.**

The unclassified services shall include only the following positions:

. . . I. The City Manager.

**Section 6.3-1. APPOINTMENT.**

. . . D. Appointment of classified and unclassified department heads, excluding the City Attorney, will be made by the City Manager, subject to confirmation by a majority of the entire Council.

**Section 6.2-3. REMOVAL OF UNCLASSIFIED PERSONNEL.**

After the effective date of this Charter Amendment, except as otherwise provided by law or in this Charter, unclassified personnel may be removed by the City Manager, or by the department head with approval of the City Manager, except for hearing officers and the Commission Recorder, who may be removed only by a majority vote of the commissioners, present and voting, based on a quorum of five.

**Section 6.3-2. REMOVAL.**

- A. **For Cause.** After the effective date of this Charter Amendment, department heads may be removed or demoted from their positions in the Civil Service for cause by the City Manager for any of the specifications set forth in Article VI, Section 6.13-3, of this Charter. In such a case, the department head may appeal to the Commission as provided in Article VI, Section 6.13-4.
- B. **For Good of Service.** In addition, department heads who were appointed after the effective date of this Charter may be removed by the City Manager for any reason or reasons which will promote the good of the service and the efficiency of the department affected, or the City Manager may specifically demote the department head to a grade at or below that formerly held in the City Civil Service. If removed or demoted after serving twelve months, the department head may appeal to the Council and demand in writing that the City Manager file written reasons for the removal or demotion with the Council. To perfect an appeal, written demand must be made by the department head within ten days after receipt of notice of the removal or demotion. The Council shall hold a hearing on the department head's appeal within fifteen days from receipt of the written charges from the City Manager. Pending the hearing, the Council may suspend the department head from office. At the hearing the department head shall be reinstated unless a majority of the entire Council affirms the action taken by the City Manager. The action taken by the Council shall be final.

**ARTICLE VII PUBLIC FINANCE**

**Section 7.2. BUDGET.**

The budget must present a complete financial plan for the fiscal year. The elements listed below must be included:

- A. **Message.** The City Manager's budget message shall encompass a statement of fiscal policy, and a projection of income and expenditures for the current year.
- B. **Summary.** A general budget summary, with supporting schedules, shall reflect all material income and expense figures for a balanced budget.
- C. **Estimates.** The City Manager shall estimate anticipated income and expenditures and shall explain significant deviations from the preceding year's budget.
- D. **Debt.** The City Manager shall state the extent of the bonded debt and the amounts in debt service funds.

E. **Resolutions.** The City Manager shall attach the proposed budget resolution; and any other resolutions or ordinances required to effectuate the budget.

**Section 7.3. BUDGET PROCEDURES.**

The procedures here stated shall govern adoption of the annual budget and the appropriations of monies pursuant thereto.

A. **Department Estimates.** Annually, but not later than June 1, administrative units of the City shall transmit estimates of their budgetary requirements and descriptions of their work programs to the Office of Management and Budget and to the City Manager. The work programs shall include all requested appropriations for the departments' operation and maintenance, including capital equipment, construction, and acquisition. . . .

G. **Balanced Budget.** If at any time during the fiscal year, the City Manager ascertains that available income for the year, including fund balances, will be less than total appropriations, the Council shall reduce those appropriations so that expenditures will not exceed income. Expenditures in excess of gross revenues during the fiscal year are prohibited.

**ARTICLE VIII ADOPTION AND TRANSITION**

**Section 8.7. TRANSITIONAL PROVISION TO THE 2004 AMENDMENTS.**

Amendments to this Charter that are approved at an election on February 7, 2004, create a new system of government that requires an orderly transition. Accordingly, the following transitional provisions shall apply:

A. Amendments to Articles III, IV, V, VI and VII relating to a Council-Manager form of government shall take effect on September 1, 2004. Until such amendments become effective, the provisions of Articles III, IV, V, VI, and VII of the City Charter shall remain in effect. All other amendments approved take effect as provided by law.

B. On September 1, 2004, the position of Chief Administrative Officer shall be abolished and the person appointed to that position shall be automatically removed, provided however, that on and after September 1, 2004 and until such time as the Council appoints a City Manager or other Interim City Manager, the person serving as Chief Administrative Officer on August 31, 2004 shall serve as Interim City Manager and shall have the powers and duties of the City Manager. Upon the appointment of the City Manager, the Interim City Manager shall be automatically removed.

