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REPORT TO THE COMMITTEE ON RULES, OPEN GOVERNMENT AND
INTERGOVERNMENTAL RELATIONS

BALLOT MEASURE TO CONSIDER THE PERMANENCY OF THE STRONG MAYOR
FORM OF GOVERNANCE

INTRODUCTION

On January 1, 2006, the City of San Diego began a five-year trial of the “Strong Mayor” form of governance. The City Charter sets forth the provisions for this form of governance in Article XV. The Article will be automatically repealed on December 31, 2010, unless extended or made permanent by the voters.¹

In June 2008, voters approved a Charter amendment that requires the City Council to place a measure on the ballot for the June 2010 election. The measure would: (1) make Article XV permanent as of January 1, 2011; (2) increase the number of Council districts to nine at the time of the next City Council district reapportionment following the national decennial census in 2010; and (3) increase the number of Council votes required to override a mayoral veto of an ordinance or resolution to a two-thirds majority of the Council, with such increase to take effect when a ninth Council member is elected and qualified. Charter § 255(c).

Council Policy 000-21 provides that proposed ballot measures are to be discussed at the Committee on Rules, Open Government and Intergovernmental Relations [Rules Committee] prior to Council consideration. In order to meet deadlines for the June 2010 election, the measure should be discussed at the Rules Committee no later than January 13, 2010, so Council may adopt a ballot measure by March 1, 2010. This Report addresses the issues to consider in placing the ballot measure before the voters and provides a draft measure for discussion.

DISCUSSION

I. Short Version or Integrated Version Ballot Measure

The “Strong Mayor” provisions are found at the end of the Charter in Article XV. The Article contains provisions that temporarily suspend the operation of certain Charter sections

¹ Although the Charter references making the “Strong Mayor” form of governance “permanent,” voters can always approve a revision to the Charter to modify the form of governance.

and transfers authority from the City Manager to the Mayor during the five-year trial period. Charter § 260. Article XV automatically sunsets and returns the City to the City Manager-Council form of governance unless extended or made permanent by the voters. Charter § 255(b).

The Council is required to place a measure on the June 2010 ballot for voters to consider the permanency of the Strong Mayor form of governance. Charter § 255(c). In doing so, the Council must decide whether to simply keep Article XV and make necessary revisions to the Charter sections dealing with elections, Council districts, and the veto [Short Version], or to incorporate the “Strong Mayor” form of governance throughout the Charter [Integrated Version].

A. Short Version

This Office has prepared a Short Version dated October 8, 2009, that retains Article XV. The following is a brief overview of the proposed amendments:

Article II “Nominations and Elections”

- Amends sections 4, 5.1, and 10 relating to Council districts, redistricting, and elections, to reflect the creation of a ninth Council district with the election to be held after the 2010 national decennial census and redistricting.

Article III “Legislative Power”

- Amends section 12 relating to the Council to reflect the creation of a ninth Council district with the election to be held after the 2010 national decennial census and redistricting.
- Repeals section 13 “Meetings of the Council,” section 16 “Introduction and passage of Ordinances and Resolutions,” section 17 “When Ordinances and Resolutions Take Effect. Emergency Measures,” and section 22 “Interference by Individual Members of Council with Administrative Service Prohibited,” because they are superseded by provisions in Article XV.

Article V “The Mayor”

- Repeals sections 24 and 25 pertaining to the Mayor and Deputy Mayor because they are superseded by section 265.

Article V “Executive and Administrative Service”

- Repeals section 27 relating to the selection and removal of the City Manager. This section is superseded by sections 260 and 265.

Article XV “Strong Mayor Trial Form of Governance”

- Repeals sections 250, 255, and 260(a) dealing with the purpose, operative dates, and integration of the Charter as it relates to the Strong Mayor form of governance as these sections are no longer necessary.
- Amends section 270(a) relating to the Council to recognize the nine-member Council.
- Amends sections 285 and 290 to establish that six votes are necessary to override a Mayoral veto once a ninth Council member is elected and qualified.

The advantages of the Short Version are that all the “Strong Mayor” provisions would be included in Article XV. This version also may require fewer pages of the Charter to be placed before the voters. The cost of a ballot measure is, in part, dependent on the number of pages of the measure, accordingly, this option may be less expensive. The disadvantages include a lack of organization and continuity. For example, provisions regarding the Council are found both in Article III and Article XV. The provisions of sections 30, 57, and 58 relating to the appointment of the Chief of Police and Chief of the Fire Department must be interpreted with section 265(b)(10), which has contrary language.

B. Integrated Version

The Integrated Version has not been prepared and may require a more extensive revision of the Charter. The advantage of an Integrated Version is that the Strong Mayor form of governance would be incorporated into existing Charter sections rather than tacked on at the end of the Charter. As noted above, Article XV was added specifically to test the Strong Mayor form of governance during the five-year trial. It was designed to be automatically repealed and removed from the Charter should the voters allow the trial period to expire. Accordingly, it was not designed to be a permanent Article in the Charter. However, the Integrated Version may be more costly than the Short Version because it may require more pages in the ballot materials. This is a policy decision for the Council to make. Our Office will prepare this version if requested by the Council or Rules Committee.

