Memorandum

To: Lisa Briggs
From: James Ingram
Re: A Charter-Mandated Balanced Budget
Date: August 5, 2007

Per request from the Subcommittee on Financial Reform for proposed charter language that would require the City of San Diego to balance its budget, the staff has drafted four different options. These options have been adapted from the charters of Philadelphia, Nashville, San Francisco and New York City. The adaptation should make them suitable for addition to San Diego's Charter, with slight modification to fit the numbering of Charter Article VII (it seems wiser to place these amendments in Article XV in case that Article were to sunset).

Proposed Charter Language

Option 1-Adapted Philadelphia Model

Section 1. Balancing the Budget.
Not later than the passage of the annual operating budget ordinance, the City Council shall ordain such revenue measures as will, in the opinion of the Mayor, yield sufficient revenue to balance the budget. For this purpose new sources of revenue or increased rates from existing sources of revenue not proposed by the Mayor shall be deemed to yield in the ensuing fiscal year such amounts as the Mayor shall determine. The annual appropriations ordinance shall not become effective and the Chief Financial Officer shall not approve any order for any expenditure thereunder until the Council has balanced the budget.

Option 2-Adapted Nashville Model

Sec. 1. Scope of the Annual Operating Budget.
The proposed annual operating budget submitted by the Mayor shall contain:
(a) An estimate of the unencumbered fund balance or deficit at the beginning of the ensuing fiscal year, and the amount of any reserves for designated purposes or activities includable in the operating budget.
(b) A reasonable estimate of revenues to be received during the ensuing year, classified according to source; but the estimated revenues from current and from delinquent property taxes shall not exceed the percentage of the total receivable from each such source collected during the last completed fiscal year; or the current fiscal year.
(c) Proposed expenditures for each organizational unit and activity in accordance with the established classification of accounts, including those capital outlays which are to be financed from the revenues of the ensuing year, and including all debt service requirements in full for such fiscal year payable from such fund.
In no event shall the total proposed expenditures from any fund exceed the total anticipated revenues plus the estimated unappropriated surplus, or fund balance, and applicable reserves and less any estimated deficit at the end of the current fiscal year.

Sec. 2. Action by City Council on operating budget.
After the conclusion of the public hearings, the City Council may amend the operating budget proposed by the Mayor; except, that the budget as finally amended

and adopted must provide for all expenditures required by law or by other provisions of this Charter and for all debt service requirements for the ensuing fiscal year as certified by the Chief Financial Officer. Neither shall the City Council alter the estimates of receipts or other fund availability included in the budget document except to correct errors and omissions, in which event a full explanation shall be spread on the minutes of the City Council. In no event shall the total appropriations from any fund exceed the estimated fund balance, reserves and revenues, constituting the fund availability of such fund.

The City Council shall finally adopt an operating budget for the ensuing fiscal year not later than the thirtieth day of June, and it shall be effective for the fiscal year beginning on the following July 1st. Such adoption shall take the form of an ordinance setting out the estimated revenues in detail by source and making appropriations according to fund and by organizational unit, purpose or activity as set out in the budget document. If the City Council shall fail to adopt a budget prior to the beginning of any fiscal year, it shall be conclusively presumed to have adopted the budget as submitted by the Mayor.

A copy of the adopted budget, certified by the City Clerk, shall be filed in the office of the Chief Financial Officer.

The amount set out in the adopted operating budget for each organizational unit, purpose or activity shall constitute the annual appropriation for such item, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriation, or allotment thereof, to which it is chargeable. This shall not preclude the impoundment of funds or additional appropriations as provided herein.

Sec. 3. Impoundment of funds.
Upon certification of the Chief Financial Officer that the revenues or other resources actually realized with respect to any fund are less than was anticipated and are insufficient to meet the amounts appropriated from such fund, it shall be the duty of the Mayor to impound such appropriations as may be necessary to prevent deficit operation.