C. Notwithstanding any other provision of this section, no amendment that is approved at the election on February 7, 2004 shall be effective unless and until the Voting Rights Section of the Civil Rights Division of the United States Department of Justice issues a letter interposing no objection to the implementation of the amendment, if voting rights review is required for the amendment.



**AMENDMENT NO. 5**

**FOR (15,760 VOTES)** Shall Section 7.20 of the City Charter be amended to provide that disbursements of funds may be made by check or electronic means and that checks in the amount of twenty-five thousand dollars or more shall be countersigned by the Mayor?

**AGAINST (5,871 VOTES)**

Amending the Charter of the City of El Paso, Section 7.20. Disbursement Of City Funds, to read as follows:

**Section 7.20. DISBURSEMENT OF CITY FUNDS.**

All disbursement of City funds shall be by check or electronic means, signed by the Comptroller and countersigned by the City Clerk or other designees of the City Council. The Mayor shall countersign all checks in the amount of twenty-five thousand dollars or more.

**AMENDMENT NO. 6**

**FOR (15,819 VOTES)** Shall Section 6.13-11 D of the City Charter be amended to provide that the City shall have the authority to contract with the Firemen and Policemen Pension Fund to make an additional, one-time contribution solely for an under-funded liability, subject to such terms and conditions as the City may require?

**AGAINST (6,143 VOTES)**

Amending the Charter of the City of El Paso, Section 6.13-11. Pension Plans, to add the following to read in pertinent part as follows:

Section 6.13-11 D Firemen and Policemen Pension Fund of El Paso.

- C. **Firemen and Policemen Pension Fund of El Paso.** . . . Notwithstanding the foregoing, the City shall have the authority to contract with the Firemen and Policemen Pension Fund to make a one time contribution (either in lump sum or installments) to the Firemen and Policemen Pension Fund solely for an under-funded liability as of December 31, 2003 or the date of contribution, under such conditions as the City in its sole discretion may require and provided that (a) such authority, action and/or contribution complies with the Firemen and Policemen Pension Fund plan documents and all applicable statutes, laws, rules and regulations, and (b) a binding written agreement between the City and the Firemen and Policemen Pension Fund has been reached regarding (i) the amount of such under-funded liability, if any, (ii) the amount to be contributed by the City for such under-funded liability, and (iii) procedures (including, if necessary,

amendments to the Firemen and Policemen Pension Fund plan documents) for managing the Firemen and Policemen Pension Fund on a going forward basis.

(b) That the City Council officially finds, determines and declares the result of said City Charter Amendment election to be that the following City Charter Amendments have received a favorable majority vote in all respects and have carried: Nos: 1, 2, 4, 5 and 6, and that the following City Charter Amendment did not receive a majority vote and therefore did not carry: No. 3.

3. That on file in the City Clerk's Office and made a part hereof by reference are copies of the mechanical precinct tabulations of the votes cast at the 2004 City Charter Amendment Election showing the number of votes cast in each precinct.

4. That this Resolution was read once by the City Council and was deemed by said City Council that upon passage of the Resolution it shall take effect immediately.

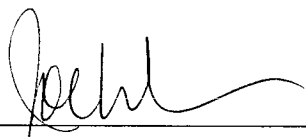
This Resolution shall be spread upon the minutes of the City Council, and the City Clerk shall record the amendments so adopted in the separate book kept in her office for such purpose. The Mayor shall certify the adoption of said amendments to the Secretary of State in accordance with Section 9.007 of the Texas Local Government Code.

ADOPTED this 17<sup>th</sup> day of February 2004.

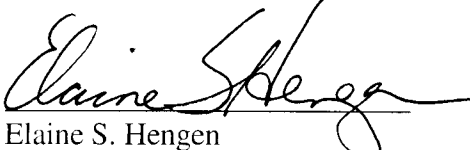
ATTEST



Richarda Duffy Momsen  
City Clerk

  
\_\_\_\_\_  
Joe Wardy, Mayor

APPROVED AS TO FORM:



Elaine S. Hengen  
Assistant City Attorney