II. Additional Amendments to the Strong Mayor Form of Governance

It is likely that other suggestions will be made to further define the Mayor and Council relationship. The question is whether these changes can be incorporated into the ballot measure required by Charter section 255(c). That is, must the Council place a measure on the ballot that deals only with the permanency of the Mayor-Council form of governance, the additional Council district and the veto override, or can additional provisions be added?

We note that section 255(c) does not contemplate any additional Charter amendments in the ballot measure. The section specifies the three items for the voters to consider at the June 2010 election relating to continuance of the Strong Mayor form of governance. It does not authorize additional amendments to the Charter. Accordingly, if the Council wants the voters to


consider further alterations or refinements to this form of governance, a second companion ballot measure may be necessary.

CONCLUSION

The City Council is required to place a measure on the June 2010 ballot for the voters to consider making the "Strong Mayor" form of government permanent, form a ninth Council district, and increase the veto override. In order to meet deadlines for the June 2010 election, the Council must adopt a ballot measure by March 1, 2010. One of the first issues for the Council to decide is whether to proceed with a shorter ballot measure that keeps Article XV or a longer, more comprehensive measure that integrates the "Strong Mayor" into the Charter. Our Office is prepared to assist and provide advice as requested by the Rules Committee or Council.

Respectfully submitted,

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By 
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RC-2009-25

ARTICLE II

NOMINATIONS AND ELECTIONS

SECTION 4. DISTRICTS ESTABLISHED.

For the purpose of electing members of the Council the City shall be divided into eight Districts as nearly equal in population as practicable. A ninth Council district shall be created in the redistricting following the 2010 national decennial census, at which time the City shall be divided into nine (9) council districts as nearly equal in population as practicable. ~~For the municipal primary and general election in 1965, the boundaries of the eight council districts shall be established by the City Council as such Council was elected at the municipal election in 1963.~~ Thereafter the boundaries of such districts shall be subject to alteration and change under the provisions of this Charter.

In any redistricting plan adopted by the Redistricting Commission pursuant to Section 5.1 or ordinance adopted by the Council establishing, changing or altering the boundaries of any Council district, the redistricting plan or ordinance may describe the new boundaries by reference to a map on file in the office of the City Clerk; a metes and bounds description of the new boundaries need not be contained in said redistricting plan or ordinance.

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SECTION 5.1. REDISTRICTING COMMISSION

The members of the City Council shall be elected by districts, as follows:

Subject to the provisions of the City Charter relating to referendum and initiative powers of the people, the sole and exclusive authority to adopt plans which specify the boundaries of districts for the City Council is vested in the Redistricting Commission, to be established by this Section.

Commencing in the year following the year in which the national decennial census is taken under the direction of the United States Congress at the beginning of each decade, the Redistricting Commission shall adopt plans that redistrict the City into ~~eight (8)~~nine (9) Council districts designated by numbers 1 to ~~8~~9 inclusive. Those districts shall be used for all elections of Council members, including their recall, and for filling any vacancy in the office of member of the Council, subsequent to the effective date of this Section (and until new districts are established).

No change in the boundary or location of any district by redistricting as herein provided shall operate to abolish or terminate the term of office of any member of the Council prior to the expiration of the term of office for which such member was elected.

Districts formed by the Redistricting Commission shall each contain, as nearly as practicable, ~~one-eighth~~ninth of the total population of the City as shown by the Federal census immediately proceeding such formation of districts.

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Each redistricting plan shall provide fair and effective representation for all citizens of the City, including racial, ethnic, and language minorities, and be in conformance with the requirements of the United States Constitution and Federal statutes.

To the extent it is practical to do so, districts shall: preserve identifiable communities of interest; be geographically compact — populous contiguous territory shall not be bypassed to reach distant populous areas; be composed of whole census units as developed by the United States Bureau of the Census; be composed of contiguous territory with reasonable access between population centers in the district, and not be drawn for the purpose of advantaging or protecting incumbents.

The Redistricting Commission shall be composed of seven (7) members who shall be appointed by the Presiding Judge of the Municipal Court, San Diego Judicial District. In the event that the Presiding Judge declines to make the appointments, they shall be made by a Municipal Court Judge selected by vote of the Judges of the Municipal Court, San Diego Judicial District. Should the Judges of the Municipal Court decline to so act, then the Redistricting Commission shall be appointed by a panel of three retired Superior Court Judges drawn at random by the City Manager in the fashion described in Penal Code sections 900(a) and 902. In the event that all of the preceding individuals decline to act, then the Redistricting Commission shall be appointed by a majority vote of the City Council in the fashion set forth below. The term “Presiding Judge,” as used herein below, shall include any person or any body acting to appoint the Redistricting Commission pursuant to the provisions of this paragraph.

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The City Clerk shall solicit nominations for appointment to the Redistricting Commission in accordance with this Section and shall distribute to the news media the announcement of a thirty (30) day nomination period (which shall commence on July 1, 2000, and on July 1 of every year in which a national decennial census is taken) and the guidelines for selection of Commission members.