Option 3-Adapted San Francisco Model

Section 1. Balanced Budget.
(a) The annual proposed budget and appropriation ordinances shall be balanced so that the proposed expenditures of each fund do not exceed the estimated revenues and surpluses of that fund. If the proposed budget contains new revenue or fees, the Mayor shall submit to the City Council the relevant implementing ordinances at the same time the annual budget is submitted.

(b) No amendment to the appropriations ordinance may be adopted unless the Chief Financial Officer certifies availability of funds.

(c) No ordinance or resolution for the expenditure of money, except the annual appropriations ordinance, shall be passed by the City Council unless the Chief Financial Officer first certifies to the Council that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the Chief Financial Officer, revenues as anticipated in the appropriations ordinance for such fiscal year and properly applicable to meet such

proposed expenditures will be available in the treasury in sufficient amount to meet the same as it becomes due.

Section. 2. Rainy Day Reserve.

(a) There shall be a Rainy Day Reserve (the Reserve), which may also be known as an economic stabilization reserve.

Allocations to the Reserve

(b) If the Chief Financial Officer projects that total General Fund revenues for the upcoming budget year will exceed total General Fund revenues for the current year by more than five percent, the budget shall allocate the anticipated General Fund revenues in excess of that five percent growth (the excess revenues) as follows:

(i) 50 percent of the excess revenues to the Reserve;

(ii) 25 percent of the excess revenues to capital and other one-time expenditures; and,

(iii) 25 percent of the excess revenues to any lawful governmental purpose.

(c) Total monies in the Reserve may not exceed 10 percent of actual total general fund revenues, as stated in the City's most recent independent annual audit. The budget shall allocate excess revenues that would otherwise be allocated to the Reserve above the 10 percent cap instead to capital and other one-time expenditures.

(d) The Mayor and the City Council may, at any time, appropriate monies from the capital and other one-time expenditures allocation for capital projects or for expenditures such as, but not limited to, acquisition of equipment or information systems.

(e) The Mayor and the City Council may, at any time, appropriate monies from the general purpose allocation for any lawful governmental purpose.

Withdrawals from the Reserve

(f) If the Chief Financial Officer projects that total General Fund revenues for the upcoming budget year will be less than the current year's total General Fund revenues, or the highest of any other previous year's total General Fund revenues, the budget may appropriate up to 50 percent of the current balance in the Reserve, but no more than the shortfall in total General Fund revenues, for any lawful governmental purpose in the upcoming budget year.

(i) If the trigger for withdrawals from the Reserve was not met in the current year, the Chief Financial Officer shall calculate the shortfall for the upcoming budget year by subtracting the total projected General Fund revenues for the upcoming budget year from the total projected General Fund revenues for the current year.

(ii) If the trigger for withdrawals from the Reserve was met in the current year, the shortfall shall be calculated by subtracting the total projected General Fund revenues

for the upcoming budget year from the highest of any previous year's total General Fund revenues, plus two percent for each intervening year.

Adjustments

(g) If the City made appropriations from the Reserve in the current year and in the immediately preceding budget year pursuant to subsection (f), the City is not required to allocate any anticipated excess revenues to the Reserve or to capital and other one-time expenditures for the upcoming budget year.

(h) If the Chief Financial Officer projects that the Consumer Price Index for the upcoming budget year shall exceed the index for the current year by more than five percent, the trigger for allocations to the Reserve as set forth in Subparagraph (b) above shall instead be the percentage of growth in the index plus two percent. If the Chief Financial Officer projects that the Consumer Price Index for the upcoming budget year shall be less than the index for the current year, the trigger for withdrawals from the Reserve as set forth in Subparagraph (f) above shall instead be the percentage of negative growth in the index. The Chief Financial Officer shall use for these purposes the San Francisco All Items Consumer Price Index for All Urban Consumers (CPI-U), or its successor, as reported by the U.S. Department of Labor's Bureau of Labor Statistics.

(i) If the City Council or the voters take an action that changes the amount of total General Fund revenues in any material manner, such as reducing a tax or imposing a new fee, the revenue changes caused by that action will not be counted as part of the triggers for allocations to or withdrawals from the Reserve during the year or years in which the action is first implemented.

