

**PROPOSITION – CHARTER AMENDMENT**  
**REAL ACCOUNTABILITY, CHECKS AND BALANCES**  
**IN CITY GOVERNMENT**

**INITIATIVE**

The people of the City of San Diego hereby declare and ordain as follows:

SECTION 1. Statement of the People’s Intent

(a) In 2004, the voters in the City of San Diego [the City] approved certain amendments to the San Diego City Charter [the Charter], by way of a measure identified on that ballot as Proposition F, implementing a “strong mayor” form of government, for a trial period, to make city government more accountable and responsive to the People of the City [the People], and to create a system of “checks and balances” that would safeguard the City’s fiscal health and prevent the financial and organizational problems of the recent past.

(b) The People have determined that additional amendments to the Charter are necessary to strengthen the system of checks and balances introduced by Proposition F.

(c) The People want to ensure that, when the trial period is over, they have a chance to vote on either making permanent or terminating the strong mayor form of government they approved in 2004.

(d) The People have also determined that the mayoral veto provided by Proposition F is ineffective, in that if the Mayor exercises this power, it requires no more than the same number of Council members who originally voted for the vetoed measure to override the veto.

(e) The People have further determined that the Mayor should be more directly accountable regarding City services and the management of the City's budget, consistent with Proposition F.

(f) The People believe that the Mayor should have the authority to control expenditures and operations within each department to ensure city government is operated as efficiently as possible, but that the scope of this authority under the Charter is currently uncertain and should be clarified.

(g) The People believe that certain recommendations from the Report of the Audit Committee of the City of San Diego, dated August 8, 2006 [the Kroll Report], specifically the recommendations to form an Independent Audit Committee, including a majority of independent financial experts, and establish the position of the City Auditor, independent of the Mayor and Council, are essential to a system of checks and balances and therefore should be implemented.

(h) It is further the intent of the People that the provision of essential public safety services should not be adversely impacted by the reforms set forth in this initiative.

(i) The People intend the following Proposition to amend the San Diego City Charter as follows:

The portions of the charter to be added are underlined  
and the portions to be deleted are printed in ~~strike-out~~ type

SECTION 2. **Section 255** of the City Charter is hereby amended as follows:

**Section 255: Operative Date; Future Action by Voters**

(a) [No change in text.]

(b) To ensure the People’s right to vote on the “strong mayor” form of government, the Council shall timely introduce and adopt, for the June 2010 primary election, an ordinance placing on the ballot the following questions: (1) whether the “strong mayor” form of government, as set forth in this Article XV, shall become permanent, and (2) whether the number of Council districts shall be increased to nine at the time of the next City Council district reapportionment which follows the national decennial census in 2010. The “strong mayor” form of government put into place by this Article XV shall remain in effect until the results of the election are final, including approval by the Secretary of State. After January 1, 2006, the provisions of this Article shall remain in effect for a period of five years (until December 31, 2010) at which time this Article shall be automatically repealed and removed from the Charter. However, the Council and the people reserve the right to propose amendments to the Charter at the November 2010 election or sooner to extend, make permanent, shorten or repeal the effective period of this Article and to consider increasing the number of Council districts to nine at the time of the next City Council district reapportionment which follows the national decennial census in 2010.

SECTION 3. **Section 285** of the City Charter is hereby amended as follows:

**Section 285: Enactment Over Veto**

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. After such reconsideration, the resolution or ordinance shall

become effective notwithstanding the Mayor's veto if it receives the affirmative vote of one more Councilmember than the number of Council members required by the provisions of this Charter or other superseding law for the initial passage of the vetoed resolution or ordinance. ~~If, after such reconsideration, at least five members of the Council vote in favor of passage, that resolution or ordinance shall become effective notwithstanding the Mayor's veto. If more than five votes are required for the passage of any resolution or ordinance by the provisions of this Charter or other superseding law, such larger vote shall be required to override the veto of the Mayor. If a vetoed resolution or ordinance does not receive sufficient votes to override the Mayor's veto within thirty calendar days of such veto, that resolution or ordinance shall be deemed disapproved and have no legal effect.~~

SECTION 4. **Section 290** of the City Charter is hereby amended as follows:

**Section 290: Council Consideration of Salary Ordinance and Budget; Special Veto Power**

- (a) [No change in text.]
- (b) [No change in text.]
  - (1) [No change in text.]
  - (2) [No change in text.]
    - (A) [No change in text.]
    - (B) The Council shall thereafter have five business days within which to override any vetoes or modifications made by the Mayor pursuant to section 290(b)(2)(A). Any item

that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden by a vote of the Council in accordance with section 285 ~~the vote of at least five members of the Council~~. In voting to override the actions of the Mayor, the Council may adopt either an amount it had previously approved or an amount in between the amount originally approved by the Council and the amount approved by the Mayor, subject to the balanced budget requirements set forth in section 71.