Individuals or organizations desiring to nominate persons for appointment to the Commission shall do so in writing to the City Clerk within the nominating period. The City Clerk shall transmit the names and information regarding all nominees with the names of nominating individuals and organizations to the Presiding Judge immediately upon the close of nominations. The Presiding Judge shall appoint the members constituting the Commission no later than November 1, 2000, and on November 1 of every year in which a national decennial census is taken. The Presiding Judge shall appoint women and men who will give the Redistricting Commission geographic, social and ethnic diversity, and who, in his or her judgement, have a high degree of competency to carry out the responsibilities of the Commission. The appointees shall include individuals with a demonstrated capacity to serve with impartiality in a nonpartisan role.

Each member of the Commission shall be registered to vote in The City of San Diego.

Persons who accept appointment to the Commission, at the time of their appointment, shall file a written declaration with the City Clerk stating that within five (5) years of the Commission's adoption of a final redistricting plan, they will not seek election to a San Diego City public

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office. The members of the Redistricting Commission shall serve until the redistricting plan adopted by the Commission becomes effective and any and all legal and referendum challenges have been resolved.

Any vacancy in the Redistricting Commission which occurs after the Commission is constituted shall be filled within seven (7) calendar days by the Presiding Judge of the San Diego Municipal Court, San Diego Judicial District, following the same procedure and using the same criteria established with this Section and making the selection from the same pool of individuals given consideration for appointment when the Commission was constituted.

Within twenty (20) days after the membership of the Commission is appointed, it shall hold its first meeting at a time and place designated by the City Clerk.

All Commission meetings shall be open to the public and Commission records, data and plans shall be available, at no charge, for public inspection during normal business hours in the office of the City Clerk. Copies of records and plans shall be provided, for a reasonable fee, to any interested person.

The Commission shall elect a chair and a vice chair and shall employ a chief of staff, who shall serve at the Commission's pleasure, exempt from Civil Service, and shall contract for needed staff, technical consultants and services, using existing City staff to the extent possible.

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Aye votes by 5 members of the Commission shall be required for the appointment of its chief of staff, the election of its chair, and the adoption of the final redistricting plan and a majority vote of the Commission shall be required for all other actions. A majority of the entire Commission shall constitute a quorum for the transaction of business or exercise of any power of the Commission.

The Commission shall make every reasonable effort to afford maximum public access to its proceedings. It shall solicit public comment and shall hold at least four (4) public hearings in various geographic areas of the City before the preparation of a preliminary redistricting plan.

At least thirty (30) days prior to the adoption of a final plan, the Commission shall file a preliminary plan with the City Clerk, along with a written statement of findings and reasons for adoption which includes notation of all criteria employed in the process and a full analysis and explanation of decisions made by the Commission.

During the thirty (30) day period after such filing, the Commission shall hold at least three (3) public hearings in various geographic areas of the City before it adopts a final plan. Upon approval of the final plan, the Commission shall adjust the boundaries of any or all of the Council districts of the City pursuant to the final plan. Said final redistricting plan shall be effective thirty (30) days after adoption and shall be subject to the right of referendum in the same manner as are ordinances of the City Council. If rejected by referendum, the same Commission shall create a new plan pursuant to the criteria set forth in Sections 5 and 5.1.

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Within sixty (60) days after the members of the Commission are appointed, the Commission shall adopt a budget and submit it to the Presiding Judge. If he or she approves it, it shall be forwarded to the City Council for its consideration. The City Council shall appropriate funds to the Commission and to the City Clerk adequate to carry out their duties under this Section.

If any part of these amendments to Sections 4 or 5 of the Charter or the addition of Section 5.1 to the Charter or their application to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications which reasonably can be given effect without the invalid provision or application.

SECTION 10: ELECTIONS

Elective officers of the City shall be nominated and elected by all of the electors of the City except that City Council members ~~other than the Mayor~~ shall be nominated and elected by the electors of the district for which elective office they are a candidate.

Commencing with the year 1996, the municipal primary elections to the office of Council member for Districts 1, 3, 5, and 7 shall be held on same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that year.

Commencing with the year 1998, the municipal primary elections to the offices of Council member for Districts 2, 4, 6, and 8 shall be held on same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that

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year.

Commencing with the next municipal primary and general elections following the redistricting occurring after the 2010 national decennial census, and every four years thereafter, the municipal primary and general elections to the office of Council District 9 shall be held.

Commencing with the year 1984 the elections to the offices of Mayor and City Attorney shall be held every four (4) years. The municipal primary election for the offices of Mayor and City Attorney shall be held on the same date in each election year as the California State primary election, and the general municipal election for these offices shall be held on the same date as the California State general election for that year. All other municipal elections which may be held under this Charter shall be known as special municipal elections.

All elective officers of the City shall be nominated at the municipal primary election. In the event one candidate receives the majority of votes cast for all candidates for nomination to a particular elective office, the candidate so receiving such majority of votes shall be deemed to be and declared by the Council to be elected to such office. In the event no candidate receives a majority of votes cast as aforesaid, the two candidates receiving the highest number of votes for a particular elective office at said primary shall be the candidates, and only candidates, for such office and the names of only those two candidates shall be printed upon the ballots to be used at the general municipal election.

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At the general municipal election held for the purpose of electing Council members other than the Mayor the electors of each Council district shall select from among the candidates chosen at the primary election in that district one candidate for the office of the Council member whose term expires the succeeding December. At the general municipal election held for the purpose of electing any other elective officer there shall be chosen by all of the electors of the whole City from among the candidates chosen at the primary one candidate to succeed any other elective officer whose term expires in December succeeding the election.