(j) In conjunction with the year-end close of the budget, the Chief Financial Officer shall reconcile the revenue projections triggering any budgeted allocations to or withdrawals from the Reserve with actual revenue results, as stated in the City's independent annual audit for the years in question, and rebalance the Reserve, the capital and other one-time expenditures allocation, and the general purpose allocation accordingly.

Transition

(k) On the effective date of this Section, the Chief Financial Officer shall transfer all monies in the City's Cash Reserve to the Rainy Day Reserve.

(l) For purposes of initial implementation of this Section, the Mayor and the City Council may make appropriations from the Reserve for the 2009-2010 budget year and subsequent years if the Chief Financial Officer certifies that the trigger for withdrawal in subsection (f) would have been met during the 2008-2009 budget year, if this Section had been in effect at that time; provided, however, that the City shall not be required to make allocations of any anticipated excess revenues to the Reserve or to capital and other one-time expenditures for the 2009-2010 budget year.

Option 4-Adapted New York City Model

Section 1. Standards for budget and financial plan. a. The operations of the City shall be such that, at the end of the fiscal year, the results thereof shall not show a

deficit when reported in accordance with generally accepted accounting principles. The Mayor shall take all actions necessary in accordance with the provisions of the Charter or other applicable law to ensure that the City is in compliance with this subdivision.

b. Pursuant to the procedures contained in subdivision c of this section, each year the Mayor shall develop, and from time to time modify, a four year financial plan. Each such financial plan and financial plan modification shall comply with the requirements of subdivision d of this section and shall conform to the following standards: (1) For each fiscal year, the City's budget covering all expenditures other than capital items shall be prepared and balanced so that the results thereof would not show a deficit when reported in accordance with generally accepted accounting principles and would permit comparison of the budget with the report of actual financial results prepared in accordance with generally accepted accounting principles.

(2) The City shall issue no obligations which shall be inconsistent with the financial plan prepared in accordance with this section.

(3) Provision shall be made for the payment in full of the debt service on all bonds and notes of the City and for the adequate funding of programs of the City which are mandated by state or federal law and for which obligations are going to be incurred during the fiscal year.

(4) All projections of revenues and expenditures contained in the financial plan shall be based on reasonable and appropriate assumptions and methods of estimation. All cash flow projections shall be based upon reasonable and appropriate assumptions as to sources and uses of cash (including but not limited to the timing thereof), and shall provide for operations of the City to be conducted within the cash resources so projected.

(5) A general reserve shall be provided for each fiscal year to cover potential reductions in projected revenues or increases in projected expenditures during each such fiscal year. The amount provided for such general reserve shall be estimated in accordance with paragraph four of this subdivision, but in no event shall it be less than ***one hundred million dollars*** at the beginning of any fiscal year.

(6) In the event that the results of the City's operations during the preceding fiscal year have not comported with subdivision a of this section, the first fiscal year included in any financial plan shall make provision for the repayment of any deficit incurred by the City during the preceding fiscal year.

c. The financial plan shall be developed and may from time to time be modified, in accordance with the following procedures:

(1) The Mayor shall, in conjunction with the submission of the budget, prepare a financial plan covering the four ensuing fiscal years (the first year of which is the year for which such preliminary budget is being prepared) as well as updating the current fiscal year.

(2) After the preparation by the Mayor of a financial plan in accordance with the preceding paragraph, the Mayor shall reexamine, at least on a quarterly basis, the projections of revenues and expenditures and other estimates contained in the financial plan, and shall prepare modifications in accordance with the following procedures:

(a) The Mayor shall prepare a budget message in conjunction with the submission of the budget, Such budget message shall include an update of the financial plan covering the four ensuing fiscal years (the first year of which is the year for which such budget message is being prepared) as well as an update for the current fiscal year.