(C) [No change in text.]

(c) [No change in text.]

(d) [No change in text.]

SECTION 5. **Section 39** of the City Charter is hereby amended by striking certain portions of the existing text, and replacing them with new text, as follows:

The Chief Financial Officer ~~City Auditor and Comptroller~~ shall be appointed by the City Manager and confirmed ~~elected~~ by the Council for an indefinite term and shall serve until his or her successor is elected and qualified. The Chief Financial Officer ~~City Auditor and Comptroller~~ shall be the chief fiscal officer of the City, and shall be an unclassified employee within the scope of Section 117(a) of this Charter. He or she shall exercise supervision over all accounts, and accounts shall be kept showing the financial transactions of all Departments of the City upon forms prescribed by the Chief Financial Officer ~~him~~ and approved by the

City Manager and the Council. Subject to the direction and supervision of the City Manager, the Chief Financial Officer shall be responsible for the creation of the City's annual budget. He or she shall also be responsible for oversight of the City's financial management, treasury, risk management and debt management functions. He or she shall submit to the City Manager and the Council at least monthly a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department, Division and office thereof. No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the Chief Financial Officer ~~Auditor and Comptroller~~ shall certify in writing that there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof. He or she shall perform the duties imposed upon public entity chief financial officers ~~City Auditors and Comptrollers~~ by the laws of the State of California, and such other duties as may be imposed upon him or her by ordinances of the Council, but nothing shall prevent the City Manager ~~Council~~ from transferring to other officers matters in charge of the Chief Financial Officer ~~City Auditor and Comptroller~~ which do not relate directly to the finances of the City. The Chief Financial Officer ~~He~~ shall prepare and submit to the City Manager such information as shall be required by the City Manager for the preparation of an annual budget. The

Chief Financial Officer He shall appoint his or her subordinates subject to the Civil Service provisions of this Charter. Except as provided by Section 66 of this Charter, the authority, power and responsibilities conferred upon the position of Auditor and Comptroller by any other provision of this Charter shall be transferred to, assumed and carried out by the Chief Financial Officer.

SECTION 6. **Section 45** of the City Charter is hereby amended by striking certain portions of the existing text, and replacing them with new text, as follows:

The Manager shall appoint the a Treasurer ~~subject to confirmation by a majority of the members of the Council.~~ He or she shall perform duties imposed upon a City Treasurer by general law, the City Charter, or ordinances of the Council. The office of the Treasurer shall consist of the Treasurer and such subordinate officers and employees as shall be authorized by ordinance.

[no change to remaining text]

SECTION 7. **Section 65** is hereby added to Article VII of the Charter, to read as follows:

**Section 65: Independent Audit Committee**

(a) There is hereby created an Independent Audit Committee, consisting of three (3) members, composed of two (2) members of the public, appointed by the Mayor and confirmed by the Council, and one (1) sitting member of the Council appointed by the Council. The chair of the Audit Committee shall be selected by the Audit Committee. Public

members of the Audit Committee shall have demonstrable expertise in accounting, auditing and financial reporting, and shall be capable of critical reading of financial statements. Each public member of the Audit Committee shall serve without compensation for a period of five (5) years, or until his or her successor is appointed, whichever period is longer. Initially, however, the public members shall be appointed in a manner so that one is appointed for a first term of three (3) years, followed by a second five-year term, with the other public member appointed to two full five-year terms. Public members of the Audit Committee are limited to two (2) consecutive terms, with one (1) term intervening before they become eligible for reappointment. Council members of the Audit Committee shall serve no longer than their term of elective office, and may not qualify thereafter as public members until at least five (5) years have passed since the termination of their term of elective office. Members of the Audit Committee shall not have any personal or financial interests which would conflict with their duties as members of the Audit Committee.

(b) All meetings of the Audit Committee shall be noticed and conducted in compliance with the Ralph M. Brown Act.

(c) The purpose of the Audit Committee is to provide objective oversight of the City's financial reporting, including the City's financial statements, accounting and other reporting processes, and systems of internal controls regarding finance, accounting, business practices and

conduct. In carrying out its oversight functions, the Audit Committee shall:

- (i) be responsible for overseeing the work of the City Auditor;
- (ii) in consultation with the Manager, be responsible for the appointment, retention and, where appropriate, replacement of any registered public accounting firm selected to be the City's independent outside auditor for the purposes of preparing or issuing an audit up to and including the City's annual audited financial statements; and meet with the independent auditors prior to the audit for each fiscal year to review the planning, staffing and scope of the audit;
- (iii) review and discuss the City's annual audited financial statements and any periodic financial statements with the Manager, the Chief Financial Officer, the City Auditor and the independent auditors;
- (iv) recommend to the Council whether the City's audited financial statements should be received by the Council;
- (v) review major changes to the City's auditing and accounting principles and practices as suggested by the independent auditors or management;
- (vi) review and discuss with the Manager, the Chief Financial Officer and the independent auditors the adequacy and effectiveness of the City's internal controls and the effectiveness of the City's disclosure controls and procedures;