After the result of an election for any office is declared, or when an appointment is made, the City Clerk, under his hand and official seal, shall issue a certificate therefor, and shall deliver the same immediately to the person elected or appointed, and such person must within ten days after receiving such certificate file his official bond, if one be required for his office, and take and subscribe to the oath of office required of him by this Charter, which oath must be filed with the City Clerk.

ARTICLE III

LEGISLATIVE POWER

SECTION 12: THE COUNCIL.

(a) The Council shall be composed of ~~nine (9) Councilmembers, including the Mayor, and shall be the legislative body of the City and;~~ each of ~~the~~its members ~~of which including the Mayor,~~ shall have the right to vote upon all questions before it.

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(b) At the municipal primary and general election in 1979, a Mayor shall be chosen by the electors for a term of five (5) years. A Mayor shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. The Mayor shall hold office for the term prescribed from and after 10 a.m. the first Monday after the first day of December next succeeding the election and until a successor is elected and qualified.

(c) At the municipal primary and general elections in 1993, the Council members for Districts 1, 3, 5, and 7 shall be chosen by the electors for a term of three (3) years. Council members for Districts 1, 3, 5, and 7 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter. Electors shall choose the council member for District 9 at the next municipal primary and general elections following the redistricting after the 2010 national decennial census. The initial term for the District 9 Council member shall be four (4) years. The Council member for District 9 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of the Charter.

(d) At the municipal primary and general election in 1995, Council members for Districts 2, 4, 6, and 8 shall be chosen by the electors for a term of three (3) years. Council members for Districts 2, 4, 6, and 8 shall thereafter be elected for a term of four (4) years in the manner prescribed by Section 10 of this Charter.

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(e) Except as provided in this Section, Council members, shall hold office for the term of four (4) years from and after 10 a.m. the first Monday after the first day of December next succeeding their election and until their successors are elected and qualified.

(f) Notwithstanding any other provision of this Charter and commencing with elections held in 1992, no person shall serve more than two consecutive four-year terms as a Council member from any particular district. If for any reason a person serves a partial term as Councilmember from a particular district in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. Persons holding office prior to the November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.

(g) Upon any redistricting pursuant to the provisions of this Charter, incumbent Council members will continue to represent the district in which they reside, unless as a result of such redistricting more than one incumbent Council member resides within any one district, in which case the City Council may determine by lot which Council member shall represent each district. At the next municipal primary and general elections following a redistricting, Council members shall be elected from those districts not represented and from those districts represented by incumbent Council members whose terms expire as of the general election in said year. If as a result of any redistricting more than a simple majority of the City Council as redistricted shall be elected at either the municipal primary or general election next following any such redistricting, the City Council prior to any such election shall designate one or more new districts for which the initial council term shall be two (2) years in order to retain staggered terms for Council

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members.

(h) If a vacancy occurs for any reason in the office of a Council District, the procedures set forth in Charter section 12(h) shall be followed:

(1) If the vacancy occurs for any reason other than a successful recall election, and,

(A) If the vacancy occurs with one (1) year or less remaining in the term, the Council shall appoint a person to fill the vacant seat on the City Council. Any person appointed by the Council to fill a vacant Council District seat shall not be eligible to run for that office for the next succeeding term; or,

(B) If the vacancy occurs with more than one (1) year remaining in the term, the Council shall call a special election to be held within ninety (90) days of the vacancy, unless there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that regular election.

(i) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the vacant office.

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(ii) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within forty-nine (49) days of the first special election, unless there is regular municipal or statewide election scheduled to be held within ninety (90) days of the proposed special run-off election date, at which time the City Council may consolidate the special run-off election with that regular election. The two (2) candidates receiving the highest number of votes cast for the vacant seat in the first special election shall be the only candidates for the vacant Council seat and the names of only those two (2) candidates shall be printed on the ballot for that seat.

(2) If a vacancy occurs by reason of a successful recall election, the Council shall adopt procedures to fill the vacancy.

Whether a person is appointed or elected to fill a vacant Council District seat, whatever the reason for the vacancy, that person shall serve as that District's Councilmember for the remainder of the unexpired term.

For purposes of Charter section 12(h), a vacancy may result from death, resignation, recall, or unexcused absences as described in Charter section 12(i). If a vacancy occurs by reason of a resignation, the date of the vacancy will be the date specified in the written letter of resignation or, if there is no date certain specified in the letter, upon the date of receipt of the letter by the City Clerk.

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(i) It is the duty of the Council members to attend all Council meetings. The Council shall vacate the seat of any Councilmember who is absent from eight (8) consecutive meetings or fifty percent (50%) of any scheduled meetings within a month unless the absence thereof is excused by resolution of the Council.

(j) Council members, including the Mayor, shall devote full time to the duties of their office and not engage in any outside employment, trade, business or profession which interferes or conflicts with those duties.

(k) Council members shall not be eligible during the term for which they were appointed or elected to hold any other office or employment with the City, except as Mayor or City Attorney and as a member of any Board, Commission or Committee thereof, of which they are constituted such a member by general law or by this Charter.