(b) Not later than thirty days after the budget is finally adopted, the Mayor shall issue an update of the financial plan covering the four ensuing fiscal years (the first

year of which shall be the year for which such budget has been adopted) as well as an update for the fiscal year that is ending or has just ended. Such update shall reflect any changes which were made in the budget; provided, however, that the budget adopted in accordance with such sections shall be consistent with the standards applicable to the financial plan set forth in this section.

(c) During the second quarter of the fiscal year, the Mayor shall issue an update of the financial plan covering the fiscal year in which such quarter occurs and the three ensuing fiscal years.

(d) In addition, on such schedule as the Mayor deems appropriate, the Mayor may issue further updates of the financial plan during the fiscal year.

d. The financial plan shall include projections of all revenues, expenditures and cash flows (including but not limited to projected capital expenditures and debt issuances) and a schedule of projected capital commitments of the City. In addition, each financial plan and financial plan modification shall include a statement of the significant assumptions and methods of estimation used in arriving at the projections contained therein.

e. Notwithstanding any inconsistent provision of this charter, in the event of any change in generally accepted accounting principles, or change in the application of generally accepted accounting principles to the City, if the Mayor determines that immediate compliance with such change will have a material effect on the City's budget over a time period insufficient to accommodate the effect without a substantial adverse impact on the delivery of essential services, the Mayor may authorize and approve a method of phasing the requirements of such change into the budget over such reasonably expeditious time period as the Mayor deems appropriate.

Staff Analysis

Rather than making one recommendation, staff has provided a range of options. The options comprise a spectrum, because Option 1 is the most elegant and sparse, Option 2 is a little more detailed, Option 3 gives yet more specifics, while Option 4 is the most detailed (if implementing language is added to empower the Mayor or some other officer to make the necessary mid-year course corrections to the budget).

Option 1 would add a minimum of verbiage to the Charter, and yet provides an enforcement mechanism should the budget stray from balance in the middle of a fiscal year. This option is unlikely to become obsolete (although the language of GAAP can allow a City to adjust if written into more detailed Charter language). However, this language might not ensure full compliance beyond the mere technical or formal sense that Carol Lewis identified in the article we discussed at our last meeting.

Option 2 is more specific, but is still is fairly elegant because it contains fewer operational details that might become obsolete if they are written into the charter. However, one part of section 2 in Option 2 would have to be altered slightly, to take account of the fact that San Diego implements the budget through the annual appropriations ordinance. It would be fairly simple to add one short sentence to make this clear, if the Subcommittee prefers to adopt this language.

Options 3 and 4 both require a kind of rainy day reserve fund. Option 4 specifies the dollar amount for the reserves (which may not be as suitable as it is for New York City's population of 8 million), whereas Option 3 sets the reserves as a percentage, and then makes adjustments annually for inflation. Both Options 3 and 4 make

some allowance for capital improvements within the annual budget, although they are less detailed than the San Diego Charter (at least within these particular sections of the City Charters from which this language is drawn. Given the problems that the Kroll Report documented for such capital projects as those involving the City's wastewater funds, perhaps the details of the capital budget should be more explicitly included in the balanced budget requirements.

Option 4 is of limited use, unless the City also adopts a method by which the City shall make mid-year budget adjustments. Sections 106 and 107 of the New York City Charter provide a process, but the allocation of power between elected officials over budgetary items is currently being examined by the Duties of Elected Officials Subcommittee. The actual language of NYC Charter Sections 106 and 107 will be appended to this report.

New York City Charter Sections Empowering Mayor to Maintain Balanced Budget

"**§ 106. Expense budget administration.** a. Except as otherwise provided by law, no unit of appropriation shall be available for expenditure by any city agency until schedules fixing positions and salaries and setting forth other expenses within the units of appropriation are established pursuant to the adopted budget, the administration of which is subject to the provisions of this chapter, the civil service law, and other applicable law.