(vii) review and discuss with the Manager, the Chief Financial Officer, and the independent auditors:

(A) any material financial or non-financial arrangements that do not appear on the City's financial statements;

(B) any transactions or courses of dealing with parties related to the City that are significant in size or involve terms or other aspects that differ from those that would likely be negotiated with independent parties, and that are relevant to an understanding of the City's financial statements;

(C) material financial risks that are designated as such by management or the independent auditors.

(viii) establish procedures for the receipt, retention and treatment of complaints received by the Audit Committee regarding accounting, internal accounting controls or auditing matters; and the confidential, anonymous submission by the City's employees or members of the public of concerns regarding accounting or auditing matters;

(ix) obtain, review and discuss with the independent auditors annually or more often if deemed necessary by the Audit Committee a report by the independent auditors describing (i) the independent auditors' internal quality-control procedures, and (ii) any material issues raised by the most recent internal quality control review or peer review of the independent auditors, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one

or more independent audits carried out by the independent auditors, and the steps taken to address those issues:

- (x) review the report by the independent auditors concerning:
  - (A) all critical accounting policies and practices to be used;
  - (B) alternative treatments of financial information within Generally Accepted Accounting Principles [GAAP] that have been discussed with management officials, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the independent auditors; and
  - (C) any other material written communications between the independent auditors and the City's management.
- (xi) review and discuss with the independent auditors annually,

or more often if deemed necessary by the Audit Committee, all relationships the independent auditors have with the City in order to evaluate the independent auditors' continued independence, and receive from the independent auditors on an annual basis a written statement regarding the auditors' independence.

(d) The Audit Committee shall have no authority or responsibility to prepare or direct the preparation of the City's financial statements.

(e) The Audit Committee shall appoint the City Auditor, as described in Section 66 of this Charter.

SECTION 8. **Section 66** is hereby added to Article VII of the Charter, to read as follows:

**Section 66: City Auditor.**

(a) The position of the City Auditor is hereby established. The City Auditor shall be appointed by the Audit Committee established by Section 65 of the Charter, and shall serve for a term of ten (10) years. The City Auditor shall be a certified public accountant or a certified internal auditor. The Audit Committee, by resolution adopted by not less than two-thirds of its members, may remove the City Auditor from the office before the expiration of his or her term for misconduct, inefficiency, incompetence, inability or failure to perform the duties of such office or negligence in the performance of such duties, provided that the Audit Committee first states, in a written report to the Council, the reasons for such removal.

(b) The City Auditor shall have the following powers and duties:

(i) Prepare an annual Audit Plan to identify the areas of the organization to be audited. The annual Audit Plan will be based on a formal Risk Assessment of City operations. The Risk Assessment will be performed in accordance with the Professional Practice of City Auditing. This Risk Assessment will identify the City's activities, organizational units, or functional processes that have the highest level of inherent risk to be included in the annual Audit Plan for audit coverage;

(ii) Conduct or cause to be conducted an annual audit of internal controls over financial reporting, and post audits of the fiscal transactions and accounts kept by or for the City and its departments, offices and agencies. Such audits shall include but not be limited to the evaluation of key controls over financial reporting, examination and analysis of fiscal procedures and the examination, checking and verification of accounts and expenditures. The audits shall be conducted in accordance with Generally Accepted Government Auditing Standards in conjunction with the Internal Standards for the Professional Practice of Internal Auditing, and shall include tests of the accounting records and other auditing procedures as the City Auditor may deem necessary under the circumstances. The audits shall include the issuance of suitable reports of examination so the Audit Committee, Council, Chief Financial Officer, and the public will be informed as to the adequacy of the City's internal controls over financial reporting.

(iii) Conduct performance audits, as appropriate of any City department, office or agency, in consultation with the Manager. A "performance audit" means a post audit which determines with regard to the purpose, functions and duties of the audited agency all of the following:

(A) Whether the audited department, office or agency, is managing or utilizing its resources, including public funds,

personnel, property, equipment and space in an economical and efficient manner.

- (B) Causes of inefficiencies or uneconomical practices, including inadequacies in information management systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing policies and equipment.
- (C) Whether the purposes and/or functions of the department or agency are being satisfactorily achieved.
- (D) Whether objectives established by the Manager, Mayor, Council or other authorizing body are being met.
- (E) Whether audit recommendations will improve efficiency and effectiveness.