~~SECTION 13: MEETINGS OF THE COUNCIL~~

~~The Council shall provide by ordinance for the time and place of holding its meetings; provided, however, that there shall be at least one regular meeting in each week. Any regular meeting may be adjourned to a date and hour certain, and such adjourned meeting shall be a regular meeting for all purposes. All legislative sessions of the Council, whether regular or special shall be open to the public.~~

~~All legislative action shall be by ordinance except where otherwise required by the Constitution or laws of the State of California. The Council shall keep a journal of its proceedings which shall be a public record. On the passage of every ordinance the vote shall be taken by yeas and nays~~

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~~and entered upon the journal and no ordinance shall be passed without concurrence of a majority of the members elected to the Council. The proceedings of the Council shall be public and citizens shall have a reasonable opportunity to be heard. The first meeting of the Council shall be held at ten o'clock A.M. on the first Monday after the first day in December following its election. All subsequent meetings shall be held pursuant to adjournment, or in accordance with a rule adopted by the Council which may be amended at any time. Special meetings shall be held on the call of the Mayor or on the written request of any three Councilmen, upon twelve hours' notice to each member, to be served personally by written notice; provided, however, that such notice may be waived by the written consent of all the Councilmen.~~

~~SECTION 16: INTRODUCTION AND PASSAGE OF ORDINANCES AND RESOLUTIONS~~

~~Ordinances shall be introduced in the Council only in written or printed form. All ordinances, except annual appropriation ordinances and ordinances codifying or rearranging existing ordinances, shall be confined to one subject, and the subject or subjects of all ordinances shall be clearly expressed in the title. Ordinances making the annual tax levy, the annual appropriation ordinance, any ordinance calling or relating to elections, ordinances recommended by the City Manager or other independent department heads transferring or appropriating moneys already appropriated by the annual appropriation ordinance, ordinances establishing or changing the grade of a public highway, and emergency ordinances as defined by Section 17 of this Charter, may be passed by the Council on the day of their introduction. Other ordinances, however, shall be passed only after twelve (12) calendar days have elapsed between the day of their introduction and the day of their final passage. Each ordinance shall be read in full prior to the final passage~~

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~~of such ordinance, unless such reading shall be dispensed with by a vote of not less than a majority of the members elected to the Council, and not then unless there shall have been available for the consideration of each member of the Council and the public prior to the day of its final passage a written or printed copy of said ordinance. The yeas and nays shall be taken upon the passage of all ordinances and entered upon the journal of the proceedings of the Council. The yeas and nays shall be taken and entered upon the passage of all resolutions receiving a split vote, or upon the request of two or more members of the Council. The enacting clause of ordinances passed by the Council shall be "Be it ordained by the Council of The City of San Diego." The enacting clause of ordinances submitted by the initiative shall be "Be it ordained by the People of The City of San Diego."~~

~~SECTION 17: WHEN ORDINANCES AND RESOLUTIONS TAKE EFFECT. EMERGENCY MEASURES~~

~~Ordinances making the annual tax levy, the annual appropriation ordinances, ordinances calling or relating to elections, and emergency measures, shall take effect at the time indicated therein. All other ordinances passed by the Council shall take effect at the time indicated therein, but not less than thirty days from the date of their passage. Ordinances adopted by vote of the electors shall take effect at the time indicated therein, or, if no time be specified, then thirty days after their adoption. An emergency measure is an ordinance to provide for the immediate preservation of the public peace, property, health, or safety, in which the emergency claimed is set forth and defined in the preamble thereto. The affirmative vote of at least two-thirds of the members elected to the Council shall be required to pass any ordinance as an emergency measure. No measure making or amending a grant, renewal or extension of a franchise or other special privilege shall ever be passed as an emergency measure. No situation shall be declared an~~

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~~emergency by the Council except as defined in this section, and it is the intention of this Charter that compliance with such definition shall be strictly construed by the courts.~~

~~Resolutions shall become effective immediately upon their passage, unless otherwise stated therein.~~

~~SECTION 22: INTERFERENCE BY INDIVIDUAL MEMBERS OF COUNCIL WITH ADMINISTRATIVE SERVICE PROHIBITED~~

~~(a) — No member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the City Manager or other officer appointed or confirmed by the Council in the making of any appointment to, or removal from, any city office or employment, or the purchase of any supplies, or discuss directly or indirectly with any candidate for City Manager the matter of appointments to City Offices or employment, or attempt to exact any promises from such candidate relative to any such appointments.~~

~~(b) — Except for the purpose of inquiry, the Council and its members shall deal with that part of the administrative service for which the City Manager is responsible solely through the City Manager or his designated representative and not through his subordinates.~~

~~(c) — A violation of the provisions of this section by any member of the Council shall constitute a misdemeanor for which the offending member may be removed from office by the Council or for which the offending member may be tried by any court of competent jurisdiction and if found guilty the sentence imposed shall include removal from office.~~

ARTICLE IV

THE MAYOR

SECTION 24: MAYOR

~~The Mayor shall preside at the meetings of the Council and perform such other duties as may be prescribed by this Charter or as may be imposed by the Council, consistent with the duties of the office of Mayor. The Mayor shall have no power of veto, but shall have a vote as a member of the Council. The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for purpose of serving civil process, for the signing of all legal instruments and documents, and by the Governor for military purposes. On or before the 15th day of January of each year, the Mayor shall communicate by message to the City Council a statement of the conditions and affairs of the City, and make recommendations on such matters as he or she may deem expedient and proper. In time of public danger or emergency, the Mayor may, with the consent of the Council, take command of the police, maintain order and enforce the law.~~