b. The mayor shall establish and may modify for each agency (1) quarterly spending allotments for each unit of appropriation and (2) aggregate position and salary limits for each unit of appropriation, which shall be made available for public review upon adequate notice. No agency shall expend any sum in excess of such quarterly spending allotments, or exceed aggregate position and salary limits. The mayor may set aside specified sums as necessary reserves which shall not be included in the quarterly spending allotments until released by the mayor. Each agency shall administer all monies appropriated or available for programs and purposes of the agency in accordance with quarterly allotment plans proposed by the agency and approved or modified by the mayor. Each such plan shall set forth by units of appropriation for the quarter of the fiscal year during which it is to remain in effect: (1) rates of expenditures for personal services and other than personal services; (2) ceilings on the total number of uniformed, civilian and pedagogical employees; and (3) the total amount of funds to be spent or committed by the agency during such quarter.

c. The mayor shall keep informed, during the course of each fiscal year, of the progress of expenditures and the receipt of revenues, and it shall be the duty of all agencies, when requested by the mayor, to supply all information needed for this purpose.

d. The mayor may assume direct responsibility for the administration of the schedule required to be filed by the agency head pursuant to subsection a of this section when in the mayor's judgment the fiscal condition of the city so requires or when an agency (1) is expending funds in excess of the quarterly spending allotments or (2) is otherwise not complying with spending allotments or aggregate position and salary limits or (3) is not maintaining adequate accounts pursuant to requirements of this charter.

e. Whenever the mayor determines, pursuant to the provisions of this charter or other relevant statutes, that the full amount of any appropriation should not be available for expenditure during the fiscal year, the mayor shall notify the council of such determination and the implications and consequences of those impoundments for service levels and programmatic goals affected. The mayor shall respond in

writing to a request by the council for an explanation of why an appropriation should not be expended.

§ 107. Budget modification. a. Subject to the quarterly spending allotments and aggregate position and salary limits established pursuant to section one hundred six, and to other applicable provisions of this charter, of the civil service law and of other law, changes in schedules, within units of appropriation, may be made by the head of each agency. Any such changes shall be reported to the mayor and the comptroller before the effective date thereof, and shall be made available for public inspection under reasonable terms and conditions.

b. The mayor during any fiscal year may transfer part or all of any unit of appropriation to another unit of appropriation, except that when any such transfer (1) shall be from one agency to another or (2) shall result in any unit of appropriation having been increased or decreased by more than five percent or fifty thousand dollars, whichever is greater, from the budget as adopted for such unit of appropriation, the mayor shall notify the council of the proposed action. Within thirty days after the first stated meeting of the council following the receipt of such notice, the council may disapprove the proposed action; provided, however, that the mayor may recommend such a transfer if it is related to an appropriation included in the budget pursuant to section one hundred two only with the concurrence of the relevant borough president; and a borough president may make such a recommendation with regard to such an appropriation if it is concurred in by the mayor and does not include a reduction in an appropriation other than one included in the budget pursuant to section one hundred two on the recommendation of such borough president. Written notice of any transfer pursuant to this subdivision shall be given to the comptroller and shall be published in the City Record as soon as possible after such transfer.

c. The provisions of this section shall not be deemed to authorize any transfer from appropriations required by law.

d. The council may during any fiscal year transfer part or all of any unit of appropriation within the council appropriation to any other council unit of appropriation for any of its programs or projects or for any other purpose, solely by adoption of a council resolution. Each such transfer shall be published in the City Record and written notice thereof shall be given to the mayor and to the comptroller not less than ten days before the effective date thereof.

e. The procedures and required approvals pursuant to sections two hundred fifty-four, two hundred fifty-five, and two hundred fifty-six, without regard to the dates specified therein, shall be followed in the case of: (1) any proposed amendment to the budget respecting the creation of new units of appropriation, or (2) the appropriation of new revenues from any source except for revenues from federal, state or private sources in regard to the use of which the city has no discretion; provided, however, that the mayor shall give notice to the council of the receipt and proposed utilization of any such revenues, or (3) the proposed use by the city of previously unappropriated funds received from any source. Any request by the mayor respecting an amendment to the budget that involves an increase in the budget shall be accompanied by a statement of the source of current revenues or other identifiable and currently available funds required for the payment of such additional amounts."