(iv) Conduct special audits and investigations, as requested by the Council, Manager, Audit Committee, or deemed necessary by the City Auditor. “Special audits” and “investigations” mean assignments of limited scope, intended to determine:

- (A) The accuracy of information provided to the Manager, Audit Committee, Council or public.
- (B) The costs and consequences of recommendations made to the Council.

(C) The validity of accusations of material fraud, waste or abuse reported through the City's confidential hotline and other sources.

(D) Other information concerning the performance of City Departments, Offices or Agencies as requested by the Manager or Audit Committee.

(v) The City Auditor shall have access to, and authority to examine any and all documents including but not limited to books, accounts, internal memoranda, writings and tapes, reports, vouchers, correspondence files, electronic data, and other records, bank accounts, money and other property of any City department, office or agency, whether created by the Charter or otherwise. It is the duty of any officer, employee or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with, and to make full disclosure of all pertinent information. All City contracts with consultants, vendors or agencies will be prepared with an adequate audit clause to allow the City Auditor access to the entity's records needed to verify compliance with the terms specified in the contract.

(vi) Prepare and submit to the Audit Committee, on a quarterly basis, a written report of the City Auditor's activities and findings.

together with any recommendations to improve the administration of the City;

(vii) Perform other auditing functions, consistent with other provisions of this Charter, and prepare and submit such other reports, as may be requested in writing by the Manager, Audit Committee or Council such as but not limited to:

(A) Assessing City departments, agencies and vendors compliance with appropriate City, State and Federal policies, procedures, laws, regulations, and contracts.

(B) Evaluating if City assets are properly accounted for and safeguarded from losses.

(C) Reviewing the City's information technology systems to ensure electronic data is accurately processed and adequately safeguarded.

SECTION 9. **Section 81** of the City Charter is hereby amended by striking the existing text of the Section, and replacing it with new text as follows:

**Section 81: Intradepartmental Budget Allotments**

(a) To avoid deficits and enhance the efficient performance of each department, the Manager shall have the authority to reduce the budgetary allotments within any department by up to ten percent (10%) of the funds appropriated to that department, on a fund by fund basis, so long as the Manager (i) reports any such reduction to the Council, in writing, within seven (7) calendar days of the Manager's action reducing the allotment,

and (ii) confirms that the reduction will not materially impair the services provided to the public or City operations, provided by that department.

(b) The Manager's authority under this Charter section shall not be used in any way that would impair the operations of the City's police, fire, emergency medical, or lifeguard services, by reducing either the number of Public Safety Employees employed by the City as of the date of the Manager's action, or the equipment and resources used by those Public Safety Employees in the performance of their duties. For purposes of this Charter section, the term Public Safety Employees means any City employee who is eligible for public safety retirement under the City's employee retirement system.

~~The Manager shall be responsible for establishing internal budgetary allotments based on the allocations contained in the annual appropriation ordinance for each department of the City.~~

SECTION 10. **Section 111** of the City Charter is hereby amended by striking certain portions of the existing text of the Section, and replacing them with new text as follows:

Each year the Council shall provide that an audit shall be made of all accounts and books of all the Departments of the City. Such audit shall be made by independent auditors who are in no way connected with the City. Upon the death, resignation or removal of any officer of the City, the City Auditor and Comptroller shall cause an audit and investigation of the accounts of such officer to be made and shall report to the ~~Manager and the Council~~ Audit Committee. Either the Audit Committee or the Council

~~or the Manager~~ may at any time provide for an independent examination or audit of the accounts of any or all officers or Departments of the City government. In case of death, resignation or removal of the City Auditor and Comptroller, the Audit Committee Manager shall cause an audit to be made of his or her accounts. If, as a result of any such audit, an officer be found indebted to the City, the City Auditor and Comptroller, or other person making such audit, shall immediately give notice thereof to the Audit Committee, the Council, the Manager and the City Attorney, and the latter shall forthwith proceed to collect such indebtedness. This section shall not be subject to the provisions of Section 11.1 of this Charter.

#### SECTION 11. Severability

If any Charter addition or amendment contained in this proposition, or any provision within any such Charter addition or amendment, is held by a court of law to be invalid, or is superseded by a numerically superior vote as provided in Section 12 of this measure, the remaining Charter additions and amendments, and provisions therein, shall not be affected but shall remain in full force and effect, and to that end the provisions of this proposition are severable.

#### SECTION 12. Conflicting Measures

If any other measure, appearing on the same ballot as this measure, addresses the same subject matter in a way that conflicts with the treatment of the subject matter in this proposition, and if each measure is approved by a majority vote of those voting on each measure, then as to the conflicting subject matter the measure with the highest affirmative

vote shall prevail, and the measure with the lowest affirmative vote shall be deemed disapproved as to the conflicting subject matter.

**-- END OF PROPOSITION --**