~~The rate of pay of the Mayor shall be \$12,000.00 per year.~~

~~In the event of a vacancy occurring in the office of the Mayor, existing by reason of any cause, the Council shall have authority to fill such vacancy, provided, however, that if the Council shall fail to fill such vacancy by appointment within thirty (30) days after the vacancy, the Council must immediately cause an election to be held to fill such vacancy. Any person appointed to fill such vacancy, shall hold office only until the next regular municipal election, at which date a person shall be elected to serve for the remainder of such unexpired term.~~

~~Notwithstanding any other provision of this Charter and commencing with elections held in 1992, no person shall serve more than two (2) consecutive four year terms as Mayor. If for any~~

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~~reason a person serves a partial term as Mayor in excess of two (2) years, that partial term shall be considered a full term for purposes of this term limit provision. Persons holding the office of Mayor prior to the November 1992 election shall not have prior or current terms be counted for the purpose of applying this term limit provision to future elections.~~

~~SECTION 25: DEPUTY MAYOR~~

~~The Council shall annually in the month of December select one of its members who shall be the Deputy Mayor. The Deputy Mayor shall perform all the duties of the Mayor as prescribed by this Charter or by ordinance when the Mayor is absent or unable to perform his duties.~~

ARTICLE V

EXECUTIVE AND ADMINISTRATIVE SERVICE

~~SECTION 27: THE CITY MANAGER~~

~~The Council shall elect a Manager under this Charter, who shall be the chief administrative officer of the City. The Manager shall be chosen by the Council solely on the basis of his proven administrative qualifications. The Manager need not, when elected, be a resident of the City or State, but must be a citizen of the United States. He shall, upon his election, immediately become a resident of the City. No member of the Council shall, during the time for which he was elected, or for one (1) year thereafter, be eligible to hold the position of Manager. The Manager shall be elected for an indefinite term, but may be removed at the pleasure of the Council; provided, however, that the Manager shall not be removed unless a majority of the members of the Council shall vote in favor of such removal. Before the Manager may be removed he shall, if he shall so~~

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~~demand, be given a written statement of the reasons alleged for his removal and the right to be heard publicly thereon at a meeting of the Council prior to the final vote on the question of his removal, but pending and during such hearing the Council may suspend him from office. At least two weeks shall be given the Manager between notice and hearing for the preparation of his answer to the reasons for removal. The action of the Council in suspending or removing the Manager shall be final and conclusive on everyone, it being the intention of this Charter to vest all authority and fix all responsibility for such suspension or removal in the Council. He shall receive a salary to be fixed in the annual appropriation ordinance. The salary set in the appropriation ordinance shall not be reduced while the Manager holds office, but may be subject to increase by the Council at its discretion. The Manager shall designate one of his subordinates as Assistant Manager, who shall serve as Manager in case of the absence or disability of the Manager.~~

~~In the event of a vacancy in the office of City Manager, the Council shall fill the same within sixty (60) days after the vacancy occurs; provided, however, that it shall require the affirmative vote of a majority of the members of the Council to elect a person to the office of Manager.~~

ARTICLE XV

STRONG MAYOR TRIAL FORM OF GOVERNANCE

SECTION 250: PURPOSE AND INTENT

~~The City of San Diego has operated under a governance structure known as the City Manager form of government since its current Charter was adopted in 1931. Under the City Manager form of government, the City is governed by a Council consisting of eight members elected by district and a Mayor who is elected citywide. Also under this form of government, the policies, rules,~~

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and decisions of the Council are implemented by a city manager. The purpose of this Article is to modify the existing form of governance for a trial period of time to test implementation of a new form of governance commonly known as a Strong Mayor form of government.

SECTION 255: OPERATIVE DATE; SUNSET OF ARTICLE; FUTURE ACTION BY VOTERS

(a) — The date for the provisions of this Article to become operative is January 1, 2006.

(b) — 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.

(c) — To ensure the people have an opportunity to consider the permanency of this Article before it is automatically repealed, at the June 2010 election, the City Council shall place a measure on the ballot to propose amendments to the Charter to make this Article permanent on January 1, 2011; increase 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; and increase the number of Council votes required to override a mayoral veto of an ordinance or

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~~resolution to a two-thirds majority of the Council, with such increase to take effect at such time a ninth Council member is elected and qualified.~~

Section 260: Integration of Article with Charter

(a) ~~For the period of time this Article is operative, the following sections or subsections of the Charter shall be deemed inoperative and this Article shall supersede and completely govern the subjects:~~

~~Section 12(a) The Council [superseded by section 270]~~

~~Section 13 Meetings Of The Council [superseded by section 270]~~

~~Section 16 Introduction And Passage Of Ordinances And Resolutions [superseded by sections 275, 280, 285, and 290]~~

~~Section 17 When Ordinances And Resolutions Take Effect; Emergency Measures [superseded by section 295]~~

~~Section 22 Interference By Individual Members Of Council With Administrative Service~~

~~Prohibited [superseded by sections 270(g) and 270(h)]~~

~~Section 24 Mayor [superseded by section 265]~~

~~Section 25 Deputy Mayor [superseded by section 265]~~

~~Section 27 The City Manager [superseded by sections 260 and 265]~~

(b) ~~All executive authority, power, and responsibilities conferred upon the City Manager in Article V, Article VII, and Article IX shall be transferred to, assumed, and carried out by the Mayor during the period of time this Article is operative.~~

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SECTION 265: THE MAYOR

(a) The Mayor shall be recognized as the official head of the City for all ceremonial purposes, by the courts for purpose of serving civil process, for the signing of all legal instruments and documents, and by the Governor for military purposes.

(b) In addition to exercising the authority, power, and responsibilities formally conferred upon the City Manager as described in section 260(b), the Mayor shall have the following additional rights, powers, and duties:

(1) To be the chief executive officer of the City;

(2) To execute and enforce all laws, ordinances, and policies of the City, including the right to promulgate and issue administrative regulations that give controlling direction to the administrative service of the City. Nothing in this section shall be interpreted or applied to add or subtract from powers conferred upon the City Attorney in Charter sections 40 and 40.1;

(3) To recommend to the Council such measures and ordinances as he or she may deem necessary or expedient, and to make such other recommendations to the Council concerning the affairs of the City as the Mayor finds desirable;

(4) To attend and be heard at any regular or special open session meeting of the Council, but not the right to vote at such meetings;

(5) To approve or veto actions passed by the Council in open session, pursuant to sections 280 and 290;

(6) To attend and be heard at any closed session meeting of the Council, but not the right to vote at such meetings. When present, the Mayor shall preside over closed session. When the Mayor does not attend closed session, the Presiding Officer of the Council shall chair the closed session meeting;

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- (7) Sole authority to appoint the City Manager, subject to Council confirmation;
- (8) Sole authority to direct and exercise control over the City Manager in managing those affairs of the City under the purview of the Mayor as expressly permitted in the Charter;
- (9) Sole authority to dismiss the City Manager without recourse;
- (10) Notwithstanding contrary language in Charter sections 30, 57 or 58, authority to dismiss the Chief of Police or the Chief of the Fire Department, subject only to a right for these city officials to appeal to the City Council to overturn the Mayor's decision. Any such appeal must be filed with the City Clerk within 10 calendar days of receiving the notice of dismissal or termination from the Mayor. The City Clerk shall thereafter cause the appeal to be docketed at a regular open meeting of the City Council no later than 30 days after the appeal is filed with the Clerk;
- (11) As provided for in Charter sections 41 and 43, the authority to appoint members of City boards, commissions, and committees, subject to Council confirmation;
- (12) Sole authority to appoint City representatives to boards, commissions, committees and governmental agencies, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor;
- (13) To cooperate fully with the Council and the Office of Independent Budget Analyst, including but not limited to, supplying requested information concerning the budget process and fiscal condition of the City to the Council and the Office of Independent Budget Analyst; and
- (14) To propose a budget to Council and make it available for public review, no later than April 15.

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(c) On or before the 15th day of January of each year, the Mayor shall communicate by message to the City Council a statement of the conditions and affairs of the City, and make recommendations on such matters as he or she may deem expedient and proper. In time of public danger or emergency, the Mayor shall take command of the police, maintain order, and enforce the law.

(d) No person shall serve more than two consecutive four-year terms as Mayor. If for any reason a person serves a partial term as Mayor in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.

(e) If a vacancy occurs in the Office of Mayor for any reason other than a successful recall election, and,

(1) If the vacancy occurs with one year or less remaining in the term, the Council shall appoint a person to fill the vacancy.

(2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within ninety days of the vacancy, unless there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a regular municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that regular election

(A) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the Office of Mayor.

(B) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within forty-nine days of the first special election, unless there is regular municipal or statewide election scheduled to be held within ninety

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days of the proposed special run-off election date, at which time the City Council may consolidate the special run-off election with that regular election. The two candidates receiving the highest number City of San Diego City Charter of votes cast for the Office of Mayor in the first special election shall be the only candidates for the Office of the Mayor and the names of only those two candidates shall be printed on the ballot for that seat.

- (f) If a vacancy occurs by reason of a successful recall election, the Council shall adopt procedures to fill the vacancy.
- (g) Whether a person is appointed or elected to the Office of Mayor, whatever the reason for the vacancy, that person shall serve as Mayor for the remainder of the unexpired term.
- (h) Upon the appointment or election of any person to the Office of Mayor, any other City office held by that person is automatically vacated.
- (i) During the period of time when an appointment or election is pending to fill a vacancy in the Office of Mayor, the presiding officer of the Council shall be vested with the authority to supervise the staff remaining employed in the Office of the Mayor, to direct and exercise control over the City Manager in managing the affairs of the City under the purview of the Mayor and to exercise other power and authority vested in the Office of the Mayor when the exercise of such power and authority is required by law. This limited authority would include circumstances where the expeditious approval of a legislative action is necessary to meet a legal requirement imposed by a court or another governmental agency. Such limited authority would not include the exercise of the power of veto or any other discretionary privilege which is enjoyed by a person appointed or elected to the Office of Mayor. The presiding officer, while acting under this

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section pending the filling of a mayoral vacancy, shall not lose his or her rights as a Member of the Council.

(j) For purposes of this section, a vacancy may result from death, resignation, or recall. If a vacancy occurs by reason of a resignation, the date of the vacancy will be the date specified in the written letter of resignation or, if there is no date certain specified in the letter, upon the date of receipt of the letter by the City Clerk.

SECTION 270: THE COUNCIL

(a) The Council shall be composed of eight councilmembers elected by district A ninth councilmember shall be elected at the next municipal primary and general elections following the redistricting occurring after the 2010 national decennial census. After the ninth councilmember is elected and qualified, the Council shall be composed of nine councilmembers elected by district. The Council ~~is~~ and shall be the legislative body of the City.

(b) Each councilmember shall have the right to vote upon all questions before the Council.

(c) No resolution, ordinance, or other action of the Council shall be passed or become effective without receiving the affirmative vote of five members of the Council, unless a greater number is otherwise required by the Charter or other superseding law. All substantive actions of the Council shall be passed by adoption of an ordinance or resolution.

(d) The Council shall have the right to determine its own rules and order of business as provided for in Charter section 14, including a process for the selection of a presiding officer

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who shall have responsibility for chairing meetings of the Council and managing the docket process. Any such rules shall provide a process for the Mayor and independent department heads to propose matters for consideration by the Council in open session and a process for the City Attorney, Mayor, and Presiding Officer to coordinate the docketing of matters for consideration by the Council in any closed session of the Council.

(e) The Council shall have the right to establish committees of the Council and to establish advisory boards and citizen committees as provided for in Charter section 43.

(f) No member of the Council shall directly or indirectly by suggestion or otherwise attempt to influence or coerce the City Manager or other officer appointed or confirmed by the Council in the making of any appointment to, or removal from, any City office or employment, or the purchase of any supplies, or discuss directly or indirectly with any candidate for City Manager the matter of appointments to City Offices or employment, or attempt to exact any promises from such candidate relative to any such appointments.

(g) Except for the purpose of inquiry or communications in furtherance of implementing policies and decisions approved by resolution or ordinance of the Council, individual members of Council shall deal with the administrative service for which the Mayor is responsible only through the Mayor, the City Manager, or the Mayor's designees.

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(h) Any City official or department head in the administrative service may be summoned to appear before the Council or any committee of the Council to provide information or answer any question.

SECTION 285: ENACTMENT OVER VETO

The Council shall reconsider any resolution or ordinance vetoed by the Mayor. While the Council consists of eight members, and if at least five members of the Council vote in favor of passage after reconsideration, ~~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 by for the passage of any resolution or ordinance by the provisions of this Charter or other superseding law to pass any resolution or ordinance,~~ such larger vote shall be required to override the Mayor's veto of the Mayor. After a ninth councilmember is elected and qualified, the number of votes needed to override the Mayor's veto shall increase to six votes for any action taken by the nine-member Council. 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.

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SECTION 290: COUNCIL CONSIDERATION OF SALARY ORDINANCE AND BUDGET; SPECIAL VETO POWER

(a) No later than April 15 of each year, the Council shall introduce a Salary Ordinance fixing the salaries of all officers and employees of the City in accordance with Charter section 70. The Salary Ordinance shall be proposed by the Mayor for Council introduction in a form consistent with any existing Memorandum of Understandings with recognized labor organizations, or otherwise in conformance with procedures governed by the Meyers-Milias-Brown Act or any other legal requirements governing labor relations that are binding upon the City. Upon introduction, the Salary Ordinance shall be transmitted to the Mayor.

(1) The Mayor shall, within five business days of receipt of the Salary Ordinance introduced by Council, either approve the ordinance as introduced or veto all or any specific provision within the ordinance.

(2) The Salary Ordinance shall be returned to the Council within the five business day period either approved by the Mayor or accompanied by a statement explaining any reasons for the veto. The Council shall thereafter have ten business days within which to override the veto and pass the Salary Ordinance as introduced or otherwise accept the changes proposed by the Mayor in the veto statement and pass the ordinance at second reading with the changes proposed by the Mayor.

(3) The Salary Ordinance passed by Council shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

(b) Prior to June 15 of each year, the Council shall satisfy its obligations under Charter section 71 by holding a minimum of two public hearings to consider the budget submitted by the Mayor. Prior to the June 15 deadline, and after at least two such public hearings have been held, the Council shall pass a resolution that either approves the budget as submitted by the Mayor or

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modifies the budget in whole or in part. The Council's modifications may call for adding new items or for increasing or decreasing any item.

(1) If approved by the Council as proposed by the Mayor, the budget shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

(2) If modified by the Council, the budget shall be returned to the Mayor as soon as practicable.

(A) The Mayor shall, within five business days of receipt either approve, veto, or modify any line item approved by the Council.

(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 in the proposed budget that was vetoed or otherwise modified by the Mayor shall remain as vetoed or modified unless overridden as provided in section 285~~by 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) Upon the expiration of the Council's five business day period, or sooner if the Council by five votes so directs, the budget as returned by the Mayor, and to the extent modified thereafter by the Council, shall become a controlling document for preparation of the Annual Appropriation Ordinance for the ensuing fiscal year.

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- (c) As required by section 71, the Council shall adopt the Annual Appropriation Ordinance during the month of July.
- (d) The Mayor shall have no power of veto over the Annual Appropriation Ordinance.